

CHILI ZONING BOARD OF APPEALS
September 25, 2018

A meeting of the Chili Zoning Board was held on September 25, 2018 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: Fred Trott, James Valerio, James Wiesner and Chairperson Adam Cummings. Mark Merry was excused due to illness.

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 on signs?

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

1. Application of Robert Stone, owner; 3735 Chili Avenue, Rochester, New York 14624 for variance to erect an 8' x 12' deck 53' from front lot line (75' req.) at property located at 3735 Chili Avenue in R-1-15, FPO, FW zone.

Robert Stone was present to represent the application.

MR. STONE: My name is Robert Stone. I live at 3735 Chili Ave., property owner. And about a month and a half ago I discovered that the concrete slab leading to my front entrance was built into the bricks and as it was settling, it started to destroy the bricks on the front of the house.

I took a sledgehammer and broke it up and got it out of there. So now I need to put something back. I thought it would be a little bit easier, but I didn't realize I would run into the need for a setback variation -- variance.

ADAM CUMMINGS: Variance.

MR. STONE: I would like to request a variance to build an 8 by 12 foot deck or porch, you might call it.

ADAM CUMMINGS: Off the front of your house?

MR. STONE: Front of my house. I would like a railing around it so it looks nice so I could have access to my front door again.

ADAM CUMMINGS: I do have one for the side table. I have a reference for this one from the Monroe County Department of Planning and Development.

Has Dave Lindsay taken a look at this with regard to the flood plain boundary? These are municipalities permit administrator --

PAUL WANZENRIED: I have in my possession the flood plain permit.

ADAM CUMMINGS: Beautiful. Thank you.

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: One condition of approval for this is to get a building permit from the Building Department which you're already aware of. I will just put it down as a condition.

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

PAUL WANZENRIED: Just wondering -- you said building permit. One of the conditions, should that also include the flood plain permit?

ADAM CUMMINGS: I assumed it was already done. So if you want it as a condition.

PAUL WANZENRIED: I don't know. Just to be thorough, Adam (Cummings), is all. Thank you.

ADAM CUMMINGS: Yep. So that is a second -- let's revise that motion to amend it to have two conditions of approval, a building permit and a flood plain permit.

MR. STONE: I think the application is already in.

PAUL WANZENRIED: It is.

MR. STONE: Just hasn't been okayed yet.

ADAM CUMMINGS: Yes. It can't be okayed until we finish it here. The flood plain permit it looks like we already have, but just documenting it is required. You're already through that step. You can go there tomorrow if we give a verb approval tonight. Meaning you don't have to wait until the post office delivers the letter.

MR. STONE: Good.

ERIC STOWE: Just a -- a motion to approve -- or to adopt the amended resolution and a second, if you're amending.

JAMES WIESNER: I make a motion to accept the amended resolution.

ADAM CUMMINGS: Yes. Which adds the second condition of approval.

JAMES WIESNER: Which adds the second condition of approval.

MR. VALERIO: I second that.

James Wiesner made a motion to adopt the amended resolution adding a second condition of approval, and James Valerio seconded the motion. All Board members were unanimously in favor of the motion.

ADAM CUMMINGS: Should I redo the SEQR statement?

ERIC STOWE: Area Variance on residential property, correct?

ADAM CUMMINGS: Type II.

ERIC STOWE: Stays Type II.

ADAM CUMMINGS: All right.

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

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

The following findings of fact were cited:

1. This requested relief is to allow for a replacement structure of a former, aged concrete patio.
 2. There are similar such structures in the neighborhood.
2. Application of Mr. & Mrs. John Spennacchio, owner; 3935 Chili Avenue, Churchville, New York 14428 for variance to allow two 10' x 12' sheds to be a total of 240 sq. ft. (192 sq. ft. allowed), variance to allow one shed to be located in front yard area (not required by code) at property located at 3935 Chili Avenue in R-1-20, FPO, FW zone.

John and Judy Spennacchio were present to represent the application.

