

CHILI ZONING BOARD OF APPEALS
May 16, 2017

A meeting of the Chili Zoning Board was held on May 16, 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.

OLD BUSINESS:

1. Application of Taouk Holding LLC, owner; P.O. Box 52, Spencerport, New York 14559 for variance to erect proposed 62 townhouse units to be 25' from proposed interior street line (40' req.) at property located at 4201R Buffalo Road in RM zone.

ADAM CUMMINGS: Old business, the application of Taouk Holding, LLC, they have asked to not be on the agenda tonight. They still have to go in front of the Planning Board, so that will not be heard tonight. They sent us a message yesterday requesting that. Any comments from the Board on the signs?

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

PUBLIC HEARINGS:

1. Application of Frank Pignatelli, owner; 2816 Chili Avenue, Rochester, New York 14624 for renewal of special use permit to allow a chiropractic office in home with one employee at property located at 2816 Chili Avenue in R-1-12 zone.

Frank Pignatelli was present to represent the application.

MR. PIGNATELLI: My name is Dr. Frank Pignatelli, 2816 Chili Ave. I have been at that location for 30 years. I'm asking to renew it for another ten to work out of my home.

ADAM CUMMINGS: Okay. I was going to say the same thing. Your first conditional use permit was granted in 1987.

MR. PIGNATELLI: That's correct.

ADAM CUMMINGS: You did go through the sequence. Had one year, then you did three years, five years, and then commencing in 2006, he did receive an approved conditional use permit for his office to be in his residence. I will read the conditions in a bit, but that was 2006 and that was approved for ten years. So that is for the Board's background and for the public's understanding on it.

Are you aware, have there been any complaints?

MR. PIGNATELLI: No, none.

ADAM CUMMINGS: Side table, are you aware of any?

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

ADAM CUMMINGS: So no complaints.

The conditions from the previous one, condition one was the conditional use permit is granted for a period of ten years.

The office hours shall be -- number 2, the office hours shall be between 9 a.m. to 7 p.m. on Monday, Wednesday and Friday, and 9 a.m. and 6 p.m. Tuesday and Thursday. Looking at your application, it looks like you're shifting hours. Or do you want to maintain those same hours? The ones you list on your application are actually less. It looks like you don't have any hours on Tuesdays -- well, Thursday you're 9 to 3 and nothing on Tuesday.

MR. PIGNATELLI: That's correct.

ADAM CUMMINGS: Which one -- which one?

MR. PIGNATELLI: I would like to go with what I have now.

ADAM CUMMINGS: Okay. So we'll just keep the same.

Number 3, there shall be no more than one additional employee other than the owner.

Number 4, on-street parking will not be permitted.

Number 5, there shall be no further expansion of the business without proper Town of Chili approval.

And Number 6, no outdoor advertising other than that expressly permitted by the Town of

Chili sign ordinance.

I'm good with those six conditions. The applicant seems to be. Anything else the Board wants to add? Hearing none, I will open it up for public comment.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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: I will go ahead with those six conditions.

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: Looking for motion to adopt with six conditions.

Fred Trott made a motion to approve the application with the proposed conditions, and James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with the following findings of fact cited in support of this approval:

1. This business has operated for 30 years with zero complaints.

The application was approved with the following conditions:

1. The special use permit is granted for a period of ten years.
 2. Office hours shall be between 9:00 a.m. to 7:00 p.m. on Monday, Wednesday, and Friday, and 9:00 a.m. to 6:00 p.m. on Tuesday and Thursday.
 3. There shall be no more than one additional employee other than the owner.
 4. On-street parking will not be permitted.
 5. There shall be no further expansion of the business without proper Town of Chili approvals.
 6. There shall be no outdoor advertising, other than that expressly permitted by the Town of Chili sign ordinance.
2. Application of Cathy Markert, owner; 18 Gary Hill Drive, Rochester, New York 14624 for variance to allow the total square footage of two sheds to be 202 sq. ft. (192 sq. ft. allowed) at property located at 18 Gary Hill Drive in R-1-15 zone.

Cathy Markert was present to represent the application.

