

CHILI ZONING BOARD OF APPEALS
August 26, 2014

A meeting of the Chili Zoning Board was held on August 26, 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, 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.

ADAM CUMMINGS: Any issues on these five applications on the posting of the signs?

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

1. Application of Roger Dart, owner; 7 Hubbard Drive, North Chili, New York 14514 for variance to erect a 10' by 10' utility shed in front setback area (on Westside Drive) where code requires not to be placed in front yard, and 40' from front lot line (Hubbard Drive) where 55' is required, variance to allow existing deck to be 10' from rear lot line (20' rear setback previously approved) at property located at 7 Hubbard Drive in R-1-15 zone.

Roger Dart and Brian Dart were present to represent the application.

ADAM CUMMINGS: This is a revisit from last month.

MR. DART: Certainly I'm Roger Dart. 7 Hubbard Drive, North Chili New York. This is my son, Brian. He is here to not only to support me but in case I can't hear very well. I had trouble hearing last time, so he is here for that purpose.

The application is as it was last month obviously except they have amended it to add the rear deck, as you noted, and other than that, I have nothing to report.

So if you have questions for me, I would be glad to answer those questions the best I can.

ADAM CUMMINGS: Okay. Thank you.

JAMES WIESNER: No questions.

MARK MERRY: No questions.

FRED TROTT: No questions.

Will he need to get -- maybe a question to you. Would he need to get a permit for the -- the deck or show the -- the footings and stuff?

ED SHERO: No. Because he has shown proof it was built before 1991 which did not require a permit.

ADAM CUMMINGS: Okay. So it is preexisting.

ED SHERO: Preexisting but still didn't meet the zoning.

MR. BRIAN DART: It was built with the house well before they ever owned it.

ADAM CUMMINGS: Yeah.

MR. ROGER DART: We moved in 18 years ago. The site map up there was the site map we were provided. Of course, neither the shed nor the deck was questioned at that time either by us or the attorneys or the real estate people. Somebody probably should have questioned it at that time, but it wasn't, so here we are today.

ADAM CUMMINGS: With that location, looking at it, it is not on this site plan as the surveyors did note the trees, but it is pretty shielded by --

MR. BRIAN DART: We have pictures if you want to see them.

ADAM CUMMINGS: Sure.

MR. BRIAN DART: You can keep talking. I will get them out.

ADAM CUMMINGS: Other than that, we had the same thing from the last month. Just to remind everyone, a building permit for the shed wouldn't be required because it's below our size requirement. And --

MR. BRIAN DART: Gives you a rough idea (indicating).

MR. ROGER DART: There are four different angles on this picture. One is from the driveway. The one -- two are -- one is from the west -- no. Two are from the west side. One which shows all of the bushes which you see from west side is nothing as far as the shed is concerned. The others are pretty -- the other one is showing my garage. The shed is to the right, which again, is -- is visible, because it's a dark color. Doesn't showed up very well in the relatively wooded area.

MR. BRIAN DART: The one on the bottom left is from east side of the trees, Westside Drive, looking back towards the house.

MR. ROGER DART: The bottom are Westside Drive.

ADAM CUMMINGS: I was just going to ask you to tell which photos --

MR. BRIAN DART: The top left from the back of the property looking toward Hubbard Drive. Top right from Hubbard Drive looking back to the shed. The shed is the top right-hand corner of the picture. Bottom one from inside the trees on Westside Drive looking toward the house at the back of the shed. Then if you're outside the trees looking toward the house, same angle, just 15 feet further on the outside of the trees you can't even see the shed. Especially in the summertime when the leaves are out.

ADAM CUMMINGS: Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STEVE GINOVSKY

MR. GINOVSKY: I believe I live a couple doors down from him. I personally think there is no big deal here. It's proper. Instead of an 8 foot shed, it's 10 foot. You can put an extra shovel in it and he keeps his yard and everything else clean, neat and he is an upstanding citizen. He went through the last time for the front, for his porch and that. There is no problem. Excellent. He is a good man.

ADAM CUMMINGS: Okay. Thank you.

Just for the record could you state your address, too?

MR. GINOVSKY: 19 Hubbard Drive, the new house.

Fred Trott made a motion to close the Public Hearing portion of this application and James Wiesner 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.

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 Mark Merry seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: The one condition we did discuss last Board meeting would be -- and was mentioned by Ed (Shero) earlier is that the deck would need -- or the -- sorry. The deck variance is taken care of, correct?

MICHAEL JONES: (Nodded).

ADAM CUMMINGS: It's now amended.

MICHAEL JONES: Yes.

ADAM CUMMINGS: Which he does not need a building permit for, but you said he needed a zoning permit?

ED SHERO: No. Had to be zoning compliant. That is why we're here tonight.

ADAM CUMMINGS: Okay. We don't need a building permit for the size of the shed, so I don't really see any conditions.

