

CHILI ZONING BOARD OF APPEALS
February 28, 2017

A meeting of the Chili Zoning Board was held on February 28, 2017 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 Valerio, James Wiesner and Chairperson Adam Cummings.

ALSO PRESENT: Eric Stowe, Assistant Town Counsel; Paul Wanzenried, Building Department Manager.

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 with the signs on the properties?

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

1. Application of Ferrari's Pizza Bar, 3240 Chili Avenue, Suite B-18, Rochester, New York 14624, property owner: Chili Plaza Properties LLC; for variance to allow existing 2' x 2' double-faced building sign to protrude from building (wall signs cannot extend beyond extremities of the wall), variance to allow a total of five wall signs (1 wall sign on building, 1 protruding wall sign, 3 signs on canopy) where two wall signs were previously granted on 8/9/16 at property located at 3240 Chili Avenue Suite B-18 in G.B. zone.

PAUL WANZENRIED: Does not appear that there is an applicant at this time. I would -- if you want to do it, that's fine, but I would suggest you take Application Number 2.

ADAM CUMMINGS: I would concur with that. We'll shift the agenda.

Now we'll go on to Application Number 2 and return back to Application Number 1 if that applicant shows up later.

2. Application of Calvary Assembly of God Church, owner; 3429 Chili Avenue, Rochester, New York 14624 for approval to amend previous variance granted on 12/8/09 for. freestanding signs. Applicant is requesting to replace existing 4' x 8' double-faced. freestanding sign with a 6' x8' double-faced freestanding sign (Chili Avenue sign) and. replace 3' x 6' double-faced freestanding sign with a 5' x6' double-faced freestanding. sign (Beaver Road sign) at property located at 3429 in R.B. zone.

Bob Reeves was present to represent the application.

PASTOR REEVES: Good evening. Bob Reeves. I serve as Pastor of the church. My home residence is 4 Bello Court, Rochester, 14624.

Sign basic changes are that the -- there is a circle at the top that bears the logo. Monument size is the same. Service times are being set lower. We have actually removed some information from the sign so it's more legible and readable. We think that this is more attractive now and more reflecting our church family and actually looks better in the community. We think the less information and larger makes it easier to read for passing cars. We think that moving from a white reflective surface with black -- to a black surface with the white lettering makes it less obtrusive in the evening. If it were just for our church family, we probably wouldn't pursue this, but our facility is actually used quite a bit by other organizations. There is a number of organizations that use our facility for training, blood drives, flu shots, Boy Scouts, scrapbookers, home school networks and so sometimes that signage is very helpful and them not having to apply their brakes too quickly to be able to find the driveway. So we're asking approval for that.

ADAM CUMMINGS: Okay.

JAMES WIESNER: Just to confirm, it's just black and white as shown in the picture?

PASTOR REEVES: Correct.

JAMES WIESNER: The AG is for Assembly of God?

PASTOR REEVES: That's our logo for our denomination.

FRED TROTT: The change in height is strictly because of the dome?

PASTOR REEVES: Yeah. The actual the portion that doesn't include that circle with the logo inside of it is the same as it was before. But when you increase any portion of the sign, you have to include the entire perimeter as if it were a rectangle. So the only actual increase is that half circle above the arc. But to be fair, there is also -- there was not lettering on the brick below and we had to put the service times down there.

FRED TROTT: Now curiosity, your church times wouldn't add or change or you wouldn't add another mass or something like that?

ADAM CUMMINGS: If they do, they would revise that portion of it.

FRED TROTT: You would be able to make that smaller?

PASTOR REEVES: Yes.

FRED TROTT: I just don't want them to come back and say they need a bigger bottom sign. We have been here before, so. Trying to minimize that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I think this is a big improvement over the sign they have. It is certainly more attractive. And, um, I think it will do a better job for them than what they have now. It's a good looking sign.

LINDA BEATTIE

MS. BEATTIE: Linda Beattie, B-E-A-T-T-I-E. I live at 3 Loyalist Avenue, and I get the agendas for the Board meetings and Committee meetings, and this one sort of peaked my interest because, um, although I don't know what the zoning law is around this type of sign, um, I thought it was interesting that this was a variance on top of a variance that had been done before. And I wondered number one how many times you can do a variance on top of the same variance. And actually, why this was a variance -- why this was needed to -- to, um, come before the Zoning Board again with a larger sign and what was wrong with the size that they had already gotten a variance on, and -- because there is nothing -- I drove by both properties that were on the application today. There is nothing obstructing the -- either one of these two signs. You can see these from a distance. And I can see maybe increasing maybe the size of the lettering, but, um, not the sign -- the size of the sign another 2 feet taller. And plus they're adding more things to the brick. Um, and I just wondered where is the limit on this type of thing.

Are there certain number of variances you can ask for? I think that this is -- is probably -- is an attractive sign, but then does that open up the way for -- okay, we want another change? It is not just this sign I'm talking about, but other signs in Chili, too. Um, is this the way that you get to make bigger and better and make your changes? And then what is the zoning law for? But that's just my comment.

ADAM CUMMINGS: Would you like me to answer the question?

MS. BEATTIE: Sure.

ADAM CUMMINGS: The amount of amendments off or amended applications, there really isn't a limit. The only limit is if you're denied, there is a timeframe where you cannot reapply until it's a substantial change to come in for that. But in terms of the number coming in, people can continue to apply and sometimes they will be denied and sometimes they will be approved, depending on the circumstances of each application.

And in terms of this, um, he is requesting it for increased visibility, a new ornamental decoration up there and added mass times. That is my understanding for this.

MS. BEATTIE: So that qualifies to increase the sign size even though the zoning laws for our Town are set?