MS. SPENNACCHIO: My name is Judy Spennacchio. We live -- this is John (Spennacchio). We live on 3935 Chili Avenue, Churchville, New York. And we are here because we have two sheds on our property and they -- they exceed the limit. And we did not get a permit for them, which I did not realize we had to do that. Because they were prebuilt. They weren't built on the property. So I -- we just --

ADAM CUMMINGS: They were built before you purchased the property when you say "prebuilt"?

MS. SPENNACCHIO: No. They were built somewhere else and we bought them built.

ADAM CUMMINGS: And you placed them?

MS. SPENNACCHIO: And we placed them. So I had no knowledge that we had to have a permit -- or -- and the one I had to put on our -- on our driveway because the other one is in the back and there is -- it was like no foundation under it. And we had woodchucks and everything going under there and one year we had a fox with babies there and my dog almost got it. So I didn't want that. That is why I put it on the driveway. I did take some pictures with my phone. I didn't realize it was in the front yard.

ADAM CUMMINGS: Yeah. Well, I think -- a portion of it is. Not the whole structure, but a portion of it is in front of the house.

MS. SPENNACCHIO: Well, our driveway is like 400 feet back off the road, so I -- so I guess I wasn't even thinking about that. I just figured it would be easier to place it on the driveway.

ADAM CUMMINGS: So you're 400 feet off Chili Avenue. How many acres do you have?

MS. SPENNACCHIO: 12.5 or something. The farmer farms the back part.

ADAM CUMMINGS: Okay.

MS. SPENNACCHIO: Just leases it from us.

JAMES WIESNER: Couple of questions. So there -- have -- I see a gazebo back there. There is two sheds and a gazebo. The gazebo is not part of this square footage.

MS. SPENNACCHIO: She said we could just get a permit for the gazebo. We built that probably 25 years ago. We did have that built on our property.

JAMES WIESNER: But there are two sheds plus the gazebo?

MS. SPENNACCHIO: Right.

JAMES WIESNER: The question for me, obviously you have a very large backyard, yet you have chosen to place that second shed essentially in the front yard area.

Is there a reason for that other than your statement about --

MS. SPENNACCHIO: I just told you the reason. I wasn't even -- I didn't realize it was in my front yard. You know, now that I took at it, I see that it is actually in front of the house. But it's way on the side. It's not ---

ADAM CUMMINGS: So would it be easy to move it back behind the house?

MS. SPENNACCHIO: Behind the house?

ADAM CUMMINGS: Or behind the front part of house, so it is not in the front yard?

MS. SPENNACCHIO: You would have to get somebody with one of those things (indicating) to lift it and move it. When they brought it, they had this little contraption that they put wheels on the front and side.

ADAM CUMMINGS: Kind of looks like a mobile forklift with four wheels. But it would take quite a bit of effort to do that and there is a pad of stone or pavement underneath it, a foundation or it is just right on --

MS. SPENNACCHIO: No. Just whatever they build it on, those wooden 4 by 4s or 6 by 6s, whatever they are.

ADAM CUMMINGS: But once again, it is 400 feet off of Chili Avenue, about?

MS. SPENNACCHIO: Yeah.

ADAM CUMMINGS: The lot line is 325 feet, and then this is set back off that.

MS. SPENNACCHIO: Right.

ADAM CUMMINGS: Anything else, Jim (Wiesner)?

JAMES WIESNER: So you have got a fairly unique situation, too. Because you have a neighbor that is situated right in front of your house, the side yard.

MS. SPENNACCHIO: Yes.

JAMES WIESNER: But I think there is some shrubbery that shields that shed from their view?

MS. SPENNACCHIO: Yeah.

JAMES WIESNER: They --

MS. SPENNACCHIO: He has a big garage there, too. He built that behind his house.

JAMES WIESNER: They haven't made any complaints?

MS. SPENNACCHIO: No.

JAMES WIESNER: Or comments about the shed itself?

MS. SPENNACCHIO: They're not even there half the year. They go to Florida for the winter. But they never said anything to us about it. I'm sure he would have complained if he was not happy with it.

MR. VALERIO: My only question was going to be about if the neighbors had any concerns, but you answered that.

MS. SPENNACCHIO: Not that I -- I think I purchased the -- that one on the driveway probably three or four years ago.

