

CHILI ZONING BOARD OF APPEALS  
December 20, 2011

A meeting of the Chili Zoning Board was held on December 20, 2011 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: Keith O'Toole, 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: First we'll go over the signs.

JAMES WIESNER: I didn't see the one on Carriage House.

PAUL BLOSER: That one I did.

JAMES WIESNER: There was a stick sticking out of the ground without anything attached to it.

ROBERT SPRINGER: It was up against the tree.

PAUL BLOSER: Up against the tree. Carriage House, that was on the corner lot. It was on the tree.

JAMES WIESNER: I missed it.

FRED TROTT: Is that the one duct-taped to the tree?

JAMES WIESNER: Missed it then.

The Board indicated they would hear all of the applications on the agenda this evening.

1. Application of Mr. and Mrs. James Ernisse, owner; 38 Kuebler Drive, Rochester, New York 14624; for variance to erect a 6' by 4 1/2' deck 53 1/2' from front lot line (60' req.) at property located at 38 Kuebler Drive in R-1-12 zone.

Karen Ernisse was present to represent the application.

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

MS. ERNISSE: Karen Ernisse, 38 Kuebler Drive.

Basically what we want to do, there is existing concrete steps there and bricks, kind of surrounding the outline of the concrete. They're starting to crumble. They're really the original structure when the house was built, so all we want to do is knock out the concrete and basically replace it with a small deck, porch, whatever you want to call it.

The only distinction is it will actually extend out about 6 inches closer to the road than the existing structure.

PAUL BLOSER: I assume you're making it out of wood?

MS. ERNISSE: The base will be wood and the top surface will be TimberLOK and railings.

PAUL BLOSER: Railings. An overhang over it?

MS. ERNISSE: No.

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.

PAUL BLOSER: House was built according to the previous code, consistent with everything going on in the neighborhood, so I don't have any questions of this one.

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.

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

Paul Bloser reviewed a proposed condition of approval with the Board.

ADAM CUMMINGS: Need any inspections?

PAUL BLOSER: I don't believe there are any due inspections on this one, is there?

ED SHERO: I don't understand.

PAUL BLOSER: There are no inspections or anything open on this one?

ED SHERO: Oh, no. For the new deck there would be.

PAUL BLOSER: There is just a condition of approval that the building permit be obtained.

DECISION: Unanimously approved by a vote of 7 yes with the following condition:

1. Building permit must be obtained at the Building Department.

The following finding of fact was cited:

1. This request is not significant in nature. The size of this porch and the new setback are consistent with houses of this age in the neighborhood doing maintenance and minor upgrades to decaying steps.
2. Application of William Shepard, owner; 3 Carriage House Lane, Rochester, New York 14624 for variance to erect a 16' by 16' utility shed to be 256 sq. ft. (192 sq. ft. allowed) and to be 13 feet high (12' allowed), variance for shed to be in front setback area, 14' from side lot line (55' required abutting a street) at property located at 3 Carriage House Lane in R-1-15 zone.

William Shepard was present to represent the application.

MR. SHEPARD: William Shepherd, 3 Carriage House Lane.

PAUL BLOSER: Could you lift the mike up a little bit? Very good.

What are you building the shed out of?

MR. SHEPARD: It will be built of wood frame.

PAUL BLOSER: Is it a prefab or build-it-yourself?

MR. SHEPARD: No. Actually, I got a guy that is coming to build it.

PAUL BLOSER: Okay. What are you putting on it for siding?

MR. SHEPARD: The siding is going to match the same color of our house. It will be a vinyl siding.

PAUL BLOSER: You will do the vinyl to match?

MR. SHEPARD: Yes, and the roof will match, as well.

PAUL BLOSER: The roof shingles?

MR. SHEPARD: Yeah.

PAUL BLOSER: It's one of the things we're going to look at, is just because it is such a prominent location, we want it to look good.

Are you proposing to put any shrubs or anything around it?

MR. SHEPARD: Never gave that no thought yet.

PAUL BLOSER: Okay.

MR. SHEPARD: I would like to put in a concrete floor, though.

PAUL BLOSER: Okay.

MR. SHEPARD: So when they make it, they will come set it right on the concrete floor.

PAUL BLOSER: They will make the thing and just deliver it, slide it right off?

MR. SHEPARD: Yes, just slide it right off. I got a picture of it, too.

PAUL BLOSER: Excuse me?

MR. SHEPARD: I got a picture of it, too.

PAUL BLOSER: That would be great if you have it, if you could put it up on the --

MR. SHEPARD: It's not a big picture. Right here (indicating)?