MS. MARKERT: Hello. Cathy Markert, 18 Gary Hill Drive.

ADAM CUMMINGS: All right. Just make sure it is visible up on that screen. What I am looking at here is --

MS. MARKERT: That's me.

ADAM CUMMINGS: -- I can make it out.

You have the two connecting sheds there?

MS. MARKERT: Yeah. Basically I built like a lean-to off the shed just to house a wood pile. There is no door on it. It's just a dirt floor. I did it initially so my neighbors wouldn't have to look at an unsightly wood pile. Turns out I'm 10 square foot over, so I need a variance.

ADAM CUMMINGS: So we have to shrink one of your sheds.

MS. MARKERT: Either I shrink it, or I take down the lean-to or you give me a variance.

ADAM CUMMINGS: Any Board questions?

JAMES WIESNER: This was just an addition on the back side of the existing shed?

MS. MARKERT: Yes. I had a wood pile back there and I thought it was unsightly for my neighbors. They have a lovely pool and a deck there. That's what they have to look at, is that wood pile. So I built a lean-to on the back and I covered it with a screen. They -- and it looks so much better. I basically did it so they wouldn't have to look at it. But I didn't realize I built it a little too big.

JAMES WIESNER: So when you came in for a building permit --

MS. MARKERT: That's when I realized it because I didn't consider it -- because it was a lean-to, I didn't consider it as shed square footage. I didn't realize it would be considered a shed.

FRED TROTT: And you still have wood in there?

MS. MARKERT: Yes.

FRED TROTT: Oh, okay. I thought the way you said it was for some wood and that was it.

ADAM CUMMINGS: I think it was open storage of wood and then she put a roof over the top of it.

FRED TROTT: Okay. I apologize. No other questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Mark Merry made a motion to close the Public Hearing portion of this application and James Valerio 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 don't have anything else to add. These are existing. We're just getting into compliance. I don't have any conditions unless someone on the Board does.

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 Valerio seconded the motion. The Board all voted yes on the motion.

Mark Merry 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 5 yes with no conditions, and the following finding of fact was cited:

1. The lean-to structure on the existing shed increased the shed area, which provided screening of outdoor wood storage from the neighboring properties.
3. Application of Susan Dailey, owner; 131 Morgan Road, Scottsville, New York 14546 for variance to erect a 28' x 28' detached garage to be 17' from side lot line (50' req.) and 34' from rear lot line (50' req.) at property located at 131 Morgan Road in A.C. Zone.

Susan Dailey and John Dailey were present to represent the application.

MS. DAILEY: Hi. I'm Susan Dailey at 131 Morgan Road. I'm John Dailey, 131 Morgan Road, her husband.

ADAM CUMMINGS: So your attached garage, you're looking to put it back in the back corner obviously. You have some arch -- some sketches, some architectural sketches?

MR. DAILEY: Actually, we're looking for approval for a 28 by 20 pad. The building itself, when I do put it up, will probably be like 20 by 24. The engineer I was working with said we have to go a little wider and stuff in case there is eaves.

ADAM CUMMINGS: Oh, okay.

We have seen a couple of these applications on this road due to the long, narrow lots that are out there.

FRED TROTT: Just a comment, that you have a septic system in there?

MR. DAILEY: Yes.

FRED TROTT: That is why you have to have it in that spot?

MR. DAILEY: Yes.

MS. DAILEY: You can kind of see a dotted outline.

ADAM CUMMINGS: There is a dotted outline and there is a comment handwritten, "leech field."

MS. DAILEY: That is why it is in the back corner.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Mark Merry 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: Condition of approval, since this is a new structure, it goes without

saying you will have to get a building permit before you start constructing this, which is why you're here.

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 proposed condition, and Fred Trott seconded the motion. All Board members were in favor of the motion.

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

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

The following findings of fact were cited:

1. The proposed structure cannot be located further interior of the property due to the location of the leach field system.
2. The narrow, deep lots found on Morgan Road create instances where it is difficult for detached structures to be located in compliance with Town Code.
3. Several properties have been granted similar variances.
4. Application of Kevin Kolesar, owner; 107 Parkway, North Chili, New York 14514 for variance to erect an 8' x 10' utility shed 5' from side lot line (8' req.) and 6' from rear lot line (8' req.) at property located at 107 Parkway in R-1-15 zone.

