

CHILI ZONING BOARD OF APPEALS
December 21, 2010

A meeting of the Chili Zoning Board was held on December 21, 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 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: I'm going over the signs. On Applications 2 and 3, I didn't have any problem with the signs.

On Application 1, I went by the property twice and did not see any -- a sign posted.

ROBERT SPRINGER: It was there. Fell on the ground. It was covered in the snow.

PAUL BLOSER: It has to be visible.

ROBERT SPRINGER: Just telling you --

PAUL BLOSER: Okay. Jim (Wiesner), did you see it?

JAMES WIESNER: When I went by on Sunday -- the first time through I didn't see it.

The second time it was laying on the ground.

MICHAEL NYHAN: Wasn't visible when I went through.

ROBERT MULCAHY: Never saw it.

ADAM CUMMINGS: Never saw it.

PAUL BLOSER: Two times I went, it wasn't. I guess I'm going to ask the Board at this point for a vote if we hear this or push it off for a month. Proper -- signage is important for neighbors and such -- community members that do want to see the property, hear the application, and they're trying to look and see where the site is. It is required that the sign be up and visible for the full ten days prior to the hearing.

With that, I will take a Board vote at this point whether we hear this application or not.

The Board voted 6 no to 1 yes (Robert Springer) in favor of hearing Application 1 this evening.

PAUL BLOSER: So I will move that we do have this application moved to the January meeting.

1. Application of Frank Martin, Jr., owner; 840 Chili Avenue Extension, Churchville, New York 14428 for variance to allow the total square footage of garage area, including a new 24' by 24' addition to garage to be a total of 1,820 square feet (1200 square feet allowed) at property located at 840 Chili Avenue extension, in R-1-20 zone.

PAUL BLOSER: Is the applicant here for this? Application 1, Frank Martin, 840 Chili Avenue, is that you?

MR. MARTIN: Yes.

PAUL BLOSER: Mr. Martin, I apologize, but it is the requirement that it be up the full ten days for visibility.

MR. MARTIN: It was up. We had bad snow conditions.

PAUL BLOSER: We have. But -- but -- as the applicant -- and I guess I'm going to speak from experience personally. I -- I had applied to the Town for an application myself several years ago, and I got pushed out three meetings because of snow and wind. I pretty much made a sign at that point that it would take a 60-mile-an-hour gust to take it down, and I submitted a plan for approval for the Town to use. I was not happy about it, but it was the rule. It does have to be up.

So I'm going -- based on the Board's decision, we'll move this out to January to hear the application. With that, I would like to add in review of the application, and what is on file right now, there are several things that are open, open permits.

I'm going to give you forward information that we will not approve an application if you have open permits. I will put it on the -- as a contingent Board approval of the application, contingent upon completion of any open permits that are in place, which would mean, if we move forward and approve your application for this addition, expansion to your barn, you would not be issued a building permit to start until everything you have open is closed.

MR. MARTIN: You have a list of those open permits? I'm not sure --

PAUL BLOSER: They're open with the Building Department. If you contact them, in

person, by phone, they will give you a list of what is open, what has not been completed for C of Os.

Just looking real quick, for an existing barn and deck, and also an addition to an existing deck that was not on the submitted plan.

MR. MARTIN: This is all for this particular property, for my property?

PAUL BLOSER: Yes. So -- so I would ask that you get together with them and get these issues taken care of because you won't be issued a permit until they're resolved.

MR. MARTIN: I'm in there multiple times throughout the year. I was never informed of any of those. I thought we closed all those. The deck was approved. That is back when -- oh, the other Building Inspector who has previously gone now. I know we had those all taken care of, but I will check on it.

PAUL BLOSER: Clear it up with them, because that would be a contingent of approval that those be closed out, okay, before another permit could be issued. And that is standard procedure. It's nothing -- nothing out of the ordinary.

So that will give you some time to solve that, get those taken care of also. So that one will be on the January agenda. I apologize for that, but we take the signs -- because it is the code, we have to take them very seriously. Okay?

Thank you.

Moving on, I will go to the agenda, Application 2.

DECISION: Tabled by a vote of 6 yes to 1 no (Robert Springer) for the following reason/
finding of fact having been cited:

1. Tabled until the January meeting due to lack of visible signage for public notice.
2. Application of Robert Villa, owner; 5 Waltham Road, Rochester, New York 14624 for variance to allow existing utility shed to be 46' from side lot line (55' required abutting a street) at property located at 5 Waltham Road in R-1-15 zone.

Robert Villa was present to represent the application.

PAUL BLOSER: For the record, would you please state your name?