James Wiesner made a motion to approve the application with no conditions, and Fred Trott seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 4 yes with no conditions, and the following finding of fact was cited:

1. The shed will be shielded from both road frontages due to its location and surrounding tree landscape. The deck has been in existence for many years and will not impact the surrounding properties since many of them have similar deck structures.
2. Application of Mr. and Mrs. William Mini, owner; 24 Old Ivy Circle, Rochester, New York 14624 for variance to erect an 18' x 19' deck 30' from rear lot line (40' req.) at property located at 24 Old Ivy Circle.

MR. MINI: I'm William Mini. I live at 24 Old Ivy Circle, 14624.

MS. MINI: I'm Brenda Mini at 24 Old Ivy Circle, 14624.

ADAM CUMMINGS: Just a brief description on what you're looking to do and pretty much why you're here tonight.

MR. MINI: We are looking to have built a deck that comes off our sliding glass door. It is replacing a deck that was there that was built before any kind of permit was needed. I believe it was built in 1988 and it was, um, much, much larger than this deck is. But we took it down because it -- it encircled a pool that was no longer being used by our family, and so we had it taken down and had the pool taken down and want to put a smaller deck off the sliding glass doors that we have.

ADAM CUMMINGS: Thank you.

JAMES WIESNER: No questions.

MARK MERRY: No questions. Thank you.

FRED TROTT: Yeah, I have no questions either.

ADAM CUMMINGS: Are you looking to construct this yourselves?

MR. MINI: I'm going to mildly participate in it. A gentleman who is a professional --

MS. Mini: Friend of ours.

MR. MINI: Friend of ours, also a professional carpenter is going to mainly do it and he said if you had any questions, he would be very willing to come -- or you can call him, whichever you would prefer.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and Mark Merry 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.

ADAM CUMMINGS: Pretty self-explanatory. It is a very irregularly shaped lot, as you can see there, with the orientation on the road radius. It is a smaller deck than was there existing. One condition I would place on this is that prior to construction of it, to obtain a building permit from the Building Department. That will be one of our conditions.

MR. MINI: Prior to um -- the very beginning of the construction?

ADAM CUMMINGS: Yes.

MR. MINI: Okay.

ADAM CUMMINGS: It's easier that way.

MR. MINI: I think what we paid \$100 for was the variance for here.

ADAM CUMMINGS: The \$100 was for Zoning Board of Appeals variance request.

MR. MINI: Yes. I will get that.

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 condition, and James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 4 yes with the following condition:

1. Building permit must be obtained from the Building Department prior to the commencement of construction.

The following finding of fact was cited:

1. This variance was promulgated from the irregular shape of this parcel. The architectural style of this house prefers to have the deck located on the south side of the house. Additionally, the size of the proposed deck is smaller than the existing deck that was constructed around 1988 prior to the current zoning code.
3. Application of Mr. and Mrs. Robert Picciano, owner; 26 Flint Lock Circle, Rochester, New York 14624 for variance to erect a 20' by 14 deck to be 45' from front lot line (60' required) at property located at 26 Flint Lock Circle in R-1-15 zone.

ADAM CUMMINGS: Thank you for helping me with how to pronounce that.

MR. PICCIANO: No problem. I'm Bob Picciano, 24 Flint Lock Circle, Rochester 14624.

MS. PICCIANO: Hi. I'm Kathy Picciano and I live at 26 Flint Lock Circle Rochester, New York 14624.

MR. PICCIANO: So we're looking for a front deck to our house. It actually will replace an existing deck that's there now, was built in 1984. We had a contractor do it. He obviously didn't know that a variance was needed. I obviously did not know a variance was needed either. So we're having another contractor to erect -- take down the existing structure there, put up a new deck, and it will be longer. It will be the width of the house. Basically will extend almost the exact same length from the house out toward the road.

You have pictures in your -- in the application of what the deck currently looks like. So it's basically -- as you can see, it's about 13 1/2 feet out from the front of our house. And it will be 9 1/2 feet across. Or that is the existing deck. No. That is the new one. So the -- I'm sorry. That is the existing deck on that, is 9 1/2 feet wide. It will go out longer to the end of the house. Okay?

ADAM CUMMINGS: Past the garage you're saying?

MR. PICCIANO: No. It's going to go -- when you are looking at that picture of the deck, it's going to go to the right to the --

ADAM CUMMINGS: Okay.

MR. PICCIANO: To the right of the house. The window, if it is still there -- I didn't print a picture.

FRED TROTT: If you want to walk up there to point out what you're talking about to give us a little more clarification.

MR. PICCIANO: Okay. So the garage is here (indicating). The front door is right there (indicating). So that is where we're stepping out. And the end of the house over here (indicating). So the existing deck, um, does not go to the edge of the house right now. Okay? Um, it does extend out about 13 1/2 feet.

ADAM CUMMINGS: Okay. So drawn right here, it kind of looks like that line extends out at the edge of the house. Where that 24.0 feet is, that's the edge of the house?

MR. PICCIANO: Yes. It is. That's the edge of the house right there. Yep.

FRED TROTT: So you plan on still being within the edge of the house?

MR. PICCIANO: Yes. It will be inside the edge of the house. Yep. You can see from the -- you know, we have Don's Custom Deck doing the work, so we're contracting with him. We'll get a work permit with the Building Department to get that done. I started some of that paperwork with Dawn. Once we are approved with -- if we're approved with the variance, so that -- we'll wait for the work to start once we have the work permit and the approval.