PAUL BLOSER: Sure.

Okay.

JAMES WIESNER: What is the actual size of the building, structure itself?

MR. SHEPARD: It's going to be a 16 by 16.

MICHAEL NYHAN: So the side with the windows and the door you will have an overhead door on the end; is that correct? Just like this photo showed?

MR. SHEPARD: Right.

MICHAEL NYHAN: Which side would face the street, the back side without any windows, just a flat building?

MR. SHEPARD: Yeah. Actually, it's going to be a window on that side, too. It comes with two windows, but you can put them any place that you want to put them in. So I was going to put one on each side.

MICHAEL NYHAN: Okay. Now, the diagram -- you're showing 14 foot back from -- is that from the right-of-way you're 14 foot back or from the edge of the road?

MR. SHEPARD: It's from the edge of the road.

MICHAEL NYHAN: Where the gutter is?

MR. SHEPARD: Where the gutter is. Is it 14 or 15?  
MICHAEL NYHAN: Diagram has 14.  
MR. SHEPARD: Yeah.  
MICHAEL NYHAN: 15 from the --  
PAUL BLOSER: 14 foot from the side lot line.  
MR. MYER: From -- I'm looking at Lamppost Drive. That is the side -- side of your house.  
PAUL BLOSER: The north side.  
MICHAEL NYHAN: Correct.  
And --  
PAUL BLOSER: 8 foot from the rear of the lot line.  
MICHAEL NYHAN: Right. 14 from the edge of the road or the right-of-way is my question.  
ADAM CUMMINGS: This map doesn't actually call out a right-of-way. It calls out a street line, so that's a question mark. Doesn't really show a right-of-way line.  
MICHAEL NYHAN: Okay.  
ADAM CUMMINGS: Just whether you want to assume that the street line is the right-of-way or the end of pavement. Could be two different things.  
PAUL BLOSER: Ed (Shero), how are you interpreting that?  
ED SHERO: Where it says "the street line"?  
PAUL BLOSER: Yes.  
ED SHERO: That's his property line.  
PAUL BLOSER: So you still got the setback included in that, or is that part of the 14?  
ED SHERO: No. 14 feet from his property line.  
ADAM CUMMINGS: Right. Doesn't have a bearing on the distance --  
MICHAEL NYHAN: From the side of the road. The other two lines from the front shows a 45 foot setback to the house. Then there is a line next to that that says 75 feet that extends out.  
ADAM CUMMINGS: So the center line of the road.  
Or could be the other side of the pavement. I don't know what that line is. 30 feet wide is not exactly a center line of the road.  
PAUL BLOSER: Yeah.  
ADAM CUMMINGS: If that is a -- new pavement.  
ED SHERO: That would be the center line, because it's a 60 foot road there.  
ADAM CUMMINGS: There you go.  
MICHAEL NYHAN: Okay. Thanks. Thank you.  
FRED TROTT: Why did you choose to place it there, the shed?  
MR. SHEPARD: Because I couldn't put it on the other side. It would be too close to my neighbors' property, plus I have a pool, too.  
FRED TROTT: Has to be 10 feet from the pool?  
PAUL BLOSER: Yes.  
FRED TROTT: Oh, okay.  
ED SHERO: Just a reminder, we're actually applying for three variances, the height, the square footage and the setback.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: I had just a couple questions on this. Since it is going to be very close to the road -- 14 feet is -- is -- that's very, very close to the road. I'm sure -- it seems that way to me at any rate. Why does it have to be so high? And so big?

PAUL BLOSER: Okay.

DOROTHY BORGUS: I haven't heard that yet.

PAUL BLOSER: We haven't asked that yet.

DOROTHY BORGUS: Okay. But this is what happens when you -- when you have a normal yard and you fill it with pool. When you want the biggest pool possible, then you have really cut your -- your choices way down when you then later want a shed. I understand that people might want a shed, but in this case it seems to me this is a good place to stick with the code. I think if you're going to allow it there, that close to the road, it certainly should not be oversized and it shouldn't be over the height limit.

Thank you.

Robert Mulcahy made a motion to close the Public Hearing portion of this application and Robert Springer 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: I will ask the applicant one question. Mr. Shepard, have you -- you have got it -- I'm trying to figure the distance between the pool and the south side of the shed. Is that -- I see a couple measurements there. I'm just wondering what that is, do you know?

MR. SHEPARD: I would have to take a look at it.

MICHAEL NYHAN: Where you see the 59, 34?

