

CHILI ZONING BOARD OF APPEALS
December 16, 2014

A meeting of the Chili Zoning Board was held on December 16, 2014 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 Adam Cummings.

PRESENT: Mark Merry, Ron Richmond, Fred Trott, James Wiesner and Chairperson Adam Cummings.

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

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.

OLD BUSINESS:

1. Application of Al Hain, 352 South Drive, Rochester, New York 14612, property owner: Robert Tyo and Debra Lisena; for variance to create a proposed lot (Lot Number 2) to have 15' frontage on a road (40' required), variance for existing garage on proposed Lot Number 2 to remain without a principal dwelling at property located at 206 Chestnut Ridge Road in R-1-20 zone.

ADAM CUMMINGS: From what I remember of the meeting prior, we did have a motion and a second and a vote to close the Public Hearing, so depending how this application goes, we might want to reopen that.

There was no sign because it was already public notified before and was tabled at our last meeting.

Robert Avery, Al Hain, Pete Morris and Jeff Kowalski were present to represent the application.

MR. ROBERT AVERY: Land surveyor, 1255 University Avenue, Rochester 14607.

I'm here this evening with the applicants from the tractor -- old tractor company, Al Hain and Pete Morris sitting here. And also we have the attorney for the Tyos, Jeff Kowalski. They are in Florida and unable to attend the meeting.

As you mentioned, Mr. Chairman, we were here on October 28. At that time, we were requesting three variances from the Zoning Board, and it was -- there was a lot of discussion and back and forth. We kind have taken some of those ideas from that tabled meeting and made two changes to this map and by doing so, eliminating one of the requested variances which would have been the under-dimensioned setback for the front of that garage on the back Lot 2.

ADAM CUMMINGS: So Lot Number 2.

MR. ROBERT AVERY: We slid that line basically toward the road southerly in order to obtain the 75 foot front setback on that garage.

Of course you will also notice that we have indicated the pool with the attached deck, that will be removed. So there won't be any issue with those, because of being in a front yard or a setback or anything of that nature.

Another comment that had been brought up, which we were trying to address, had to do with snow storage for the 15 foot width driveway, which is the frontage and, you know, for the rear lot, Lot 2. And we have provided for 10 foot wide easement on Lot 1 for utilities and snow storage so that that is in place as far as snow removal is concerned for the owners of Lot 2. It will be a permanent easement.

ADAM CUMMINGS: All right.

MR. ROBERT AVERY: It was also some discussion that had gotten into having -- there being two houses upon the Tyo property there, which I guess has gone back quite a number of years ago. Several other lots in the area, the same condition. I think some information letter was issued and submitted to the Town in that regard. We have extra copies in case somebody didn't get the letter.

ADAM CUMMINGS: I don't believe I have seen that letter. But I'm aware of that, the preexisting, nonconforming of this lot, so as long as you're not altering those two structures, we don't really have anything to address with those.

MR. ROBERT AVERY: Okay. All right. I thought that they had been sent in. But in any case, I think there were discussions between a couple of the attorneys and Town Attorney regarding -- regarding those, I believe. My understanding.

MICHAEL JONES: I spoke with the attorney a couple times. Yep. Just prior to the DRC meeting.

MR. ROBERT AVERY: Very good. It wasn't one of the items we're requesting. It was kind of brought up. You know --

ADAM CUMMINGS: As I said, as long as you're not changing anything with those two

structures, it's a preexisting, nonconforming, and wouldn't necessitate anything here from our Board at this time.

MICHAEL JONES: Just for benefit of the Board, the discussions we had primarily had to do with the 5 foot easement along the side of the driveway for snow storage utility. Originally we talked about 5 foot. I see there it is 10.

MR. ROBERT AVERY: Another thing I wanted to point out that is part of the record, is we did have letters from the people that live right there in the area. I believe next door, that didn't have any objection whatsoever to this proposal. You know, those are the people that are living right there. It's not out of character. There is an existing flag lot immediately adjacent to this on the easterly boundary.

Since we have now reduced, you know, the requested variance down to two, we hope you will be able to give us some consideration to that effect. I will -- would be glad to answer any questions, myself or the others with me.

ADAM CUMMINGS: Letters, I do have in front of me from 209 Chestnut Ridge Road. I do have a letter from them stating they have no objection -- no objection to this project or the subdividing of the parcel.