So the new deck, these bushes will be gone, but the new deck will basically be here (indicating). These stairs really are not very good stairs (indicating). We're going to improve the stairs so they're easier to get up and down. But then it will -- the deck ends, as you can see right there (indicating) before that window. But we're going to extend the new deck all of the way out to the -- at the corner of the house. A little shorter than the corner of the house. Not quite to the corner because of the building material. And it will -- it will extend all of the way to where this existing deck is. You can see it's 13 1/2 feet from the edge of the garage all of the way to the front of the stairs. That's about where it's -- this was in '84. So this is where it will be, right when we --

MARK MERRY: So you're keeping the same footprint?

MR. PICCIANO: Just extending -- except the width. That is basically all we're doing, extending it the width of the house. But the extension away from the house toward the road is basically staying the same.

ADAM CUMMINGS: I think the picture definitely --

MARK MERRY: Speaks a thousand words.

ADAM CUMMINGS: It definitely does.

JAMES WIESNER: The 9 1/2 feet on the drawing is what is existing.

MR. PICCIANO: Yes.

JAMES WIESNER: By the time you get out to the corner, it is probably half the house, 20 feet?

MARK MERRY: You will keep it the same height across the house.

MR. PICCIANO: Same height. Actually is going to come up to be level with the front door so you don't step down. Can't see it, but there is a little step down, so we're going to raise it so you step straight out onto the deck.

ADAM CUMMINGS: Have one more stair tread?

MR. PICCIANO: Well, it will just extend out, and then -- yes, we'll have to have probably an additional stair at the end because it will be a little higher. Right.

MARK MERRY: No other questions.

FRED TROTT: You don't plan on enclosing this or putting a roof on it?

MR. PICCIANO: No. No.

FRED TROTT: That's all I have.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and Mark Merry 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.

ADAM CUMMINGS: One condition, like the last application, is the building permit. You already mentioned it with -- the Town Building permit will need to be obtained prior to construction. We just need to say that because some people go and get the building permit after they finish.

MR. PICCIANO: Right.

ADAM CUMMINGS: We just want to make sure everyone is notified of that.

Other than that, really the setback here is for the road frontage, so you're really trying to maintain what you have existing, and it looks like it is adequate storage space. It doesn't protrude too far out. I see a hose reel sitting on there and it looks like a bench.

MR. PICCIANO: Yes. For flowers.

ADAM CUMMINGS: So you're not coming -- just to state it, you're not coming farther towards the road. You're going wider parallel to the road?

MR. PICCIANO: Correct.

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 James Wiesner seconded the motion. The Board all voted yes on the motion.

James Wiesner 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 4 yes with the following condition:

1. Building permit must be obtained from the Building Department prior to the commencement of construction.

The following finding of fact was cited:

1. The proposed variance results from replacing an existing structure that was constructed prior to the current zoning code and will not be closer to the road than the original structure.
4. Application of Open Door Baptist Church, owner; 350 Chili Scottsville Road, Churchville, New York 14428 for variance to erect an addition to church to be '85' 5 inches from front lot line (100' required) at property located at 350 Chili Scottsville Road in RA-1 zone.

Joe Lima was present to represent the application.

MR. LIMA: My name is Joe Lima, Treasurer Open Door Baptist Church. Our representative from Clark Patterson couldn't be here tonight so I'm stepping in for him.

We're in the process of planning an addition to the existing building, which would require relief from the front yard setback of 100 feet. We will be at 85 1/2 feet. The addition is represented in yellow there on the drawing. That whole side wing that you can see that just juts out from the building is our toddler wing. From the nursery, this whole side wing here (indicating), represents our toddler wing and our nursery. That yellow portion of the addition is going to be for a new nursery.

We plan on doing some renovations inside our building, open up our lobby, which is going to remove our current nursery, so we need additional space to add that nursery, and this is where we want to put it. Our sanctuary is right adjacent to the whole wing. The mothers are right there if we need to get them. It just makes it very easy to have the babies and the toddlers right there next to the sanctuary. That is the best place for us to put it, but we do need a relief from the front yard setback.

ADAM CUMMINGS: Thank you.

Looking at it, my first question you touched on it, why you located it here, but what is towards the back of that toddler wing? It looks like it is paved there now or there is an outline of something?

MR. LIMA: Back here (indicating)?

ADAM CUMMINGS: Yes.

MR. LIMA: There is a door here (indicating) on the lower level that exits from our kitchen downstairs and all the surrounding area is all pavement.

ADAM CUMMINGS: All right. So that connects to the kitchen area there.

MR. LIMA: Downstairs. This addition is upstairs. There will be no --

ADAM CUMMINGS: Right.

MR. LIMA: It will be on a slab. No basement underneath it.

ADAM CUMMINGS: But what I'm getting at, the variance request, would it be feasible architecturally to add it to that back side instead of asking for a variance on the front side?