PAUL BLOSER: Yes.  
To the south side of your shed -- the distance between there and your shed.  
MR. SHEPARD: There is 15 feet from that line. Then there is an additional what?  
PAUL BLOSER: I see a 15 and a 34. I'm trying to determine what those two measurements are.  
MR. SHEPARD: 34 feet from the corner of the shed to the pool deck.  
PAUL BLOSER: To the pool deck?  
MR. SHEPARD: Yes.  
PAUL BLOSER: What's the 15?  
MR. SHEPARD: The 15, I had took a line, measured it from the corner of the patio straight down so I could determine exactly where the shed will be put at.  
PAUL BLOSER: Okay.  
MR. SHEPARD: That is why I see the line.  
PAUL BLOSER: Just a reference point more.  
MR. SHEPARD: Yes.  
PAUL BLOSER: But do you have 34 feet?  
MR. SHEPARD: Right.  
PAUL BLOSER: Would you be opposed to sliding that deck into like a 20 or 25 foot?  
MR. SHEPARD: Then it would be like an offset.  
PAUL BLOSER: It is just bringing it closer to the pool and away from the road, I guess, is what I am looking at.  
MR. SHEPARD: Actually, we -- we got a -- what, how many feet from the road?  
PAUL BLOSER: 14 feet.  
MR. SHEPARD: 14 feet from the road. What I was doing is trying to center it right in that lot line.  
PAUL BLOSER: Okay. I see what you're saying.  
MR. SHEPARD: So when you -- if you ride down the street, it would be perfectly straight from a -- from the line. The lot line, instead of being crooked and off.  
PAUL BLOSER: Okay.  
ADAM CUMMINGS: On this map -- this is a question for the Board, too. I'm reading 8 feet. Is everybody in agreement there on the west side?  
PAUL BLOSER: Yes.  
ADAM CUMMINGS: Isn't 10 required? For a setback from the side lot line? So that would be another variance?  
PAUL BLOSER: Rear --  
ADAM CUMMINGS: There is no rear. Well -- well, it's -- it's one of those corner lots. It is a rear or is it a side?  
PAUL BLOSER: We have been through this before.  
Counsel?  
KEITH O'TOOLE: We were just discussing this. We keep talking about distance of the shed from the road. With a 60 foot right-of-way, with a 20 foot pavement exception, you're probably talking 30, 34 feet. Unless somebody really did an awful job of paving that road, there is a fair amount of distance there.  
Nothing further.  
PAUL BLOSER: You're saying --  
ADAM CUMMINGS: They're talking on the north lot -- the north parcel line.  
KEITH O'TOOLE: Relative to post drive -- Lamppost Drive.  
PAUL BLOSER: You're saying there is probably about 30 feet then with the setback?  
KEITH O'TOOLE: It's technically -- the setback is 14 from right-of-way, which is 60 feet wide, but people always think in terms of distance to pavement, and there are no sidewalks here, so the distance from -- from the shed to the pavement would be roughly 34 feet.  
PAUL BLOSER: Okay. That's -- that's what I was getting at before. So it is set back a little bit more from the road.  
ADAM CUMMINGS: Yes. Because the center lines, like we said is 30 feet from the parcel line, and then the lane width will be about 11 feet. Then you have the shoulder and you then you will have the grassy area. Since there is no sidewalk eating up 4 feet, that is where you get the 34.  
FRED TROTT: Then you were asking about the -- that side (indicating).  
ADAM CUMMINGS: Now, the side, the back side, is it a rear -- on the west side of it, it is deemed a rear setback or side setback since it is a corner lot?  
KEITH O'TOOLE: That's always a good question.  
ED SHERO: The rear of the shed?  
FRED TROTT: Yeah.  
ED SHERO: Where he has 8 feet?  
ADAM CUMMINGS: Yeah.  
ED SHERO: That's a rear lot line.  
PAUL BLOSER: Okay.  
ADAM CUMMINGS: So that would apply to the 40 foot, not the 10 foot? Those corner lots always get tricky.  
KEITH O'TOOLE: If a corner lot has two fronts, our -- arguably it could also have two rears, so --  
ADAM CUMMINGS: Or it could have two sides?