ADAM CUMMINGS: Yes. That's why we're here. Even though we have a zoning law by law, we have to have an appeal so that people can get relief from our zoning code. It is not always set in stone per se.

MS. BEATTIE: Okay. I just, um -- this sign is very visible from, you know, the road and to increase it another 2 feet, to me seems like that's just -- it's just more than what is necessary. The sign I think -- I think everything about the existing sign is nice. Maybe the lettering needs to be larger, something like that, but again, another 2 feet, I think, that's what bothers me. It's going to be a bigger sign as you drive into Chili from that side.

ADAM CUMMINGS: Okay. Thank you.

MARK MERRY: Those are great questions. Thank you.

PAUL WANZENRIED: Mr. Cummings, it is within the purview of this Board to send them to the Architectural Advisory Committee if you deem it so.

ADAM CUMMINGS: Yes. That's true. That is very true. I do have one point -- well, I will close the Public Hearing first. It's not a very difficult question, but I just want to do stepwise where it goes.

Mark Merry 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.

ADAM CUMMINGS: Now, side table, along with that question, that circle that's above the sign, is that deemed to be part of the sign because it's a graphic? Much like Five Star, we deemed that graphic to be not be part of the sign. It was just an artistic representation. So looking at the dimensions, Mr. Reeves, how much bigger is the sign in terms of the lettering compared to your existing?

PASTOR REEVES: The only change in the lettering -- increase in size would be that which is put on the lower side of the monument sign. Nothing on the side monument is changing.

If the logo is classified as a graphic and not part of the sign, then actually the only thing under consideration would be the lettering underneath and that would be substantially less than 2 feet.

ADAM CUMMINGS: Okay. Thank you.

Am I understanding that correctly? How do we want to --

ERIC STOWE: So you're talking about removing the circle with the cross --

ADAM CUMMINGS: Yes.

ERIC STOWE: -- from the calculation?

ADAM CUMMINGS: Correct. If that --

PAUL WANZENRIED: I don't --

ADAM CUMMINGS: Actually, I'm asking if it is --

ERIC STOWE: I would say it is part and parcel of the sign.

PAUL WANZENRIED: It's integral to the sign.

ERIC STOWE: It's not an independent one like Five Star where it was just the sole content of the graphic was that logo. It's in conjunction with.

ADAM CUMMINGS: Okay. I would agree with that.

ERIC STOWE: That would be my assessment.

ADAM CUMMINGS: I would agree with that. So, therefore, we are still standing with the same one. But once again it's more artwork put in there and the overall sign that we have here does increase the visibility of both roads. We're focused on one sign on Chili Avenue, but don't forget, there is the other sign on Beaver Road, too.

FRED TROTT: Now, I have a question. We -- because he is going 2 feet or a foot and half that below -- I don't know what to call it -- the window of the cross there, that is 2 feet from the top?

PASTOR REEVES: If you look where the arch begins on the left-hand side, to the top would be a 1 foot increase. Because that is where we have to list that. So it is actually only about a 6-inch increase from where the orange top of the sign was because we have to consider that a rectangle in terms of how we report it here.

FRED TROTT: That is my only contention if we could do total square footage. Because we're giving the property a variance ---

ADAM CUMMINGS: I stopped using pi a long time ago in my calculation.

FRED TROTT: I thought you were good at that.

ADAM CUMMINGS: I am.

FRED TROTT: You're giving a variance for somebody to come ---

ADAM CUMMINGS: To have the full rectangle.

FRED TROTT: -- to have the full rectangle on that sign.

MARK MERRY: I would like to pick up on what the side table mentioned about the Architectural Review Board. So we could table this and have it go there as an option?

ADAM CUMMINGS: Yep. If somebody wants to make that motion, we can do that.

MARK MERRY: I would like to make that motion.

ADAM CUMMINGS: We have a motion to send it to the Architectural Advisory Committee. Is there a second?

FRED TROTT: I'll second.

ERIC STOWE: With the applicant's consent?

ADAM CUMMINGS: I was just going to ask your timetable of this. This would add on some more time. We can't conditionally approve this because we're going to wait until our next meeting to get that input from them, so this would push it off to the March meeting.

Would you be okay with that?

PASTOR REEVES: That would push off probably implementation of putting this in until after Easter. It would be advantageous to have this prior to our Easter services. If there is serious concerns about architectural design, I would certainly be happy to go along with that. If it's just a delay for 30 days, then I would recommend that we actually just go through with it.

ADAM CUMMINGS: Go through with it tonight without it? Okay.

PASTOR REEVES: I mean if that is really an issue, like there are real architectural concerns, I would absolutely want that to be looked at.

ADAM CUMMINGS: Well, the Board -- two of us have already spoken that we're entertaining that motion and we have not voted on it yet. And I can't think of a sign in the recent past that we haven't received input from the Architectural Advisory Committee.

PASTOR REEVES: That's fine.

JAMES WIESNER: Most of the time those are ground up. This one is ---

ADAM CUMMINGS: The base is there.

JAMES WIESNER: This one the form and function is there. It is just the graphics that are changing.

PASTOR REEVES: I guess I'm unfamiliar, too, with how we would receive feedback from the Architectural Review Board.

ADAM CUMMINGS: They would hold their Committee review. You submit your materials and then they would issue a memo or a brief letter, report back to our Board.

PASTOR REEVES: Should we have someone present when they review that to answer any questions or concerns that they may have?

ADAM CUMMINGS: Yes.

PASTOR REEVES: So we would be notified when that meeting would take place?

ADAM CUMMINGS: Yes.

PASTOR REEVES: Great.

ADAM CUMMINGS: So are you --

PAUL WANZENRIED: That meeting will be March 10th at 6 p.m.
No. Sorry. March 14th. Excuse me.

JAMES VALERIO: Will this be back on our agenda for March?