MR. VILLA: Robert A. Villa, 5 Waltham Road, Rochester, New York.

PAUL BLOSER: This is an existing shed?

MR. VILLA: Yes, sir.

PAUL BLOSER: How long has it been there?

MR. VILLA: It has been there about five years.

PAUL BLOSER: I guess based on what is on your application, what I am seeing, it -- it just looks like it was -- there was a discrepancy over what was proposed and where it ended up being?

MR. VILLA: What I actually did is I measured from where the shed would be to the edge of the street -- or to the edge of my lawn. I didn't allow for the --

PAUL BLOSER: The setback.

MR. VILLA: The leeway from the -- that the Town owns. So when I brought my plans in, we discussed -- we talked about it, but I wasn't 100 percent sure, or I must have misquoted that.

So I completed the shed, got the permit, and then when I had final inspection, he noticed that the -- the setback was wrong.

PAUL BLOSER: When was that -- this was in 2005.

MR. VILLA: Yes. The shed was inspected a year later. It was completed the following summer. It was started late in the season.

PAUL BLOSER: Did you get a final inspection on that?

MR. VILLA: I had one, but it didn't pass because of the setback.

PAUL BLOSER: Other than that, though, you were --

MR. VILLA: Yes. No electric. Everything else. It is 8 feet away from the house. Everything else was pretty good. Just the setback was off.

PAUL BLOSER: I mean, it's a corner lot. It's -- you got a lot of trees on that lot.

MR. VILLA: No, I don't. I took them down. There's no trees.

PAUL BLOSER: Well, there's -- there's coverage around --

MR. VILLA: Little bit. Yes. There's a fence that goes right up to it.

ED SHERO: I will just add, I wasn't the one who issued the permit, but I did review Mr. Villa's final inspection, and he is correct everything was okay except for the setback. I think this was just the honest miscommunication between the former Building Inspector and Mr. Villa, and it is just a few feet short, and it kind of barred me from giving him the C of O on it.

PAUL BLOSER: Again, being on a corner lot, the position of everything, we don't have any complaints on file, there is nobody here --

ED SHERO: Most people I don't think even would have known about it.

PAUL BLOSER: So it's not a huge thing.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott 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.

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: Ed (Shero), is this closed out for building inspection other than setback?

ED SHERO: Yes.

PAUL BLOSER: So I don't see the need for any conditions of approval on this.

Robert Mulcahy made a motion to approve the application with no conditions, and Michael Nyhan 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 proposed variance is not substantial in nature and will not result in any adverse impacts on nearby properties or the neighborhood.
3. Application of Five Star Bank, c/o Beardsley Design Associates, 64 South Street, Auburn, New York, 13021; property owner: 3171 Chili, LLC; for variance to allow two wall signs on proposed bank totaling approximately 52 sq. ft. (one wall sign allowed), variance to erect three directional signs including bank name to be 3.75 sq. ft. each (two signs at 3 sq. ft. Each allowed), variance for directional signs to be at a height of 45' above ground level (42 foot allowed), variance to erect a double-faced monument sign to be 5' 8 1/2" tall (5' allowed) at property located at 3171 Chili Avenue in GB zone.

James Bonsignore, Dennis Hess and Andrea DeLany were present to represent the application.

PAUL BLOSER: They don't all go as easy as the last application.

For the record, state your name and address.

MR. BONSIGNORE: For the record, I'm attorney James Bonsignore, partner with Fix, Spindelman, Brovitz & Goldman. You're probably more familiar with my partner, Betsy Brugg, who is usually out this way.

I'm here, as I mentioned, at the Planning Board because I had the pleasure of working with Five Star Bank and Beardsley Design over the past couple of years as Five Star has increased its presence in the Rochester market. We have already successfully worked on a couple of projects out in Henrietta and Greece, which you might be familiar with, if you have been out that way to see what kind of product Five Star puts together.

The reason we're here this evening, we actually have already gone through site plan approval and did receive final approval at the Planning Board last week for this project. This is the out parcel in front of Wegmans and it is directly adjacent to a smaller office building out in front of the plaza.

As an administrative matter, I do want to take care of a couple things right off the bat. As you know, any time you come in seeking an area variance, the general criteria is to seek the least amount of variance possible and as is necessary to achieve the goal that you're trying to achieve.

Between the time we submitted the application and now, we have re-evaluated the project and there is actually two variance requests that we'll be withdrawing right now.

The first one is the height for the directional signs. After taking a look at everything, there is no issue in reducing that to the required height. It is a matter of shortening the -- the pole by 3 inches. So we're withdrawing that request for the height of -- the directional signs will be code compliant.