KEITH O'TOOLE: That's correct.  
ADAM CUMMINGS: Okay. We'll go with rear today.  
ED SHERO: Where does the 10 foot come into play?  
ADAM CUMMINGS: If it is determined a side setback instead of a rear setback.  
ED SHERO: Side or rear it would still be 8 feet because it is an accessory structure.  
PAUL BLOSER: The residence would have to be 15.  
ADAM CUMMINGS: Okay. Sorry.  
ED SHERO: So we could call it either or.  
ADAM CUMMINGS: I got you. My mistake.  
Thank you.  
PAUL BLOSER: The height of it, let's go to that. Is the extra foot crucial?  
MR. SHEPARD: No. Actually, a buddy of mine built one and it looked nice, with the peak like this instead of the -- if you look at the picture, they have the peak going like this (indicating). It looks nicer if --  
PAUL BLOSER: Little more of a slope on it.  
MR. SHEPARD: Yes.  
PAUL BLOSER: Not so much for storage, it is for aesthetics?  
MR. SHEPARD: Yeah.  
PAUL BLOSER: Do you know what the pitch of your house is?  
MR. SHEPARD: I have no idea.  
PAUL BLOSER: Okay. Just to be consistent with that. You have a two-story there.  
ADAM CUMMINGS: On the shed, it is listed on the application as 16 feet by 16 feet.  
MR. SHEPARD: Right.  
ADAM CUMMINGS: On the sheet you put up there, 16 feet wasn't one of the width dimensions on there.  
MR. SHEPARD: Yes.  
ADAM CUMMINGS: It only goes up to 12. Or is that just what was on that sheet?  
MR. SHEPARD: No. They do make it. That was just showing how they make it, but it is going to be a 16 foot.  
ADAM CUMMINGS: Why do you need this much storage?  
MR. SHEPARD: Just extra storage space for the lawn mower, snow blower.  
PAUL BLOSER: Pool supplies?  
MR. SHEPARD: Pool supplies. Patio furniture.  
PAUL BLOSER: That's what we're seeing, most of the people that have pools and patios, is -- is a shed that size.  
ROBERT MULCAHY: We have been through this before.  
PAUL BLOSER: The norm used to be an 8 foot by 8 foot.  
JAMES WIESNER: How big is the pool? What is the diameter?  
MR. SHEPARD: 27 foot round.  
JAMES WIESNER: 27, okay.  
PAUL BLOSER: I'm going to put some conditions of approval on this. The siding, trim, roofing, and overhead door to be consistent in materials, color and design as the main house. Second, building permit will be obtained. Final drawings of the actual size and placement of shed to be supplied. On the slab, will you put footers down on that?  
MR. SHEPARD: We was thinking about putting it on a floating slab.  
PAUL BLOSER: Okay. Just discuss how you're doing that with the Town before you proceed with that.  
MR. SHEPARD: All right.  
PAUL BLOSER: Okay?  
MR. SHEPARD: All right.  
PAUL BLOSER: Do it the proper way so it protects your investment.  
MR. SHEPARD: Yep.  
I have one more question for you, too.  
If we wanted to put -- like the front of our house is brick in spots and bricked on the side. Would I have to come back if I wanted to do that?  
PAUL BLOSER: On the shed?  
MR. SHEPARD: Yeah.  
PAUL BLOSER: No.  
MR. SHEPARD: You know how this sheds have the brick front and the sides all of the way around it?  
PAUL BLOSER: No. You wouldn't have to. That becomes aesthetics. Um, I -- I mean it would be very much welcomed. We have had a few houses that have done that when they put their sheds up and they really stand out nicely. It really looks nice.  
MR. SHEPARD: All right.  
PAUL BLOSER: But no, you wouldn't -- you wouldn't need anything for that.  
MR. SHEPARD: Okay.  
PAUL BLOSER: With the shed going up, another condition of approval we regularly put on is that there will be no storage of building materials, lawn equipment or miscellaneous items outside. Basically if you got a shed, everything goes in it. We don't want to see a stockpile of things around the shed, leaning up against it. It's all in the shed or not -- it just keeps everything clean. It's a nice neighborhood. We do this with everybody.

MR. SHEPARD: Okay.

PAUL BLOSER: It is just -- you got that extra storage space, use it, don't keep accumulating.

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 the following conditions, and Robert Springer seconded the motion. Approved by a vote of 6 yes to 1 no (James Wiesner).

DECISION: Approved by a vote of 6 yes to 1 no (James Wiesner) with the following conditions:

1. Siding, trim, roofing and overhead door to be consistent in materials, color, and design as main house.
  2. Building permit must be obtained from the Building Department.
  3. Final drawings of actual size and placement of shed to be supplied to the Town following construction.
  4. No storage of building materials, lawn equipment or miscellaneous equipment outside of the shed storage area.
3. Application of Richard Schickler, Jr., owner; 870 Chili Scottsville Road, Scottsville, New York 14546 for variance to allow existing barn on proposed Lot #R-2 to be 23.4' from proposed side lot line (50' req.) and 26.4' from proposed rear lot line (50' req.), variance to allow existing barn on propose Lot #R-1 to be 26.3' from proposed side lot line (50' req.) at properties located at 860 and 870 Chili Scottsville Road in AC zone.