ADAM CUMMINGS: March 28th.

So to go back to that original question, just to be clear on the record, you're okay with us moving forward with tabling it?

PASTOR REEVES: I understand. I guess. I'm so unclear if this is an aesthetic thing and this is part of the review, that's fine. If it is a structural thing, I think the structure is in place.

ADAM CUMMINGS: Yep. The structure -- that goes along with what Mr. Wiesner said. Your base has already been -- correct me if I am wrong, I don't have it in there, but I could have sworn that the Architectural Advisory Committee in 2009 -- I would have to go back and look at the record, but I thought they had input on your sign back then. Your base was approved and this is just for the change of the sign part. The Town would not be looking at anything for the base of it.

PASTOR REEVES: I would have no objection.

ADAM CUMMINGS: Okay. So we'll go ahead and continue on. We had a motion and a second. We'll have a Board vote to table this.

DECISION: Unanimously tabled by a vote of 5 yes to table with the applicant's consent to await report from the Architectural Advisory Committee.

Note: Applicant to obtain new signs at the Building Department to post/maintain as per Town regulations.

ADAM CUMMINGS: It has been tabled pending the Architectural Advisory Committee review.

I was going to move onto Application 1, but I don't see any new faces.

JAMES WIESNER: Only thing I notice on the main church sign is the size has changed. Maybe it is just as-built as opposed to -- if you look at existing and the proposed, the whole sign is 14 wide, 10 feet wide at the sign and -- for the existing and the proposed is 12 feet wide, 8 feet wide sign. I'm assuming that that structure is not changing, because it's all in brick.

ADAM CUMMINGS: No. The structure is not changing. I'm not seeing 8 -- oh, there it is. The 8 is faded on mine. The 2 and 6 -- you're saying 8 feet on the height, correct?

JAMES WIESNER: I'm saying on the width.

ADAM CUMMINGS: I don't have 8 on the width.

JAMES WIESNER: If you look at the main church sign on Chili Avenue, the existing and proposed, you have two different dimensions.

ADAM CUMMINGS: I see what you're saying.

JAMES WIESNER: The width, both the sign, the overall sign.

PASTOR REEVES: Just one other point -- I apologize for interrupting. We were actually approved originally for a larger sign than exists there now. We have less square footage. We came very close to being within the square footage that was originally approved. But because that lettering on the bottom did push us over, that's why we brought it back. The actual sign that is there is actually less than what was approved originally.

FRED TROTT: I see what he is saying. You have 12 feet on the proposed sign for Chili Avenue and 14 feet on the existing. Is that just a typographical error?

JAMES WIESNER: I think what he is saying, they didn't build it that big, if I am understanding it correctly.

ADAM CUMMINGS: Correct.

JAMES WIESNER: They built it smaller than what they got the variance for.

ADAM CUMMINGS: They still have -- dimensions of lettering is what we restricted it on on the past one. So yes, the overall base, the brick part is smaller than what they originally are proposing. But that still doesn't change the dimensions of the lettering of the actual sign. Okay?

I don't know what to do about Application Number 1.

ERIC STOWE: Well, we have a bit of an issue in that -- there is a bit of an issue in that depending on the date the application was made -- because it was notarized, I think, January 5th --

ADAM CUMMINGS: Really?

ERIC STOWE: Yes.

ADAM CUMMINGS: They're coming up on 62 days, aren't they?

ERIC STOWE: It was notarized January 5th. Mr. Wanzenried's letter of denial was January 11th, so it would be largely dependent upon what day the application was made. Well, not largely. Entirely dependent.

ADAM CUMMINGS: My paperwork says January 5th.

ERIC STOWE: That's the date it was notarized. As Paul (Wanzenried) was saying, an application is not complete until his denial is issued. Not --

ADAM CUMMINGS: So that is where you're saying January 11th.

PAUL WANZENRIED: January 11th is the date.

ERIC STOWE: Would be right. The earliest date, because that would be the date of the denial.

ADAM CUMMINGS: That puts them over 62 days if we push it to the next meeting.

ERIC STOWE: Correct. Which my assessments, you need to consider it on the application as it is presented.

ADAM CUMMINGS: Right. So we're going off the paperwork only.

ERIC STOWE: Without the benefit of the applicant presenting their position.

ADAM CUMMINGS: Yep.

FRED TROTT: So can't we table it?

ADAM CUMMINGS: No. If we table it, it -- it becomes a denial. Our action has to occur within 62 days, and January 11th is when the clock started. So we have to do an action tonight. And that's the action we're performing here. It's not that we're automatically denying it or approving it. It is that this is all we get to go off of. Typically we hear the story.

JAMES VALERIO: Their explanations are pretty detailed. So it is not like we don't have anything to go off.

JAMES WIESNER: Even by tabling it it doesn't suffice.

ADAM CUMMINGS: We can't table it. We have to have an action before the 62nd day.

JAMES WIESNER: We can't just talk about it and table it.

ADAM CUMMINGS: No. Because that's not a completed action.

Well, first things first, Fred (Trott), I hate to do this to you, but you do such a good job of it, can you go back down and change what is on the screen?

JAMES VALERIO: You ever have an applicant not show up?

ADAM CUMMINGS: Yes. Yes. Not -- I can count on less than three fingers.

JAMES WIESNER: Usually they say something --

ADAM CUMMINGS: Or they forgot, which is unfortunate. On this one, once again, we are -- we're going to -- or I'm going to split this up into two, because we have a variance request for a quantity or a total of five wall signs, and then we also have a variance for a protruding sign. So I would like to break those out. The protruding sign which is 2 foot by 2 foot --

JAMES VALERIO: Wooden sign.

ADAM CUMMINGS: The wooden sign, yes. We'll do that one first. So they have previously been allowed to have two wall signs.