Um, other than that, I agree with you. It is nice to see the compromise that was brought up to try to minimize the amount of variances we have on this property, so thank you for that. And I do apologize. I tried to zoom in. It is kind of sideways, but it at least shows the front parcel with the easement on the side. We'll probably have to shift the map down so we can actually see this Lot Number 2 in the front setback, but I wanted to focus on the front part first, most notably the easement, because we did have a comment about snow removal.

And one thing to point out, as this map shows, they do need -- the variance is -- is for a relief from the 100 foot requirement, so if we wanted to ask for the lot to be subdivided in such a way to maximize that -- the flag lot width, we would cause two variances, because Lot Number 1 is already proposed to be 100.5 feet and altering that would require variances for both lots.

So I think it's advantageous to not pursue that course of action. So with that, I will start with Board questions.

JAMES WIESNER: Is the ultimate intention to combine those two lots or would they be left separate from the zoning standpoint, to combine the two lots into one, or would you leave them separate?

MR. ROBERT AVERY: You're asking combining the back Lot 2 with the lot they currently own?

JAMES WIESNER: Yes.

MR. HAIN: We were going to leave them separate.

ADAM CUMMINGS: You're saying with the -- with the 204 Chestnut Ridge Road, with the --

JAMES WIESNER: Yes.

ADAM CUMMINGS: Just so it is clear.

MR. ROBERT AVERY: That is the other flag lot, just to the east.

ADAM CUMMINGS: Correct.

JAMES WIESNER: Only question I had.

FRED TROTT: Um, actually Jim had asked my question. I don't have any other ones.

When do you plan on having the pool and deck removed?

MR. HAIN: Once we get everything done. If it has to be done right now -- if we could wait until spring to not have to fight the weather if it really sets in, freezes up. Weather permitting, you know, we're willing to work with you guys, whatever you would ask.

FRED TROTT: I don't have anything else.

ADAM CUMMINGS: I will throw it out to the side table.

MICHAEL JONES: I don't have anything to add.

ADAM CUMMINGS: With that, with the pool being removed, um, it's a good point. Do you want to -- would this Board like to put a deadline on there next year?

FRED TROTT: I would say yes. You can't really expect them to do it over the winter.

ADAM CUMMINGS: Right.

So say a deadline of May 31st, 2015.

MARK MERRY: I think that would be fair.

ADAM CUMMINGS: Is that understood and agreeable?

MR. HAIN: Yes.

FRED TROTT: Is there -- with this flag lot, Lot Number 2, is that -- that is going to be graveled if it is not already?

MR. HAIN: Yes.

FRED TROTT: Will there be any -- any delineation between your lot that you already own and Lot Number 2, as far as the gravel? There is not going to be a barrier in between, is there?

MR. HAIN: Well, there are some existing trees there that would stay and the telephone poles for the utility line.

MR. ROBERT AVERY: The utilities run down through there. There is a tree line, kind of a line of trees through there with the poles and then you know, it's all lawn.

FRED TROTT: Okay.

MR. ROBERT AVERY: They're separate and distinct.

ADAM CUMMINGS: Before we move too much further, Ron (Richmond), could you do me a favor and shift that up?

RON RICHMOND: Sure.

ADAM CUMMINGS: It appears that the existing shed would be outside the easement.

MR. ROBERT AVERY: Yes.

ADAM CUMMINGS: So there is -- it's now 75 feet off of what is defined as the front lot line, and obviously, the pool and the deck, which -- the pool deck would have required a permit if it was staying, so we're alleviating that non-compliance.

MR. ROBERT AVERY: We had discussion coming up on that. Yes. That was another item. That is why the applicants agreed to just simply remove them.

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 Fred Trott seconded the motion. The Board all voted yes on the motion.

Fred Trott made a motion to approve the application with the following conditions, and Mark Merry seconded the motion. All Board members were in favor of the motion.

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

1. Pool and pool deck to be removed by May 31, 2015.

The following finding of fact was cited:

1. The proposed variances for this subdivision have been minimized as subdividing the lot width of Lot #1 to incur a wider road frontage for Lot #2 would result in the need for two variances for this property. The detached structure on Lot #2 has existed for many years and has not resulted in adverse impacts to the neighboring properties. The applicant also agreed to revise the dimensions of the subdivision lines and included a 10' wide permanent easement to alleviate the need for a front lot line setback, thus reducing the number of requested variances on the property and providing a greater amount of area for snow removal and access to the newly created flag lot.

Adam Cummings made a motion to approve the 11/25/14 Zoning Board minutes, and Ron Richmond seconded the motion. All Board members were in favor of the motion.

The meeting ended at 7:17 p.m.