

CHILI ZONING BOARD OF APPEALS  
December 18, 2012

A meeting of the Chili Zoning Board was held on December 18, 2012 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, Robert Springer, Fred Trott, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Ed Shero, Building & Plumbing Inspector; Richard Stowe, Town Counsel.

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

PAUL BLOSER: First we'll go over the signs.

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

1. Application of Midlakes Development, 758 South Avenue, Rochester, New York 14620, property owner: Howitt-Paul Road LLC; for variance to allow existing townhome units on Lots 7 through 10 of the Greenwood Townhome Subdivision to be 74' from rear lot line (75' abutting a major road) at properties located at 12, 14, 16, 18 Mia Terrace in PNOD zone.

Matthew Sinacola and Jess Sudol were present to represent the application.

MR. SINACOLA: Good evening. Mr. Chairman, members of the Board, my name is Matt Sinacola with Passero Associates tonight. With me is Jess Sudol, an engineer from our office.

The application we're asking you to consider is for four variances as outlined in the application. As we explained in the letter, cover letter, the offset of the window wells, the structures -- these are the buildings that have already been constructed along Paul Road are closer to the road than we expected. We allowed for 5 foot separation and they exceeded that in structure by a fraction of a foot in each case, thereby encroaching on that 75 foot setback from the right-of-way.

So tonight we're asking you to consider variances for those three -- those four dimensions. Again, they're a fraction of a foot.

The conditions, the four -- I have conditions for the application. These are -- these were constructed. I think that it's fairly obvious from the circumstances out there, the amount of distance involved, that the impacts are pretty minimal. These are not visible except for the residents in those structures. The impact on the environment is probably going to be completely unnoticeable to the neighbors.

There is no environmental impact. The -- the amount of the variance is fairly minimal. This is a little over 1 percent about in each case, given that the setback is 75 feet and we're dealing with a fraction of a foot.

Um, so we see this as being fairly minor, but obviously the Building Department felt that it was necessary to come before this Board and consider this, because the -- because I believe the interpretation, and Jess (Sudol), correct me if I am wrong, the well structures were considered part of the structure, the building itself?

MR. SUDOL: That's correct.

MR. SINACOLA: The codes vary from community to community. Some consider heated space. Others overhangs are a part of that. So it is a little bit of interpretation there. Unfortunately, the amount of distance we set aside in the design plan, the extra 5 foot was insufficient in this case, and in each case that exceeded that slightly. So that is the gist of it. We would be glad to answer any questions.

PAUL BLOSER: I don't have any questions right now. It's pretty clear.

JAMES WIESNER: Your original intention was to be 7 or -- 78 feet off the road in the original drawings that were submitted to the Town?

MR. SINACOLA: There were a couple. I can't -- do you recall the -- the dimension, the original dimension?

MR. SUDOL: The dimension didn't change from the original plan submission. It was right around 79 feet from the road and then as Matt (Sinacola) alluded, there was a 5 foot buffer to that setback. And again, just the window well we're talking about this evening, projected from the 79' setback out into that 75' actual setback line which is the required setback for the PNOD zone off Paul Road.

JAMES WIESNER: So I mean, you have -- and the building is a little closer?

MR. SUDOL: No. The buildings were built per the approved plan.

Again, just a window well was deeper than expected is all that happened.

JAMES WIESNER: That didn't take up the whole 5 feet then.

MR. SUDOL: Yes, it's the window well.

JAMES WIESNER: Is that like a concrete window well that is part of the building itself?

MR. SINACOLA: I believe they're metal. I mean, it is the nose of that arc that exceeds into that setback, so it is -- it is just a portion of the -- the most -- the furthest point of that -- of that structure really. So it is not really substantial in the microcosm of the window well itself. It is just a small portion of it.

PAUL BLOSER: Are these window wells for egress?

MR. SINACOLA: Right. For egress.

PAUL BLOSER: That is why the distance. It is not a standard window well. An oval like for a glass block window. It's a full-size window that would be opened up and you can be -- emergency exit out. And they require what 4, 4 1/2 feet clearance from a wall to get out of the hole.