MR. LIMA: No, because -- actually, the toddler wing ends about here (indicating), and then there is a lobby and then our bathrooms are right back here (indicating).

ADAM CUMMINGS: Okay.

MR. LIMA: This is our main entrance here (indicating) and the lobby is this whole area right down to the end (indicating).

ADAM CUMMINGS: Thank you.

JAMES WIESNER: It would appear then that you're going to tie the roof in perpendicular to the roof line on the existing --

MR. LIMA: Yes. I haven't seen the drawings yet or the plans from the architect, but he will make it so it looks like that addition was part of the original building obviously. We want it to look aesthetically pleasing as part of the original building.

MARK MERRY: I would like to know is this the only addition for that portion of the existing structure that you're looking to have done? Are you wanting -- will you put this addition on and there is no other improvements to that structure at that particular point?

MR. LIMA: We'll do some renovations on the interior but no additional square footage.

MARK MERRY: No intent to do any additions on the exterior?

MR. LIMA: Not at this time. No. Not that I know of.

MARK MERRY: You don't have a Master Plan? I'm just trying to envision what -- I would hate to see an add-on to an add-on to an add-on and five years you're in front of us adding

onto this.

MR. LIMA: That is all I know right now, just for the additional nursery space.

MARK MERRY: I think the architectural renderings would really be a benefit for us to take a look at.

ADAM CUMMINGS: Did you get anything with that?

MARK MERRY: I did. They're not --

ADAM CUMMINGS: They're only the front elevation view from the west. We can put it up there. But it looks like the peak, it's going to run at the same roof angle as the main structure and it looks like it is tying in just below the soffit of that back line, which is going to be tough construction.

MARK MERRY: Yeah. I looked at it. It's -- the detail is kind of -- I don't want to say photo shopped on there, but-- you can see my point there was something added onto that. It is going to be kind of --

ADAM CUMMINGS: Right.

MARK MERRY: It is not like you would have a neighbor before us that I'm aware of.

MR. LIMA: You have more information than I. I haven't even seen that yet.

MARK MERRY: There you go.

ADAM CUMMINGS: So right here, I see a restroom right there (indicating).

MR. LIMA: Yes.

ADAM CUMMINGS: The end of the restrooms there (indicating). Then it is obviously cut off here (indicating).

MR. LIMA: Well, we actually have restrooms for -- there are two double rooms connected by bathrooms on the toddler wing or in the toddler wing, so that is a bathroom and two of the rooms in the toddler wing. Our main bathrooms are down the hall farther.

ADAM CUMMINGS: Okay. And then obviously that is your addition up there (indicating). And what -- this is the toddler room here (indicating). This space down here (indicating), what is the use of that space?

MR. LIMA: Those are all toddler rooms.

ADAM CUMMINGS: All of the way down to the end did -- until the restroom.

MR. LIMA: Yes. 1, 2, 3 and 4-year-olds. All of the dark lines is the new addition.

ADAM CUMMINGS: Yes. Where you called out that goes out to the paved area farther to the south, that -- that goes toddler rooms all of the way to the end until you get to the restrooms.

MR. LIMA: To the lobby. There is a main lobby and then there are bathrooms on the back side of the lobby. The main bathroom. Then there is a lower level with bathrooms down there, a kitchen and out to the paved parking lot.

ADAM CUMMINGS: Okay. So this is just a one-story addition. Obviously the grade goes down.

MR. LIMA: It's on a slab, yes.

ADAM CUMMINGS: So an addition in the back would be a two-story addition to try to do this in the back.

MR. LIMA: If we had to.

FRED TROTT: Okay. Now that you said that, it does make sense. You just lightened up on that reasoning.

So are you planning to put a play area out in front of this building?

MR. LIMA: Um, we currently have a play area in front of the existing building on that side. We probably would have to put it adjacent to the new addition. I don't think we would want to put it out front.

ADAM CUMMINGS: Okay. That -- I agree with that.

MR. LIMA: We'll have to move it. It is out there now. We'll have to move it.

ADAM CUMMINGS: But you will use up that space you're using now. What we would hate to see is have it moved even closer.

MR. LIMA: We wouldn't want it that close because the kids would be out there. Probably adjacent to the -- to the south side of the building. The south end of the building.

ADAM CUMMINGS: Okay. What we were just describing?

MR. LIMA: No. This is actually -- this is south (indicating). This is north (indicating).

ADAM CUMMINGS: Oh. I was going off the relative north down below.

MR. LIMA: So the playground right now is here (indicating).

ADAM CUMMINGS: Right.

MR. LIMA: We would probably move it over here to the side (indicating) instead of coming out front because we wouldn't want to put it there.

ADAM CUMMINGS: Right. We're on the same page there.

JAMES WIESNER: Was there any consideration to bringing it out to the south, that way you wouldn't have to -- our --

MR. LIMA: Our septic tank, all our utilities and everything is on that side of the building. Septic. Leach lines and everything. There is a significant slope on that side of the building.

JAMES WIESNER: Okay.

MR. LIMA: You would have to walk through a room to get to an addition on that side. Unless you put another hallway in.