The other variance that is being withdrawn --

PAUL BLOSER: Can I -- just to interrupt you real quick, and I apologize. So the directional signs, we're going to keep those at 42 inches?

MR. BONSIGNORE: Correct.

PAUL BLOSER: Okay. Okay. And --

MR. BONSIGNORE: And then we're also going to withdraw the request for the height on the double-faced monument sign. In fact, in reviewing the monument sign with the overall property owner, and in conjunction with the design of the project, that sign really isn't going to be necessary. So that entire sign is actually coming out of the sign package and the site design. So on that basis, that requested variance won't be necessary either.

PAUL BLOSER: Okay.

MR. BONSIGNORE: So that leaves us with the building signage and the directional signage, and I'm just going to describe very briefly the building signage, as you can see, is on the plan on the floor -- if everyone can see it. I can move it up.

After reviewing the project with Town staff, it was determined because of the way the Five Star logo and their branding is broken up, the star is really an architectural design and

architectural feature as determined by staff. So what we have done is we have implemented the use of the star on three sides and are actually only putting two signs on the building that actually indicate the -- the branding of the Five Star Bank.

This is consistent with the other two banks in the immediate vicinity, the one building ESL and the other M & T. Both of those locations have two buildings signs in order to maintain the greatest amount of visibility.

We're uniquely situated because we're a wholly internal out parcel, if that makes sense. There is actually other buildings between us and Chili Avenue, as well as Paul Road to the -- what is it, to the east?

So the way we have designed the signage for this building is -- the primary frontage is going to be facing Wegmans, internal to the plaza, so we have the "Five Star Bank" over the door.

And again, keeping in mind that we're requesting an additional sign, what Five Star likes to do, and as you can see on the photographs on the floor, is to implement that signage as part of the architectural design to even further minimize the impact that that signage will have.

PAUL BLOSER: We can't see the ones at the floor.

MR. BONSIGNORE: So the sign facing Wegmans will look very much like this (indicating). It will be in between the windows and the door, incorporated into the architectural style. Really blends right into the architecture.

So while you will obviously see the branding, it won't be anything as obtrusive -- it won't be bright green like some competitors are.

Then the other sign will be on the Paul Road side, because there is an entrance road that comes in off of that direction, and that's going to be an approach factor for -- for bank customers, so we want to make sure the bank is properly identified.

To the west, we have the berm and the exit lane out through the plaza, so we really don't need the identification on that side, and likewise, there is an office building behind it. So unless somebody is looking directly out the window, and, "Oh, gee, I need to go to the bank today," it is not going to be necessary. So we're proposing the two buildings signs on the southern and eastern facades of the building.

We're also proposing three directional signs. For that, I will go back to the site plan. Because this is a wholly internal and self-contained parcel, there is two entrances on the entrance road nearest to Paul -- yeah, Paul Road. So we have directional signs at both of the entrances, depending on whether or not you're approaching from inside the greater plaza or if you're coming in off Chili Avenue, Paul Road.

The third sign that is being proposed is an internal traffic control and safety sign. Because there are the four lanes, the ATM is the nearest lane, so we have an indication here to show which is the drive-thru lane. And again, that is primarily for internal traffic and safety.

Those signs are proposed to be 3.75 square feet. Again, because we don't have the benefit of having road frontage, we need a little bit greater area to -- for overall safety within the plaza, and internal to the -- to the project, so we want to make sure that those are going to be visible. And we're talking less than a square foot. From the naked eye, you really will not be able to tell. This is consistent and I believe actually even smaller than the other signs for some of the other establishments in the plaza that have been approved.

So with that, I will run very briefly through the criteria, and then if you have any questions, I'm happy to answer them.

We also have contingency here with us from Beardsley Design and from Five Star Bank to answer any questions that you may have.

PAUL BLOSER: Can I ask a quick question to interrupt?

MR. BONSIGNORE: Sure.

PAUL BLOSER: This is the one you have got, correct (indicating), is what you're proposing?

MR. BONSIGNORE: Correct.

PAUL BLOSER: Do you have a colored version of this, what the colors are going to be?

MS. DE LANY: Yep.

MR. BONSIGNORE: If you put it on the overhead, we can see it.

PAUL BLOSER: Is that black and white or color?

MR. BONSIGNORE: It is color, but the primary -- the primary sign is mostly black with blue and -- probably just easier -- anybody else is welcome to take a look.

PAUL BLOSER: Yes. You wouldn't be able to distinguish it. Thank you. I'm sorry. Very subtle. Okay.