MARK MERRY: Is there a date on that?

ADAM CUMMINGS: 8/9/2016. And they -- I would count that as their second wall sign. One is protruding and one is on the side of the building. So they're okay to have a sign on that side of the building. They just can't have it protruding out. That's what we're considering right now, whether we want it to be allowed to protrude off the building. That's the top picture up there which it is existing. It's a wood construction. It does give it nice visibility as you're driving down the driveway. That's all I can speak to.

JAMES WIESNER: Want to be the applicant and come down --

PAUL WANZENRIED: It's somewhat unobtrusive.

ADAM CUMMINGS: Yes. It might be protruding, but it is somewhat unobtrusive. It is definitely not affixed to the wall in a flat manner. Hence I agree with the protruding definition.

Jim (Wiesner), do you have any questions for the applicant?

There will be Board discussion. If there are no other questions.

PAUL WANZENRIED: If it will make you happy, I will go out there and stand and ask my questions.

ADAM CUMMINGS: No. I don't want to get you in trouble.

If there are no other questions for the Board, I'll open the Public Hearing.

FRED TROTT: Paul (Wanzenried), when were these signs put up, the ones in question here? Do you know roughly?

PAUL WANZENRIED: Somewhere end of December, first of January or thereabouts, I think. Something like that.

JAMES WIESNER: This was found during your final inspection?

PAUL WANZENRIED: That's correct. Yep. To date we have had no complaints.

ADAM CUMMINGS: And the food is good.

Do you have any questions pertaining to the signs, not the food, Mark (Merry)?

MARK MERRY: Well, we approved two signs and we approved two signs.

ADAM CUMMINGS: Two walls signs. Yes.

MARK MERRY: Yep. It's -- it's an establishment that has been easily found for decades without being overly signed and creating more sign pollution in the Town of Chili. They have -- there is no hardship seen, reading through the application. You could probably not have a better location to be found in Two Fronts Plaza.

JAMES WIESNER: I did --

MARK MERRY: They seem to attract a lot of people.

JAMES WIESNER: What did they originally submit?

ADAM CUMMINGS: Two wall signs.

JAMES WIESNER: They must have submitted a picture?

ADAM CUMMINGS: I believe if you look on the front facade picture, that is what they proposed on both sides. So if you take a look at the picture -- oh, they don't have it up there. They -- by my recollection, on the side that fronts -- I will call it the Old Mug side, the old front entrance, there was a sign above there and there was a sign above the main entrance where the canopy is.

JAMES WIESNER: They were obviously not protruding.

ADAM CUMMINGS: They were not protruding signs. Neither of them.

MARK MERRY: I think their absence speaks volumes.

JAMES VALERIO: I will say that if you're driving through the plaza, down by Leaf & Bean and the paint shop coming up that way, the fact it protrudes and you're looking left, obviously you will see it's an establishment, but I think they're aesthetically pleasing. I think it's nice to see a full parking lot.

I understand Mark's concerns, as well, but I do think they're doing a good thing for the Town of Chili for that plaza that has -- really other than Leaf & Bean, it has been kind of beat up over the years.

ADAM CUMMINGS: But once again, reminding you this sign is just specific to the property and stays with it. So we could get the next --

JAMES VALERIO: That's true.

ADAM CUMMINGS: The next vendor in there, they're allowed to put whatever sign in there. It could still be tasteful, but it would be protruding. Just to consider it. We need to consider that.

FRED TROTT: To be honest with you, that sign is the -- the wooden one is not noticeable to me when we saw it. I had to go look at it. Um, and as far as the canopy, it sticks in my mind that that was put up -- I want to say I thought it was put up two weeks after their meeting in August. Because I thought -- I remember seeing it and going, "We didn't approve that."

ADAM CUMMINGS: Could be -- I don't know the date of construction.

FRED TROTT: It concerns me when they are the -- this is the owner of -- looking at the paperwork, they're the owners of the plaza.

ADAM CUMMINGS: The applicant is.

FRED TROTT: The applicant is.

ADAM CUMMINGS: One thing to remind the Board is we did have a similar canopy that was constructed ahead of time that had signage and that was the Byrne Dairy and we then told them to take their banner down that was on top of the gas canopy. They had to take it down instead of all four sides of sign. They did receive two. They did that at their expense. So the canopy can still exist for whatever we decide tonight. It is the decals that are on it that we're deciding on.

JAMES WIESNER: Same thing with the fitness place on Scottsville Road.

FRED TROTT: Spunk Fitness.

ADAM CUMMINGS: I just wanted to point those out for our past decisions. But sticking with the protruding sign, I will go ahead and open it up for public comment.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: When I first read this, I thought this pertained to the sign on the corner of the building and I believe it just says Paul Road. What -- what is that?

ADAM CUMMINGS: There is a -- there is a protruding sign on the Paul Road side which is the wood sign we're discussing.

MS. BORGUS: Just says "Paul Road."

PAUL WANZENRIED: Think -- the street signs. Those are --

MS. BORGUS: I don't know what that is.

PAUL WANZENRIED: That's a whole another --

ADAM CUMMINGS: That is not part of this application.

MS. BORGUS: I'm curious, did that get approved?

PAUL WANZENRIED: That's a whole -- no.

MS. BORGUS: Okay. Who put that one up?

ADAM CUMMINGS: I don't know. And it's not part of this application.

MS. BORGUS: I know that.

PAUL WANZENRIED: More than likely the plaza.

MS. BORGUS: Pardon?

PAUL WANZENRIED: The plaza.

MS. BORGUS: Agreed. This is an aside. That should come down. It serves no purpose. It's distracting. I and a couple other people have said, "What is that for? Why is that sticking out there?"

It's horrible. It's an eyesore. It's not Paul Road. It's way in a parking lot. That's another issue. Do I -- I may have to turn a complaint in on that one.