MICHAEL JONES: Two questions. I would just point out, if granted, conditioned on the site plan and the Special Use Permit.

ADAM CUMMINGS: Special Use Permit?

MICHAEL JONES: For the use.

ADAM CUMMINGS: Got you.

MICHAEL JONES: It is scheduled for both.

ADAM CUMMINGS: We're not hearing the Special Use Permit. That goes to Planning.

MICHAEL JONES: Correct.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Pain in the neck. I'm sorry.

ADAM CUMMINGS: Your address.

MR. GINOVSKY: 19 Hubbard Drive, North Chili. What I would strongly suggest -- I see a doorway going out through the front here, facing Chili Scottsville Road or -- as such. I hope that's wide enough for handicapped and it has a panic bar for an escape in case you have a fire.

MR. LIMA: There is a door there now.

MR. GINOVSKY: To make sure that it is large enough to accommodate that. I hope you never have to use that. That is the only thing I can see right there.

Thank you.

MR. LIMA: It does -- we have a door there now at the end of the existing hallway with a panic bar and it is wide enough for wheelchair accessible.

Fred Trott made a motion to close the Public Hearing portion of this application and Mark Merry 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.

ADAM CUMMINGS: I guess the only thing I would like to discuss a little bit more is you -- your entry way, it was a good point. It's not exactly within our scope to evaluate, so just keep it in mind so make sure it is compliant with the ADA requirements. But the amount of space, we would really like to minimize the variances or at least justify why we're granting the ones we are. If you could just elaborate -- it looks like there are four rooms. So what is that northernmost room with the partition walls?

MR. LIMA: There will be a nursery and also a storage area, and when we have baptisms, when they come out of the Baptistry, they can go out of the room and change. Right now they have to go all of the way down the hallway to the main bathroom and they're tracking water all of the way through the lobby and the hallway. It will also be used for our Music Department when they're preparing to go up on the platform that is right there in the front of the building. Just gives a little extra storage space as long as we're putting the addition in. The church is growing and we -- we need the space.

ADAM CUMMINGS: Okay.

JAMES WIESNER: Is there a variance already for the front setback on the church?

ADAM CUMMINGS: Good question.

MR. LIMA: No. I believe the church is at the 100 feet or more. That's --

JAMES WIESNER: I was just looking at the drawing and I believe it is less.

MR. LIMA: I don't believe we had a variance for the church.

ADAM CUMMINGS: The church has a variance from the side lot line, which is 40 feet.

MR. LIMA: Right.

ADAM CUMMINGS: But no, I don't see anything from the front.

JAMES WIESNER: We don't really have a site plan here.

ADAM CUMMINGS: No, we don't. That is why it -- all of the utilities you're saying, the subsurface treatment, the septic system is all in that triangle?

MR. LIMA: The south side of the building, adjacent to that whole wing.

ADAM CUMMINGS: Okay. So where that dimension line is, up over there? That vertical line that is out in --

MR. LIMA: Yes. They're down that way somewhere. I hope they're not in the way of digging footers.

ADAM CUMMINGS: All right. There will be two conditions, as Counsel mentioned.

One will be -- one condition of approval is that you need to obtain a Special Use Permit from the Planning Board.

MR. LIMA: What does that entail, a Special Use Permit?

ADAM CUMMINGS: That will be an approval for them, because you will need a change in use for what the current zoning is.

Is that explained correctly?

MICHAEL JONES: Yes. It is my understanding Mr. Lindsay already spoke to the applicant about it. There is a site plan application and then the church predates the zoning, but now with the addition, we're just going to bring it into compliance with a Special Use Permit.

ADAM CUMMINGS: Then the second one would be the site plan approval from the Planning Board.

MR. LIMA: Right. Okay.

FRED TROTT: Do we want to make a third one that they don't put a patio in front of the building?

ADAM CUMMINGS: Actually, that's -- if you're -- if your septic system is to the west, or --

MR. LIMA: South.

ADAM CUMMINGS: -- or southwest, that's kind of where your playground would be. Well, I think you could put it on. It is just if they ever had to maintain their septic system --

MR. LIMA: I think we have room to get the playground in. We may be partially on it, yeah.

ADAM CUMMINGS: Those kids shouldn't be overloading the surface. If they're driving vehicles on it, that could be it there. We certainly can, I believe. Counsel, a restriction on any additional improvements closer to the road? Does a patio qualify? Can we restrict that?

MICHAEL JONES: I would caution the Board against making determinations, speculations. So if there is a specific application, we could process the hurdles at that point with the specifics. So I would just caution you against a blank restriction against something we don't even know is happening.

FRED TROTT: Okay.

ADAM CUMMINGS: I think we'll leave it off.

FRED TROTT: That's fine.

ADAM CUMMINGS: We're at that two conditions.

ED SHERO: Building permit. To throw it in there, he also needs a flood plain permit also.

ADAM CUMMINGS: That will be in the flood plain, even though it is --

ED SHERO: Flood plain.

ADAM CUMMINGS: They don't already have one?

ED SHERO: For any permit they need a flood plain -- additional flood plain permit.