MR. SINACOLA: Something like that. I don't remember.

PAUL BLOSER: That is why they're so deep.

MICHAEL NYHAN: So did the original plan change from a standard window well to an egress window well? Is that why they're much larger than you anticipated?

MR. SINACOLA: I don't think so. We reserve from the onset that we knew there needed to be some, so 5 foot was reserved. Unfortunately, it turns out that that is not enough.

It has been noted and future ones will be a little further so we can kind of avoid this in the future. It may not apply in some cases. The code, interpretation at one municipality may be different, but obviously for Chili it is considered part of the structure, so we'll factor that in in the future obviously.

ADAM CUMMINGS: Is this plan here, was the location surveyed; is what I am going to ask.

MR. SINACOLA: Yes. The plans you have are actual as-builts.

ADAM CUMMINGS: You did do an instrument survey to get these?

MR. SINACOLA: These are very accurate as to precisely where everything was built. So you have a record right there of the actual locations.

ADAM CUMMINGS: That is unprecedented. Thank you.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

Robert Mulcahy made a motion to close the Public Hearing portion of this application and Michael Nyhan 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.

PAUL BLOSER: Pretty straightforward. We do have the updated prints. There is no permits required at this point.

These units, do they have C of O?

MR. SINACOLA: I believe, yes.

MR. SUDOL: Temporary.

MR. SINACOLA: Think all four do.

MR. SUDOL: They have temporary C of O until we resolve this issue.

MR. SINACOLA: There are occupants out there.

PAUL BLOSER: I don't believe we have conditions because you have already supplied the print.

I think, too, I'm going to combine this all into one vote for both setbacks rather than splitting them out just because they're already the same thing.

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

Paul Bloser 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 7 yes with no conditions and the following finding of fact was cited:

1. The variance requested is not significant in nature. The window wells cannot be seen from the road or neighbors as they are below grade. These window wells present no negative impact on the environment or neighboring properties.
2. Application of Van Tamoutselis, owner; 4050 Union Street, Scottsville, New York 14546 for variance to allow new dwelling to be 96 feet from front lot line (100 feet required) at property located at 4050 Union Street in PRD zone.

Van Tamoutselis was present to represent the application.

PAUL BLOSER: For the record your name and address, please.

MR. TAMOUTSELIS: Sorry?

PAUL BLOSER: For the record, can we have your name and address?

MR. TAMOUTSELIS: I can't hear.

PAUL BLOSER: For the record, I have to have your name and address before you speak.

MR. TAMOUTSELIS: Van Tamoutselis, 4050 Union.

PAUL BLOSER: You have not started building this, so these are just projected?

MR. TAMOUTSELIS: No. This is completed.

PAUL BLOSER: This one is completed?

MR. TAMOUTSELIS: Yes.

ADAM CUMMINGS: He has it on the application. States "surveyor oversight."

PAUL BLOSER: That is just the front porch that is the overhang, right?

MR. TAMOUTSELIS: Well, the original site plan that Avery did, they had the house on an angle, so the furthest point from the road was that northwest corner, and I went back to Avery and I wanted to turn it so it was square with the road, parallel with the road. When they turned it, then the porch actually was the closest to the road, but they never changed that setback.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Robert Mulcahy made a motion to close the Public Hearing portion of this application and Michael Nyhan 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.

PAUL BLOSER: Not much to really talk about this. It is far enough away. If you look at other houses up and down the road, they have closer setbacks so I'm not really concerned about this.

No conditions of approval on this.

This is your final map, survey map?

MR. TAMOUTSELIS: Yeah.

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 Michael Nyhan seconded the motion. The Board all voted yes on the motion.

Robert Mulcahy made a motion to approve the application with no conditions, and Robert Springer seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 7 yes with no conditions and the following finding of fact was cited:

1. The variance requested is not significant in nature. It does not present an undesirable change in the character of the neighborhood nor will it have any negative impact physically or environmentally. Setback is still greater than many of the other homes in this area because of age and code changes.

The 11/27/12 Zoning Board meeting minutes were approved.

The meeting ended at 7:18 p.m.