Kevin Kolesar was present to represent the application.

MR. KOLESAR: Evening. Kevin Kolesar, 107 Parkway.

Just basically looking for a utility shed in the back in the northwest corner. The only thing that prevents it from anywhere else is pretty much the grade.

ADAM CUMMINGS: Which is why that concrete gutter is there?

MR. KOLESAR: Yep.

ADAM CUMMINGS: Have you spoken to the Town and Dave Lindsay on this, to -- so you're aware you're in the drainage easement?

MR. KOLESAR: That has already been approved.

ADAM CUMMINGS: As long as you're approved and know if you put a structure in there what can happen, we're good with that.

MR. KOLESAR: Yeah.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and James Valerio 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: As with last application, you will need to get a building permit before you place this or construct it, from the Building Department. So I have that one condition of approval for the building permit must be obtained.

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 Valerio seconded the motion. The Board all voted yes on the motion.

Fred Trott made a motion to approve the application with the proposed condition, and James Valerio seconded the motion. All Board members were in favor of the motion.

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

1. Building permit must be obtained from the Building Department, if required.

The following findings of fact were cited:

1. The existing grade of the land and an existing concrete gutter on this

property prevents locating this shed further from the property line.

2. The structure is far enough away from the neighboring properties and will avoid any adverse visual and drainage impacts.
5. Application of Kevin Consaul, owner; 39 Union Station Road, North Chili, New York 14514 for variance to allow existing 9.8' x 14.2' utility shed to be 5' from rear lot line (8' req.) at property located at 39 Union Station road in PRD & FPO zone.

Kevin Consaul was present to represent the application.

MR. CONSAUL: Good evening. Kevin Consaul, 39 Union Station Road.

ADAM CUMMINGS: This is an existing shed that was there before you bought it?

MR. CONSAUL: Yes. I bought the house and didn't know I needed a certificate of permit. Then I got an in-ground pool. Showed them this lovely land survey and found out that it's 1.7 feet from the property line in the back. So now I have a pool and now I have a grade going down. If I were to move that shed 8 feet, it would be going uphill now.

ADAM CUMMINGS: To be honest, I'm confused here. The request is to be 5 feet off the property line.

MR. CONSAUL: Correct. Right now it is 1.7.

ADAM CUMMINGS: So you're moving the shed to be --

MR. CONSAUL: I don't want to move it at all, but yes, I will be moving the shed 3 feet roughly hoping -- hoping to move it 3 feet instead of 5 or 6 more feet.

ADAM CUMMINGS: So where he went to the edge of the seat, if it is less than 3 feet, you have to go get a State variance. Even if we'd grant you a variance here, you'd have to go to the State and get another variance. So you're moving it to 5 feet so you only need the Town variance?

MR. CONSAUL: Yeah.

ADAM CUMMINGS: Okay. I'm clear now.

FRED TROTT: You're saying you can't move it the full 8 because of the grade from the pool?

MR. CONSAUL: Yeah.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Wiesner 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: This is an existing shed so we want to put a condition on there -- well, you will still -- you will get a shed permit.

MR. CONSAUL: I got one.

ADAM CUMMINGS: Then I don't have any conditions.

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 no conditions, and James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with no conditions, and the following findings of fact were cited:

1. The shed is being moved from an existing location that would require a State-issued variance in addition to the town-issued variance.
2. Moving the shed a further distance to provide compliance with Town Code was not deemed possible due to the grading from the inground pool.
3. This variance was determined to be the minimal relief necessary.

ADAM CUMMINGS: Minutes. Anybody with comments on minutes from the April 25th, 2017 meeting?

Adam Cummings made a motion to approve the 4/25/17 Zoning Board minutes, and Mark Merry seconded the motion. All Board members were in favor of the motion.

Fred Trott made a motion to adjourn the meeting and James Valerio seconded the motion. All

Board members were in favor of the motion.

The meeting ended at 7:22 p.m.