ADAM CUMMINGS: Okay. I was under the assumption they would have already had one cover them.

ED SHERO: Not really sure when that was built if that was required.

ADAM CUMMINGS: Well, we will add that.

Is that a flood plain or a flood way?

ED SHERO: Flood plain. If it was flood way --

ADAM CUMMINGS: We already had a flood way, so we don't want to go there again.

MR. LIMA: Have we applied for one for our pavilion permit? If we get one there, we also need to get another one?

ED SHERO: Yep.

ADAM CUMMINGS: Did you get those next two, for the building permit and the flood plain permit?

MR. LIMA: Yes.

ADAM CUMMINGS: So I will go back and continue that.

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 Mark Merry 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 James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION: Approved by a vote of 3 yes to 1 no (James Wiesner) with the following conditions:

1. Building permit must be obtained from the Building Department prior to the commencement of construction.
2. Flood Plain permit must be obtained from the Building Department prior to commencement of construction.
3. Site plan approval must be obtained from the Planning Board.
4. Special use permit must be obtained from the Planning Board.

The following finding of fact was cited:

1. This structure will provide an ADA accessible space for families and children at this facility. Alternative locations were discussed, but they resulted in locations that would provide a disjointed architectural program to the building and create an environment where the young children would be located closer to the kitchen and utility areas in the southern areas of the building, which is not desirable due to safety concerns.
5. Application of McDonald's USA LLC, 1000 Omega Drive, Pittsburgh, PA 15205 for variance to erect a new restaurant to be 50.2 feet from the front lot line (55 feet was previously approved) at property located at 3303 Chili Avenue in GB zone.

Louis Buono and Jack Buholtz were present to represent the application.

MR. BUONO: Louis Buono, the owner of the McDonald's at 3303 Chili Avenue.

MR. BUHOLTZ: My name is Jack Buholtz. I'm with T.Y. Lin Engineering. My address is 8 Mima Circle, Fairport, New York 14450.

MR. BUONO: We have additional copies if you want of the site plan.

ADAM CUMMINGS: Okay. Five years ago the plan was presented to completely rebuild this McDonald's, so I'm here now sharing with you guys that the delay is now over and we hope to start this project in April 1st of 2015. What I presented here, which is on the overhead, is the -- in red is the new site layout, which is almost identical to the old one that was approved. Um, the only thing that we're asking tonight is -- we made some minor modifications to not only drive-thru lanes that are in the back of the building. After five years of working with the -- with these double lanes, the modifications were made such that it created an ease of traffic flow, so we had to broaden the arc in which they turn, which we needed additional space on top of that.

Based on some new projections, very aggressive on my behalf, I have added additional storage in the back of the building, which required us to go ahead and push the building closer to the road 4 feet 10 inches. So tonight we're asking -- the old approval was at 55 feet. So tonight we're asking for a 50 foot 2 inch setback to accommodate these two changes.

We can't get any further back -- we can't move the building back because then we would eliminate the parking spaces that are in the rear of the lot.

Up here (indicating) you see the site layout with the landscape plan along with the elevations. And the 50 feet, I will point out, the 50 feet 2 inches actually goes to the base of the pillars that you see at the front of the building.

MR. MATTER: That would be to here (indicating), not to here (indicating).

MR. BUONO: The actual front of the building is actually setback at 55 feet.

ADAM CUMMINGS: So is it just the canopy?

MR. BUONO: Yes.

ADAM CUMMINGS: That was a pretty good discussion, both history of the project and what we have in front of us tonight.

JAMES WIESNER: It would appear that the front of your restaurant is -- from the picture is still even farther back from the Kwik Fill station next door. I guess that's all I have got.

ADAM CUMMINGS: That's a good point.

JAMES WIESNER: So it appears that you moved the building farther to the front to allow more access for that first line of cars and drive-thru in the back?

MR. BUONO: Correct. And the additional storage. I -- so I bumped the back -- the rear of the building to add additional storage for inventory.

JAMES WIESNER: Obviously the play area is going away and the canopy is out front?

MR. BUONO: Correct.

ADAM CUMMINGS: Your dual lanes -- you're a single lane right now?

MR. BUONO: Uh-huh.

ADAM CUMMINGS: Do you have any traffic issues backing up onto 33A currently?

MR. BUONO: No, not right now. And I don't anticipate it with this. With the technology that we implement inside our stores, the traffic flow is -- is actually quite impressive how it is monitored.

ADAM CUMMINGS: So I guess that leads me to my next question is, is the double -- is the double order lane necessary?

MARK MERRY: Did you skip over me and steal my question?

ADAM CUMMINGS: I will retract that question and go back to Mark (Merry).

MARK MERRY: Go ahead. Let her roll.

ADAM CUMMINGS: So -- so -- I just -- I just like to hear what your justification for having two drive-thrus lanes are, because if you take one of them away, you can push your building back and not be here for your revised variance.

MR. BUONO: Correct. So the additional plain -- the primary reason is actually for customer convenience. It allows two order points to accommodate all types of individuals that stand at the speaker for their designated period of time to accommodate their ordering. Um, it also allows me to put more cars through the drive-thrus, to substantiate the investment here and to allow me to maximize the sales and the sales potential with the new building.