ADAM CUMMINGS: That's a different one.

MS. BORGUS: I may have to turn a complaint in on that one.

JAMES WIESNER: After the meeting would be good.

ADAM CUMMINGS: After the meeting.

MS. BORGUS: I don't like protruding signs. Now, from the conversation here, I assume that all of this signage exists.

ADAM CUMMINGS: Yes.

MS. BORGUS: Not just the protruding sign but the other, as well?

ADAM CUMMINGS: Yes.

MS. BORGUS: All put up without approval?

ADAM CUMMINGS: The -- yes. The -- the three signs on the one canopy -- because the canopy went up once and that includes three of the signs. Then the protruding sign. They were approved to put two building signs on the wall, and --

MS. BORGUS: They followed their own plan.

ADAM CUMMINGS: These differ.

MS. BORGUS: They followed their own plan. Okay. I have a vision of every store, business in that plaza -- as well as the one in North Chili, which are also in a line, all wanting a protruding sign if you approve this. There isn't anybody that will be satisfied any more with just a wall sign, because they will want to know they can be at one end of the plaza and have their business be seen from way down the line.

ADAM CUMMINGS: Well, that's speculating. I would --

MS. BORGUS: I don't like precedent.

ADAM CUMMINGS: I would go other the side because a lot of those front the parking lot and they don't want protruding because they want it viewed from coming from the parking lot, but we're not here to compare any of those.

MS. BORGUS: I just see this as being a big problem in the future for not only that plaza but the one in North Chili, as well. I think it's a bad precedent. I think it's a substantial change in the code to have protruding signs.

I agree with Mr. Merry. I saw no hardship. Um, if that's the -- the two signs they chose, then they ought to have the two signs but certainly not a protruding sign. And as far as taking it -- taking it down, I agree, I remember the -- the issue with Byrne Dairy when they came in with a canopy that had signs on every side, and they were made to take it down. So I think that's the action that's required here. Thank you.

MS. BEATTIE: I went by the property today because I was driving through.

ADAM CUMMINGS: Sorry to interrupt very quickly. The same procedure.

MS. BEATTIE: I'm sorry.

LINDA BEATTIE, 3 Loyalist Avenue

MS. BEATTIE: Linda Beattie, 3 Loyalist Avenue.

And I noticed that if you were to walk down the plaza going from south to north, all of the businesses there have a little hanging sign that hangs and this one also has -- this restaurant also has a hanging sign there. And I wondered about this -- the sign, um, because I came actually from the Paul Road side, and I saw the protruding sign, and I thought, well, maybe it's because if you go around the corner, they want you to find the restaurant. But it's a corner restaurant. I mean, and it doesn't seem like it needs a protruding sign. Especially if you say that -- that if you allow it now, and any other business comes in there, then again, you're setting a precedent for that, too.

Um, and I think I have to agree with Dorothy (Borgus), right? That -- that I don't see a need for it. And -- the restaurant is there. I do see a need for maybe a sign on the building. I don't know about the signs on either side of that awning, because as you turn the corner, if you're walking -- and I don't know for some reason you've missed the sign and you've missed the door, you might want to go around the corner, but it's obvious where the doors are because they have these big pillars out in front. And -- so that's just my idea on it.

ADAM CUMMINGS: Okay. Thank you. We'll go ahead and entertain a motion to close the Public Hearing.

Mark Merry 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.

ADAM CUMMINGS: Sticking with my -- the protruding sign, one condition is a sign permit would need to be made.

JAMES VALERIO: One question. Does the protruding sign count as two signs because there is two sides to it?

ADAM CUMMINGS: It is, as it is listed here -- it is a double-faced protruding building sign, yes.

JAMES VALERIO: So when we say five signs, we're talking three on the canopy, two there?

ADAM CUMMINGS: Yes.

JAMES VALERIO: Okay. Correct, Paul (Wanzenried)?

PAUL WANZENRIED: (Paul Wanzenried indicated non-verbally.)

JAMES VALERIO: The other thing I would say is if you look at every -- down the strip, every other establishment besides having some hanging signs has a big lighted sign on the -- what do you call it?

ADAM CUMMINGS: The parking lot.

PAUL WANZENRIED: East side.

JAMES VALERIO: The upper part on the stucco.

PAUL WANZENRIED: Canopy.

JAMES VALERIO: Ferrari's does not have a big, gaudy sign. I'm actually surprised they had -- didn't want something like that.

MARK MERRY: They did. That's what they asked for.

ADAM CUMMINGS: That's what they put on.

MARK MERRY: That's what they originally wanted.

JAMES VALERIO: Regardless, it doesn't have that. This sign is more aesthetically pleasing, smaller.

ADAM CUMMINGS: Yes. But once again, it now provides two signs whereas before they were granted one.

MARK MERRY: The reason they were granted the second sign was -- Adam (Cummings)'s point at the time during that meeting was it was the restaurant on the opposite end, correct?

ADAM CUMMINGS: Acropolis.

MARK MERRY: Acropolis has the same thing. Well, there is already an existing condition. Would it be fair or unfair if we didn't approve it. I was part of the discussion at the time. And that's kind of what situated.

JAMES VALERIO: They chose to put the sign on the canopy rather than up on the awning?

ADAM CUMMINGS: Yes.

MARK MERRY: Five signs up instead of one wall sign.

ADAM CUMMINGS: One on each side of the building. They didn't have them on the corner. They had one above the old main entrance of the building, and another one above where the canopy is.

JAMES VALERIO: They didn't want anything up here (indicating).

ADAM CUMMINGS: No. That's where they did want it. They wanted it on the left. The one facing the east side, they wanted one there, and they wanted -- further down the north wall where the canopy is, they wanted a sign up there.