Robert Avery and Dick Schickler were present to represent the application.

MR. ROBERT AVERY: Robert Avery, land surveyor with Razak Associates, 6060 Fairport Nine Mile Line Road, Fairport, here with the applicant and property owner, Dick Schickler on the right and his son, Rich (Schickler) on the left.

As part of the finalization of the transfer of the business from father to son, we're finding that we have to do a lot line alteration out here at the property in order to contain within the commercial lot, which is known as Lot R-1 on our proposed subdivision, all those buildings that are used as part of either Patriot Towers or the construction company.

Um, you can see the former lot line is a hidden line, dashed, I think maybe. You can all see that maybe going up through the parking lot. Which would be this line right here (indicating), is the existing lot line. Okay?

And in trying to create this new boundary between the residential and the commercial, we're finding that we end up having to be a little bit creative with the lot line itself.

We start at the same point on the State right-of-way as the existing corner. But we kind of swung the line to include the edge of the gravel that you can see just to the north of the frame and masonry barn.

Then the proposed lot line turns south, pretty much splitting the difference between the existing frame and masonry barn on the existing residential property and the metal clad building to the east.

And then for the remainder of the lot line, the -- the -- they came down the whole 50 feet on the back end of the metal clad building so we weren't having to come in and ask for a variance there, as well. Then we ran a line back to an angle point and continued on through the pond area in order so Mr. Schickler Sr.'s house lot would retain 5 acres in size. Because we're obviously taking from it with this new lot line alteration.

Um, I don't see too many other ways to accomplish what they're trying to do here without placing the lot line -- to contain the commercial use buildings. Therefore, um, we're before you.

We would also have to go in front of the Planning Board because commercial use -- we can't use the minor subdivision ordinance for subdivision if we get approval for the variance this evening.

One thing I might add is that the dimensioning from the north side of the metal clad building which is currently on the residential property to that existing lot line is actually less than what is supposed to be now anyways, and I don't really know how that ever occurred because our subdivision was done in '05. So I don't have any clue as to how that happened.

It's a little bit less than 50. 49 1/2 on the northwest corner and 48.4 on the northeast.

Any questions?

MICHAEL NYHAN: On the map, sir, you show the metal clad building to the west, it shows the building is 12'4" by 24'3" is that a barn?

MR. ROBERT AVERY: It's a barn, garage. We're calling it a barn.

You can park a vehicle in it, I believe, right?

MICHAEL NYHAN: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Robert Mulcahy made a motion to close the Public Hearing portion of this application and Robert Springer 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: Is there a minimum size you need to be for residence in this area?

ROBERT SPRINGER: Residence is what you asked?

MICHAEL NYHAN: Yes. We're reducing the size of the residential property, right?

MR. ROBERT AVERY: No. We are retaining the 5 acres. We picked it up additionally in the back. It is still 5 acres.

MICHAEL NYHAN: The total lot will still be 5 acres?

MR. ROBERT AVERY: Yes.

PAUL BLOSER: The big thing we're looking at is the setbacks of the barn, basically.

MICHAEL NYHAN: Right. The distance between the barn and the metal shed is no problem?

PAUL BLOSER: The sign out front has a -- had a permit on it and it is part of the thing where the permits -- signs used to be permitted for a length of time. Permits have all expired. The Town is in the process of doing all of the updates and getting them converted to a permanent situation. So a condition of approval I would put on this is that the sign permit be obtained and finalized through the Town and close that hole up on the paperwork with them. It has been there. It is existing. Just -- just to get it on the record and cleaned up.

Nothing being built so there are no permits required here. It is pretty much just a revision of the property line and recording it with the County, so. So that is the only condition I'm looking to put on it.

Any other questions from the Board?

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

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

DECISION: Unanimously approved by a vote of 7 yes with the following condition:

1. Sign permit for the existing sign whose past sign permit has expired must be obtained from the Building Department.

The following finding of fact was cited:

1. The variance request on this application is not significant in nature. The subdivision of the parcel allows adequate distance to proposed borders and is the most logical border to create in order to maintain the required 5 acre lot size.

The 11/22/11 minutes were approved as submitted.

The meeting ended at 7:36 p.m.