His comment was, we're seeing the trend move towards -- our buildings are generating anywhere between 70, 75 percent drive-thru business and that is increasing year over year.

ADAM CUMMINGS: That is what I was getting at. I will not ask any more questions until Mark (Merry) is done.

MARK MERRY: So I guess I have two questions. Number 1, how much additional square footage are you picking up with your storage area?

MR. BUONO: Additional square footage would be the 5 foot bump-out, and the width of the building is 45. About 220 square feet.

MARK MERRY: In regard to -- what is the purpose of the canopy up front? On the roadside.

MR. BUONO: So the elevation was actually -- five years ago was -- was the idea of the Planning Board and the Architectural Review Board, from my understanding. This is not our standard design. Our standard design is -- doesn't even actually come close to this. So this was a move towards getting this to accommodate the -- the look of the Town, to -- to become more

closely relevant within the Town. Our buildings are actually more of a -- I will call it a box shape, and that they did not want that type of building design here.

So that was -- as a request or a -- of conversations to come up with this design here, this elevation. So this elevation was actually approved. We didn't change the elevation.

ADAM CUMMINGS: So the box one you're referring to, would that be say East Avenue's or Sweden?

MR. BUONO: Yes.

ADAM CUMMINGS: Or Spencerport's look?

MR. BUONO: Well, I will stick with East Avenue. Because -- I -- Spencerport was a remodel, where this is going to be a complete teardown and a rebuild.

All right?

MARK MERRY: So to -- I guess toward the point that Adam (Cummings) was trying to make, if we were to lop off that canopy on the front of the building, you may get away from having that required variance, correct?

MR. BUONO: Correct. We could go -- so you're suggesting we just go with the existing approved variance of 55 feet?

MARK MERRY: Correct. That is my suggestion. Yes.

MR. BUONO: Yes, for us to do that, I believe I would have to get a site plan -- another approval from the site plan, because this design has been approved, like I said, along with the Architectural Review. It has been approved.

ADAM CUMMINGS: I don't have the comments from the past Architectural Advisory Committee recommendations. I don't know if Ed (Shero) has them.

ED SHERO: 2009?

ADAM CUMMINGS: I don't believe we have them handy, but -- but I think that's a valid statement, is we could minimize that variance request by eliminating that -- I will call it a bump-out. It sounds like your design -- this isn't one of your typical prototypes, so you could modify that. In terms of the site plan, I don't know. I -- I don't know if that stems to need a whole another site plan approval if we --

MICHAEL JONES: Right. So I just wanted to add a couple things on that point. As the applicant pointed out, it's not his request. It's the approval -- the approval that he has gotten. He is stuck with the layout because of the Planning Board approval.

The other thing, it is almost an abundance of caution that they're seeking the variance because he would otherwise be compliant with the outside of the exterior wall to the road. This is really just an overhang with pillars. So the question is whether or not you even need a variance for the pillars.

So simply out of an abundance of caution, they're seeking the variance.

ADAM CUMMINGS: Okay. We don't -- we don't fully define if it's the roof line that drives our -- our setback trigger or if -- or if it is the actual building structural footprint?

MICHAEL JONES: So the Building Department generally goes with the exterior wall, which there is none, but there are pillars. So they're -- so they're using the pillars as a line for the need for the variance. Although technically the exterior wall is compliant with the existing variance. So I will leave it at that.

ADAM CUMMINGS: Okay. Thank you.

But that is all that has changed from those -- since the approval years back for this.

MR. BUONO: As far as variance, yes. Yes. There has been some minor architectural changes we made, material changes, things like that, but variances, that's it.

I will also add, the pillars are a nice touch. It also provides overhead shelter when people actually get to the sidewalk.

ADAM CUMMINGS: Just don't know how many people cross the front. If the playground is not out there, I don't know how many people cross the front. 75 percent of your patrons are going through drive-thru, it's a pretty big expense to make it a canopy for two people, five people. So just wanted to point it out. We're just looking for clarifications on that.

MARK MERRY: That's all I got.

FRED TROTT: You're not changing any amount of parking that you have on the property? Correct?

MR. BUONO: From the plan, the 2009, no.

FRED TROTT: Okay. But from the original.

MR. BUONO: Yes. We have actually dropped it down 17 spaces.

FRED TROTT: Okay. Signage is still going to be the same from 2000 --

MR. BUONO: '9, correct.

FRED TROTT: Not adding any more?

MR. BUONO: No.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STEVE GINOVSKY, 19 Hubbard Drive North Chili

MR. GINOVSKY: I personally have lived in this Town since 1961 to start with. I have been around.

I'm not a real big fan of in the front here on Chili Avenue having traffic flowing around there. The original from 2009, as I recall, in this room, was because they were going to put a Kentucky Fried Chicken next store or facts similar. That is first of all.

The second part is, you have taken parking from -- as I'm looking at this picture here, the

layout, from the right you have there -- there used to be parking. You've reduced the number of parking.