MARK MERRY: So to your point, James (Valerio), in order for to really kind of fit in -- with their tenants, that was approved.

JAMES VALERIO: Was knowledge of the canopy having -- you said they didn't say there would be three signs on it. But was that discussed at the meeting?

ADAM CUMMINGS: No.

FRED TROTT: No, no. They just dropped the bomb.

MARK MERRY: They just put it up.

FRED TROTT: They put it up.

JAMES VALERIO: Canopy was never discussed at all. My question is did they think canopy with signs on it is not a sign?

PAUL WANZENRIED: The general perception is a canopy isn't a sign, okay? Only because of the Town of Chili's code is it considered three sides of -- that is a sign. The common public wouldn't consider -- except for Miss Borgus wouldn't consider that a sign.

JAMES VALERIO: Kind of like a gas station pump with --

PAUL WANZENRIED: Yes. Something like that.

ADAM CUMMINGS: I got you.

MARK MERRY: But sign companies print on the awnings. Even though it's a sign.

JAMES VALERIO: I'm -- is the company thinking we're going to trick them on it and put three signs on it?

MARK MERRY: I don't think so, but they're not here for us to ask that question.

FRED TROTT: I think that's my point. They are builders. So they're not -- like you opening up a restaurant not knowing. I mean they knew -- they came to this Board with a sign plan. So they decided not to have -- they got approval -- what they got approval for, no, we don't need that. I don't mean to be sarcastic, but it's not -- there is negligence and then there's --

JAMES VALERIO: But did they think canopy --

ADAM CUMMINGS: We're originally -- there were two wall signs on two different sides of the building. Right now they have compressed that into two wall signs and one protruding and that is what I want us to consider tonight. One protruding on one side of the building with two faces. Compared to the previously approved two wall signs on two different sides of the building. One question, if we do approve it is, the sign permit must be obtained from the Building Department. All right. So for this protruding, we discussed it quite a bit. I do want to move forward.

MS. BORGUS: Is the Public Hearing closed?

ADAM CUMMINGS: Yes. Public Hearing is closed.

So I will declare the Zoning Board as lead agency and find --

PAUL WANZENRIED: Adam (Cummings), I'm not so sure you voted on Public Hearing being closed.

I stand corrected.

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 an unlisted action with no significant environmental impact, and James Valerio seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: Once again, just protruding sign with one condition of approval.

JAMES WIESNER: Now you're dividing this up is what you're doing?

ADAM CUMMINGS: Yes.

JAMES WIESNER: First one is.

ADAM CUMMINGS: First one is protruding sign. The two wall signs and protruding sign.

JAMES WIESNER: The protruding sign.

ADAM CUMMINGS: The top one. The top one, wood one.

JAMES WIESNER: Top one on the list.

ADAM CUMMINGS: On the north side.

ERIC STOWE: Can we clarify for the record "the top one" is the double-faced protruding sign, not the awning signs?

ADAM CUMMINGS: Not awning signs. Correct.

On the graphic they provided, it's the top sign, not the awning sign and it's located on the north side of the building.

JAMES WIESNER: Double-faced protruding.

ADAM CUMMINGS: Is that located properly? That is the north side of the building.

PAUL WANZENRIED: Yes.

JAMES VALERIO: The way the legal notice is printed, it says in parentheses, "One wall sign on building, one protruding wall sign, three signs on canopy," but it -- but --

ADAM CUMMINGS: That's a typo.

JAMES VALERIO: Because really it is two signs on the protruding sign.

MARK MERRY: Good point.

JAMES VALERIO: So there is no wall sign.

ADAM CUMMINGS: The protruding sign is counted as the wall sign, but it's double-faced. And that's what is written. That's what gets us to the count of five signs. Yep.

JAMES WIESNER: First one is double-faced protruding sign?

ADAM CUMMINGS: Yes.

DECISION: Unanimously denied with the following findings of fact having been cited:

1. The requested variance significantly deviates from the previously approved variance request and submitted sign package. No hardship was proven to require additional relief from the previously approved variance.
2. None of the other businesses in this area have a protruding wall sign and this would establish an undesirable precedent for the town with regard to signs in multi-tenant plazas.

ADAM CUMMINGS: That has been denied.

Now we'll move on and do the same process for the next one, which is the three signs on the canopy. So for the door awning as depicted on the graphic up there. The same condition of approval for sign permit must be obtained by the Building Department and just to be thorough, I'm going to go ahead and open up the Public Hearing on this one because I did separate these two.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I don't have much patience with people that come in here whether they own the plaza or not and just do what they want. It is just easier to just always put it up the way you want and then hope you don't get caught. I just think it's easier to ask for forgiveness than permission and I think they can't care too much or they would be here tonight. So I think it should stay the way it was. They should have their two signs and they better get three signs off the canopy.

Um, it seems odd to me they want to put three signs on the north side of the building -- well, in the first place, the door that faces the east, um, I don't know why you would want -- you would want anything on that side of the building, because that doorway, if you look, is totally clogged with highchairs, youth chairs and everything. You couldn't get in or out of that door if you wanted to. If there was a fire, you couldn't get out of there, which amazes me that the Fire Department or the Building Department hasn't seen that. It's not even an accessible point.

So if they want to -- if they want to put their two signs on the back of the building, the two signs they were given, fine. But there ought to be a lesson here for people that do what they want after they have gotten permission to do what's legal.

Mark Merry 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.

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 an unlisted action with no significant environmental impact, and Mark Merry seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: Now I would like to ask for a motion to adopt this application.

JAMES VALERIO: Discussion?

MARK MERRY: Discussion. Can we talk about this a little bit?

ADAM CUMMINGS: Sure.