MR. HESS: I'm sorry. I'm Dennis Hess with Five Star Bank. The colors would be consistent with the star that is in the center of that.

PAUL BLOSER: I see it on here. It is very subtle. That is what I was looking for.

MR. HESS: Correct.

PAUL BLOSER: Thank you. I apologize for interrupting you.

MR. BONSIGNORE: Like I said, the -- the design of the Five Star, all -- the entire sign package is designed to be subtle, designed to blend well at the same time, while obviously providing identification and safety.

Five Star is very careful in their architectural design and in keeping -- they want to make sure that directional signs, too, are pleasing and -- and aesthetically blending with the rest of the project.

But as you know, the primary criteria with an area variance is the benefit to the applicant

weighed against any detriment to the health, safety and welfare of the surrounding community. Obviously with an area variance, and in this case specifically, the benefit to the applicant is going to be visibility in a competitive market. There are other banks in this immediate vicinity. We're looking to establish a presence in this area, and branding identification is going to be key.

And likewise, there is unique circumstances because of the location of this parcel, within the overall greater development. It is a little harder to get to, a little harder to see, so that makes the identification that much more important.

There really isn't going to be any detriment. These are on-building signage and directional and traffic controlling signs, so the only thing that they're going to do is to assist motorists and control traffic. So we think that that is actually going to be a benefit as opposed to a detriment.

Won't create any undesirable change to the character of the neighborhood. It is perfectly consistent with what has been approved for other establishments in the immediate area, and in some instances, it is actually less extensive and smaller, less obtrusive, more subtle than what has already been approved in the area.

Um, we don't feel that it's substantial, again, based on the characteristics of the surrounding neighborhood. It is perfectly consistent. Likewise, we have actually, at the outset, reduced our variance request to reduce in substantiality the request to the greatest extent possible. So we were striving to make sure this is as close to code compliant as we can.

Won't have any adverse physical or environmental effects.

This is on-building signage and a couple of directional signage on posts, so there won't be any physical adverse effects.

With any area variance, the difficult -- there is always going to be some kind of self-creation. In this case, again, it's borrowing from the use variance standards. It's kind of a unique parcel. It's an out parcel, but it's an in parcel. So -- it is surrounded by other development, so identification is really going to be more important for this parcel than it would be for the other parcels that have visibility from the major roadways.

So with that, that is our package and we hope you find it acceptable. Like I said, we have already gone through site plan approval, and we're looking very much forward to coming into the Chili market.

PAUL BLOSER: First question I have related -- unrelated. How did we end up with the sidewalk between that and the other parcels? I know there was some discussion, and I had to leave the other night before it -- at the Planning Board, so I was unable to hear the final on that.

MR. BONSIGNORE: The sidewalk will be installed. It will be ADA compliant.

PAUL BLOSER: Awesome. Okay. Thank you. I appreciate that myself personally. I think that will be a nice touch to that complex. Unrelated to the application, but overall.

Very surprised you were eliminating the monument sign. And I will say pleased. Because we don't like signs in Town. But you have got a nice package there, nice building, nice design.

I did take the time to look at your other buildings in Town. Very nicely done, very tastefully done. I like the architecture. The colors are subtle and I -- myself, I think it is a very nice fit to what we have tried to achieve in this Town.

At this point, I don't have any questions. I will open it up to the Board.

FRED TROTT: I have a question. The way I look at this, you're having the signs A and B. You have that on the -- so it is called the southern entrance, this one here (indicating)?

MR. BONSIGNORE: Yes.

FRED TROTT: Wouldn't that cause confusion with people driving the opposite way to the ATM?

MR. BONSIGNORE: You're talking about people driving into the site?

FRED TROTT: Yes. Driving into the site. Where it says you're going to have the sign pointing to the ATM, drive-up ATM, and it's going to make them think that they're going to go straight through.

MR. BONSIGNORE: That's a question for you, Steve (Moolin).

MR. MOOLIN: Steve Moolin, with Beardsley Design Associates, Principal. And Andrea DeLany, Project Manager. I just need to familiarize myself again with the A and B.

MS. DE LANY: Let's see here.

Multiple side conversations were had by the applicant's representatives.

MR. MOOLIN: I'm trying to look at this from your perspective right now.

FRED TROTT: Do you want me to show you?

MR. MOOLIN: Yes. It would be helpful. We could certainly use the site plan here. It would be easier to see.

So we have a sign here (indicating).

FRED TROTT: Yeah. You're having the sign here (indicating), that is telling you to go to the ATM. Common sense would say you're going to go this way (indicating). Right? Because you will have a sign here (indicating) saying to go to the ATM. You will have it going this way (indicating).