MR. VALERIO: It looks like there is -- both the gazebo and the shed are blocked by trees or shrubs or something.

MS. SPENNACCHIO: Not intentionally, but that's the way -- when we designed our yard, that is the way it worked out.

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.

JAMES WIESNER: A question for Paul (Wanzenried) would be, stop work order. If they're already built, why is there a stop work order unless there is some other project going on?

MS. SPENNACCHIO: No.

PAUL WANZENRIED: Where is there a stop work order?

JAMES WIESNER: In the packet.

MS. SPENNACCHIO: There is?

ADAM CUMMINGS: Or order to remedy.

JAMES WIESNER: Order to remedy.

PAUL WANZENRIED: Which is why we're here.

JAMES WIESNER: It says, "Stop work order, yes" or written -- okay. That's different. We don't always see these every time someone comes in.

PAUL WANZENRIED: No. All -- all that they need to do is without -- the sheds and gazebos have been erected without a building permit and possible variance. Notice --

ERIC STOWE: Written violation notice or a stop work order.

PAUL WANZENRIED: "Or."

ADAM CUMMINGS: Circle it.

PAUL WANZENRIED: I will highlight it next time. (Laughter.)

ADAM CUMMINGS: I did forget to say Monroe County Department of Planning did respond back from their review and it is deemed a local matter.

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 Valerio 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 4 yes with no conditions and the following finding of fact was cited:

1. The proposed variance is minor. The shed structures are not easily visible from the road and are adequately screened.
3. Application of Cameron Paul, 11 Newport Drive, Rochester, New York 14624; property owner: Kathryn Paul; for variance to erect a 6' x 32' open porch to be 54' from front lot line (60' req.) at property located at 11 Newport Drive in R-1-15 zone.

Cameron Paul was present to represent the application.

MR. PAUL: Good evening. Cameron Paul, 11 Newport Drive, husband of the homeowner. So I, like the first guy, had to have some work done on my basement actually. Had my basement waterproofed. I had the 6 foot poured concrete slab out my front door. You can see that on the plans. I ripped that out or took that out so they could waterproof my basement from the outside, so I got all of my exposed basement waterproofed. That is all. So now I have dirt.

So I had wanted to build a front porch 6 feet out just like the concrete pad was and then just do 32 feet across the front of the house with a roof, vinyl railings, Trex deck, all that.

ADAM CUMMINGS: Monroe County Department of Planning has deemed this a local matter. I do not have any questions.

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: You will have to get a building permit.

MR. PAUL: I already started that process.

ADAM CUMMINGS: It has been explained to you. You applied for it which is why you're here.

That one condition of approval.

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 Type II action with no significant environmental impact, and James Wiesner seconded the motion. The Board all voted yes on the motion.

Fred Trott made a motion to approve the application with one 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.

The following findings of fact were cited:

1. This requested relief is to allow for a replacement structure of a former, aged concrete porch.
2. There are similar such structures in the neighborhood.

4. Application of Faber Builders Inc., 3240 Chili Avenue, Rochester, New York 14624; property owner: Atif Qadeer; for variance to erect an 8' x 2'11" double-faced freestanding sign to be 24 sq. ft. per side for a total of 48 sq. ft. (16 sq. ft. per side for a total of 32 sq. ft. allowed for monument signs), variance to allow a freestanding sign in a residential district (not permitted by code) at property located at 2 Flinton Run in R-1-20 w/incentive zoning.

John West was present to represent the application.

MR. WEST: Good evening. John West. I'm with the applicant Faber Builders. And as you just mentioned, it's a request for a variance both for size and location in a Residential District with the monument sign. This is a sign that would be visible on Beaver Road for people looking and turning into the Rose Hill Estates Subdivision. It's a sign that would be erected per the rendering that was submitted.

I have actually an updated rendering showing the colors and materials that actual -- that the designer is going to use if the Board is interested in that. We did appear before the -- the Review Board and, you know, it is my understanding that they approved the design and materials to be used.

ADAM CUMMINGS: It is that one? Tough to see it, but from it's from Lonowood Art Company.