MARK MERRY: So in the event that this awning signage was denied, this application, the owner's fallback would be to put two wall signs ---

ADAM CUMMINGS: In the plastic, that's true. They're still allowed to have two wall signs.

MARK MERRY: They could still have two wall signs.

ADAM CUMMINGS: Yes. We're not changing the previously approved variance.

They're still allowed two wall signs.

JAMES VALERIO: We're voting on giving them five signs versus two.

ADAM CUMMINGS: No. Now we're focused on three signs on the canopy.

JAMES VALERIO: Because this says, "Variance to allow total five wall signs."

FRED TROTT: We took care of the first two.

ADAM CUMMINGS: That is where I want to clarify.

JAMES VALERIO: Legally though --

ADAM CUMMINGS: Oh, I see what you're saying.

JAMES VALERIO: This says, "Five wall signs (one wall sign on building, one protruding wall sign and three wall signs on the canopy.)"

So even though it's split up --

ADAM CUMMINGS: We're evaluating five wall signs.

JAMES VALERIO: Could they then look at parentheses and say, "I understand you voted against the protruding sign"?

ADAM CUMMINGS: Yes.

JAMES VALERIO: But you're still telling me I could have five signs.

ADAM CUMMINGS: No. You're absolutely correct. You're absolutely correct. I misspoke there. I was confused. But you're right. We are evaluating five total signs, even though there was a double-faced protruding one. We're looking to increase it from two signs to five.

JAMES VALERIO: If five was approved, they would have to keep the canopy.

MARK MERRY: Keep in mind, as I said earlier, this is for the property. I know we're focusing on what --

JAMES VALERIO: In this case, keep the canopy three and put the sign on either side.

ADAM CUMMINGS: What we can do is revise it. They already have two wall signs.

Well, they have two signs. I will call it two signs. We can revise it to allow a total of three wall signs because they have two already approved --

ERIC STOWE: We can't revise that without notice.

ADAM CUMMINGS: That's true. Usually we try to negotiate the minimizing when the applicant is here, but there is no applicant here so we have to go off five. So you're correct. We're considering increasing it from 2 to 5, period.

JAMES VALERIO: Eric (Stowe), do you think that even though we voted on the protruding sign separately, because it's written there in the five signs, that that will be one of them? Could a -- could they make that argument? That if we're voting for five signs -- you know what I mean?

ERIC STOWE: Well --

ADAM CUMMINGS: The way the notice is worded --

ERIC STOWE: The other option is to take no action and it's a default and denial.

ADAM CUMMINGS: We're stuck now.

ERIC STOWE: You can take the action in spite of the legal notice, take no action and it's a default denial.

ADAM CUMMINGS: At some point they're right back to the same point.

ERIC STOWE: And they're back to it has been denied, but by default instead of a vote.

MARK MERRY: So what is the timing on reapplication on a default denial?

ERIC STOWE: There is technically a provision. I was just looking at it. New York State Law says they can get in within 62 days to amend their application. If it is within the 62-day window. But it wouldn't make it for our normal meeting schedule. Then it would be a year to resubmit off of the denial. They could ask for a -- well, similar to a prior application where it was denied and they came back with a revised plan or asked for a reconsideration.

JAMES VALERIO: Then it needs to be --

ERIC STOWE: Unanimous to reconsider and unanimous to approve.

MARK MERRY: To be fair, we don't know why they're not here. Something could have been -- some tragic happening, car broke down.

ERIC STOWE: Excusable.

MARK MERRY: Excusable. So out of fairness to them, what is the best -- going along with what you just said.

ERIC STOWE: In this case, it is not fair to them. Nothing is. Because based on the time -- what we're assuming is the timing of the application in that it was -- Paul(Wanzenried)'s denial was on the 11th of January. 62 days will have passed -- if we do nothing, 62 days will have passed by the next chance they get in here to present their application. Thus, a default denial. If you do nothing. So do nothing, it's denied.

JAMES VALERIO: But they could still -- even with default denial, they could still ask to be reheard.

ERIC STOWE: Yes.

ADAM CUMMINGS: Yes. It would still require the unanimous rehearing and unanimous approval after this.

FRED TROTT: Can I ask a question? Didn't we have a one time somebody came in that wasn't part of the -- or was that a different zoning term for a special hearing?

PAUL WANZENRIED: They could make application for a special hearing.

ADAM CUMMINGS: We had a -- yeah. We had an interpretation hearing. We had a specially scheduled meeting.

FRED TROTT: So could they do that and --

JAMES VALERIO: Within the 62-day window.

FRED TROTT: Within the 62-day window.

ERIC STOWE: Theoretically.

PAUL WANZENREID: They would have to pay for it. We would have to organize the fact that all of you guys can get together, right? The meeting room is available, that the proper notification goes to the paper and the front lobby and everybody else that needs to be properly notified. So -- and you're talking to generate this, what, before the 62-day limit, which by my calc is the 14th, 13th of March? That gives me a week and a half and I'm already going to shoot past the ten-day window on paper notification.

ERIC STOWE: We had to -- there is also a -- the stuff has to be to the paper to make it into circulation well in advance. I feel like they might already be to that point where it has to be in.

ADAM CUMMINGS: I just don't see it being feasible.

JAMES WIESNER: Let's vote on it.

ADAM CUMMINGS: Okay. Once again, we're considering it as it is worded, five wall signs. Increasing from two wall signs to five.

JAMES VALERIO: Which most likely would mean they would put one on either side because they already have three, and they have to take down the protruding sign.

FRED TROTT: We're also not limiting square footage.

ADAM CUMMINGS: They have to stay within the allowed square footage. If they exceed the square footage, they would have to come back with a new application. Yes, they have to be compliant with what was approved previously and now we're upsizing it to that. And that would be a tricky one because adding in another sign if they were at the maximum square footage before and adding in another sign, would exceed their allowed square footage.