If you have a sign here (indicating) saying "ATM," would you go this way (indicating)? Would you be better just having one way in and one way out, or not have that sign there saying that, or have that -- have it here, facing this way?

MR. MOOLIN: I understand your question. And yeah, we were trying to give probably the person -- we're probably going to give them the shortest possible route, and then, you know, really basing this on somebody developing a pattern of using this.

FRED TROTT: Just as a point of thought, why not make this one way in and one way out. This would save people coming in here at a slip, and somebody backing up, for the safety of your customers, and it's -- this way you're having people follow the same route all of the time. You're not having somebody try to come here, to park, and get a jam.

MR. MOOLIN: I see your point.

What do you think, Dennis (Hess)?

MR. HESS: I -- I think --

MR. BONSIGNORE: I can address that at least from a traffic directional.

We have already gone through site plan and from a fire safety perspective and from a Traffic Safety perspective, they wanted to make sure both of those entrances were both ingress and egress to address any potential traffic issues. So that is the reason why those are both in and out, as opposed to unidirectional.

FRED TROTT: Well, then I would say that you -- I would want to change that sign because you will have people go this way (indicating).

MR. HESS: We could absolutely change the arrow to be a curve and we could add verbiage to the pavement itself, which we have done in other applications, ATM with the arrow pointing that way (indicating). That's not a problem at all.

MR. BONSIGNORE: If the Board wants us to make any changes, that's -- that's okay.

PAUL BLOSER: Could you accommodate then an arrow into that sign to point the direction?

MR. HESS: Absolutely.

MR. BONSIGNORE: Basically like a right turn, a right-angle arrow.

PAUL BLOSER: And still stay within the size requirements?

MR. HESS: Absolutely.

MR. BONSIGNORE: Correct.

PAUL BLOSER: I think I see what he is saying on that. It might be confusing. For new customers, um, to keep a direction --

MR. BONSIGNORE: Basically what I think you would end up doing, rather than having the arrow pointing to the -- to the left, would be to have it basically point to the left and up, to indicate that you go in and --

PAUL BLOSER: Yes.

MR. BONSIGNORE: Around the front of the building.

MR. HESS: We'll absolutely do that. Just change this arrow (indicating) to be a right angle indicating that you will make a right-hand turn.

PAUL BLOSER: In the artwork.

MR. HESS: We can also add paint to the pavement to indicate that, as well.

PAUL BLOSER: This time of year they're tough.

MR. HESS: That's true.

PAUL BLOSER: But the signage -- the sign itself is not very big, and it is pretty localized, so people coming in and out of there, it's not -- you're not going to see it from a block away. Which is good. These are all black lit, I'm assuming, with a white light?

MR. HESS: Correct.

PAUL BLOSER: And the colored -- where did that -- did you get this back? This is all black -- black and white basically, correct?

MR. BONSIGNORE: Yes.

The only real color that will come is going to be on the sides of the four points on the star logo, and then the star points, I think, are going to appear like a cream, I guess, white background.

MR. HESS: Right.

PAUL BLOSER: I want to make sure you can get those back.

MR. BONSIGNORE: Thank you, Mr. Chairman.

PAUL BLOSER: Thank you.

Fred (Trott), are you satisfied with that?

FRED TROTT: Yes.

MICHAEL NYHAN: Building signs lighted, back-lighted or down-lighted?

MR. HESS: Back-lit.

MICHAEL NYHAN: Back-lighted, okay.

MR. HESS: I believe there is a bad picture -- I apologize for that -- within the application package that -- that shows the glow. It's actually the last page.

MICHAEL NYHAN: Okay.

MR. HESS: You see the "Five Star Bank" is actually haloed. But again, it is all very subtle.

MICHAEL NYHAN: So they're lighted with LEDs?

MR. HESS: Correct.

MICHAEL NYHAN: From behind?

MR. HESS: Correct.

MICHAEL NYHAN: No other questions.

JAMES WIESNER: On your -- your site plan, the one that is sitting on the floor, the -- the view B, the left-hand middle, the star there is out, if I understand you correctly --

MR. BONSIGNORE: This one here (indicating)?

JAMES WIESNER: Yep. And the one on the -- the B view, the one on the left, in the middle.

2. The monument sign listed in the original application was withdrawn by the applicant.
3. The proposed variance for the height variance for the directional signs was withdrawn by the applicant.

The following finding of fact was cited:

1. The proposed variance will not create a substantial change in the character of the neighborhood or adjacent properties.

No meeting minutes were approved.

The meeting was adjourned at 7:40 p.m.