Number 2 point on here, I see -- went by this location at least once, maybe twice today. Material, stock coming in, they're supposed to be coming in the evening, off hours, delivered and dropped off. Their tractor-trailer is taking up six spaces minimum, maybe more that you can't get in.

Are we trying -- in this Town trying to condense everything into a small footprint for an extra foot lane? I don't think that's what you really want. And how are you going to get vehicles really going around that back section? And fire protection? We have zero here.

ADAM CUMMINGS: Well, I -- we can't speak to that tonight. That really falls on the Planning Board.

MR. GINOVSKY: Well, on the zoning here for what they want to do, kick it out. They were given Special Use Permit permission, 2009 to do something in conjunction with this Kentucky Fried Chicken that was supposed to be there. They have come back for signs and you have given them permission for it and now they want to reduce it even more and add a more -- more drive around through the back? The answer -- I don't believe this is the right point for the Town, what we want to represent.

And for the front of the building here, it was set up that way so everything on Chili Avenue looks somewhat the same. That was the whole concept. And that was from the past Zoning Board and Planning Boards. At this point, I don't think it's really a feasible point. You're getting -- we're getting less for the Town and making it look real shabby.

Thank you very much.

ADAM CUMMINGS: Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: What is the setback -- never mind disallowing the plan from 2009, what is the setback on Chili Avenue?

ADAM CUMMINGS: The setback?

DOROTHY BORGUS: What should it be?

ADAM CUMMINGS: They already have a variance.

MS. BORGUS: I know that. Just forget all of the variances, go back to square one. What is the setback?

ADAM CUMMINGS: 75 feet.

MS. BORGUS: Well, I -- I have a hard time trying to envision this -- this building. Is this building going to now cover the footprint where the playground was?

ADAM CUMMINGS: I can't speak for the applicant, but I believe so.

MR. BUONO: So yes, it's going to be very similar to the existing location.

MS. BORGUS: But the building will now be where the playground did exist?

MR. BUONO: No.

MS. BORGUS: No?

MR. BUONO: No. The road that you see in front of the building, okay, that --

MS. BORGUS: That will be the playground?

MR. BUONO: That will be somewhat of a representation as if that was crossing now where the play land is.

MS. BORGUS: All right. So the building itself is not any closer? Except for this overhang and the pillars, it's not any closer to the road than the building that is there now?

MR. BUONO: It could be a little bit, all right? It is very close. I don't have the exact dimensions, however.

ADAM CUMMINGS: So there could be a few feet overlap?

MR. BUONO: Yes.

ADAM CUMMINGS: It's not --

MR. BUONO: It's not 20 feet. It's not 20 feet.

DOROTHY BORGUS: Okay. Well, I'm not a fan of variances. Um, but in this particular case, I think that overhang or canopy, whatever you want to call it and the pillars really adds something to the building. And it's awfully important I think -- you may have to give something up, but I think it's awfully important for Chili Center to get a better look. And if this accomplishes that, then I guess we -- my -- my vote would be just eat the variance and let it go.

Thank you.

ADAM CUMMINGS: Thank you.

FRED TROTT: Did we record that?

MARK MERRY: Was there a pun in there, eat the variance? (Laughter.)

Fred Trott made a motion to close the Public Hearing portion of this application and Mark Merry 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.

FRED TROTT: I notice that he has already been to Planning Board for site approval.

MR. BUONO: Correct.

FRED TROTT: That was just last week or -- the 12th?

MR. BUONO: Two weeks ago.

FRED TROTT: Okay.

ADAM CUMMINGS: Do you have -- let's see.

FRED TROTT: I don't see anything outstanding.

JAMES WIESNER: So they're conditioned on our approval probably.

ADAM CUMMINGS: I do have the decisions. August 12th. So they did unanimously approve it with the 11 -- with 11 conditions. I don't know what those 11 conditions are.

FRED TROTT: They have it in the notes here.

ADAM CUMMINGS: Oh, they did get printed? Yep. They are. So with that condition number, I take it, back. It doesn't talk about us.

MARK MERRY: They forgot again.

ADAM CUMMINGS: We were forgotten. Anyway, we're here tonight. We're looking at the variance.

Any conditions on there? Obviously, building permit prior to construction.

FRED TROTT: Because it has happened in the past, do you plan on having -- I will call them bollards to protect from people driving through the McDonald's?

MR. BUONO: Yes. And -- in locations that have been determined in -- in incidents -- yes, there will be bollards. In specific spots around the building.

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.

James Wiesner 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 4 yes with the following condition:

1. Building permit must be obtained from the Building Department prior to the commencement of construction.

The following finding of fact was cited:

1. The proposed building and the requested variance will not result in a building location closer to Route 33A (Chili Avenue) than the adjacent gas fueling station. The proposed building is an architectural improvement to the commercial area as it is replacing an outdated, deteriorating prototypical building with a more refined building shell that is acceptable to our Town's Architectural Standards and Advisory Committee.

Adam Cummings made a motion to accept the 7/22/14 minutes as modified, and Fred Trott seconded the motion. The Board was unanimously in favor of the motion.

The meeting ended at 8:09 p.m.