Counsel, is that correct? We're considering five -- even though we denied the double-faced, we're considering five wall signs? Thanks to me splitting them up.

ERIC STOWE: Now it's a three additional.

ADAM CUMMINGS: That's where I was going with three. But I agree with his point, because we have listed it as a -- it's got a comma that says a variance to allow a total of five wall signs.

ERIC STOWE: Three additional.

ADAM CUMMINGS: Okay. As long as we count it as three additional, I'm good with that.

PAUL WANZENRIED: Total of five wall signs. One wall sign on the building, one protruding wall sign, three signs on the canopy.

JAMES VALERIO: Right now it says no wall sign on the building. There is really two --

ADAM CUMMINGS: Right there is a double-faced protruding one. They never put --

JAMES VALERIO: This is worded wrong.

ADAM CUMMINGS: Worded difficulty. You see, I didn't say "wrong," Building Department. I did not say "wrong." Difficult.

JAMES VALERIO: Interpretation.

ADAM CUMMINGS: But I think it's clear, everybody, is the way we got to five total is because of the two faces on the protruding sign and the three faces on the canopy, or the three signs on the canopy. That's how five was brought in. They have a previous approval for two wall signs, so as Counsel said, it's for three additional.

JAMES WIESNER: Which equals five.

ADAM CUMMINGS: Which equals five, correct.

ERIC STOWE: Mr. Chairman, perhaps the best way to go, we did the wall mount protruding sign, correct?

ADAM CUMMINGS: Correct.

ERIC STOWE: I'm tracking their application.

ADAM CUMMINGS: Yes.

ERIC STOWE: We then would talk about the awning sign.

ADAM CUMMINGS: Which is three on the awning on the north side.

ERIC STOWE: And you break it out that way.

We have done wall mount, double-faced protruding and now it is the three awning and the protruding on awning. I think that's how you want to word your resolution -- or your resolution for approval.

ADAM CUMMINGS: Yep. So to be clear to everybody, on the application, Section 3, where the Area Variances are listed, they have two listed on their application. Three signs on the awning on the north side of the building and a second request for one protruding sign from the building on the north side is how theirs is worded. Everyone following that on the application?

JAMES WIESNER: So what is protruding is the awning?

ADAM CUMMINGS: Correct.

JAMES WIESNER: Sure.

ERIC STOWE: Well, the awning by itself is permitted, correct? It is the sign on the awning.

PAUL WANZENRIED: Then the awning is protruding, and that then there becomes the sign.

ERIC STOWE: But the awning in the absence of sign is permitted with an -- with a sign --

PAUL WANZENRIED: Yeah. You can put an awning up. But the minute they put the --

ADAM CUMMINGS: When they put lettering on the canopy or on the awning, it becomes

a protruding sign.

PAUL WANZENRIED: Right. We are looking at three signs or three -- I will call them three protruding signs, or three signs on a protruding object, is what we're considering right now. Clear?

JAMES VALERIO: I have a question.

ADAM CUMMINGS: Yes.

FRED TROTT: You're thinking the same thing I am.

JAMES VALERIO: I'm thinking if this is approved with three, and the business wanted to take two off the awning and just have one there, could they put two in other places?

MARK MERRY: Eric (Stowe) is saying yes.

ADAM CUMMINGS: Yes, they could.

JAMES VALERIO: I'm just thinking realistically if they're down to this, they might say we should use our signage better more strategically.

ADAM CUMMINGS: Yes. They're still limited by the square footage granted from the previous square footage or by code.

PAUL WANZENRIED: You could take it and put the circle on the front and -- on the front side of those awnings and away they go.

ADAM CUMMINGS: They have flexibility to do that.

JAMES VALERIO: I think that's --

ADAM CUMMINGS: They also have flexibility to put two of them on an awning to meet their variance that was already granted. So they have a lot of options.

JAMES WIESNER: Unfortunately they're not here to discuss it.

MARK MERRY: Is it unfortunate.

ADAM CUMMINGS: So we have to make a decision tonight.

FRED TROTT: My question was, we just voted on a protruding sign. The awning with the signage on it is a -- like I said, a protruding sign.

ADAM CUMMINGS: A protruding sign, yes.

FRED TROTT: So did we technically already deny the awning sign?

ADAM CUMMINGS: No. They're --

JAMES VALERIO: 2 by 2.

ADAM CUMMINGS: They're looking at it separate.

FRED TROTT: I know what we said, but I didn't know if it -- lawyers have a different language.

ERIC STOWE: That's where we clarified the double-faced protruding sign as -- now the discussion is revolving around the awning protruding sign.

ADAM CUMMINGS: The three-faced protruding sign.

JAMES VALERIO: But truly what we're voting on is three signs.

ADAM CUMMINGS: Three signs.

JAMES VALERIO: Regardless how they are.

ADAM CUMMINGS: Yes. We are voting on three signs for three -- well, let's just say three signs.

I don't want to confuse it by saying it's one additional from their previously granted. We're considering three signs.

DECISION: Denied by a vote of 4 no to 1 yes (James Valerio) with the following finding of fact having been cited:

1. By incorporating signage on the canopy, the additional signage and the requested variance is significant and excessive.

ADAM CUMMINGS: That has been denied.

Next meeting will be Tuesday March 28th.

We'll obviously be hearing back about the Calvary Assembly of God Church from the Architectural Advisory Committee.

Minutes.

There was a discussion about the meeting minutes.

James Wiesner made a motion to approve the minutes as submitted, and James Valerio seconded the motion. The Board was unanimously in favor of the motion.

Fred Trott made a motion to adjourn the meeting, and Mark Mery seconded the motion. The Board was unanimously in favor of the motion.

The meeting ended at 8:05 p.m.