MR. WEST: Does it have a different --

ADAM CUMMINGS: It has the gray stone with the --

MR. WEST: This has the actual material and color. I have several copies for the Board.

ADAM CUMMINGS: Thank you.

MR. WEST: These were submitted to the Review Board for color selection and material selection. As I indicated before, it is my understanding they approved and recommended the sign as designed. That is our request this evening.

ADAM CUMMINGS: Paul (Wanzenried), did you get that recommendation from the Review Committee? Or are you aware of that approval?

PAUL WANZENRIED: From the AAC?

ADAM CUMMINGS: Yes. I just haven't heard anything.

PAUL WANZENRIED: Yep.

ADAM CUMMINGS: Okay. Thank you.

JAMES WIESNER: It's more of a curiosity question. As a builder, you're applying for the homeowner on the sign. Who ultimately owns the sign? The homeowner?

MR. WEST: It will be located on the homeowner's property. Obviously we're going to maintain it during the life of our presence there, which could be five, six years, if it requires maintenance. Ideally, it's maintenance free for life. But after we're done there, the agreement we have with the homeowner is if he wants to remove the sign, he can remove it. If he wants to keep it, he can keep it.

ADAM CUMMINGS: But he would maintain it? I just want to make sure the Town at no time is taking over maintenance of the sign.

MR. WEST: Maintenance requirement shifts upon our completion of the -- worded the last lot sold in Rose Hill, which could be six, seven years from now.

ADAM CUMMINGS: And in the future if it does transfer over, it needs to be maintained if the sign remains.

MR. WEST: Right. If he chooses to keep the sign, it's in his yard and the maintenance falls upon him. But the way it is designed, it's meant to be -- I -- I believe it will be maintenance free for life.

ADAM CUMMINGS: Nothing is maintenance free is what I have discovered.

JAMES WIESNER: I would just ask a question. Because I know there is a few houses in the development. They have been around for a long time. The signs are falling apart around Town. (James Wiesner made clarification of what he intended to say: Monument signs in Town have been around for a long time and are falling apart.)

ADAM CUMMINGS: Mine is -- Union Station is less than that. It's a wooden sign instead of stone. But we just replaced ours. It does need maintenance. I just want to make sure that is clear.

JAMES WIESNER: Quite unsightly after time goes on if they're not maintained.

ADAM CUMMINGS: Good question.

MR. VALERIO: Just so -- so it's facing, like -- both sides are facing either side of Beaver Road; correct?

MR. WEST: I think it's going to be diagonal to the corner of Flinton and Beaver Road. So you will see it as you -- probably a little bit as you leave the subdivision and as you're going east and west on Beaver Road.

MR. VALERIO: Okay. That's all.

ERIC STOWE: My issue was just maintenance as we discussed.

FRED TROTT: Is it double-sided?

ADAM CUMMINGS: It's double-sided, yep. It is mentioned in here.

FRED TROTT: Okay.

ADAM CUMMINGS: Then it is mentioned -- it matches right there, when we call out -- change to full view. 48 square feet.

It is the handwritten one, 16 feet per side. They're changing it to 24 feet per side. I have two questions for -- for the side table. Sign permit is required.

For the condition of -- regarding maintenance, should I specify it as a condition or put it in the findings that it would be maintained by the private property owner?

ERIC STOWE: Yes. Both. The condition of any approval would be maintenance by the parcel owner. And that would be subject to any agreement they might have with the developer for the time being. But the ultimate responsibility would lie with the parcel.

ADAM CUMMINGS: Thank you.

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: I have those two conditions of approval.

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: To make sure I get the wording exactly right on the second condition, maintenance will be the responsibility of the property owner subject to any agreements they --

ERIC STOWE: I wouldn't even make it subject to.

ADAM CUMMINGS: Just by the property owner?

ERIC STOWE: Maintenance of the sign shall be the responsibility of the owner of the parcel.

ADAM CUMMINGS: That --

ERIC STOWE: The sign shall be kept in good repair at all times.

ADAM CUMMINGS: We have those two conditions of approval.

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

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

1. Sign permit must be obtained from the Building Department.
2. Maintenance of sign shall be the responsibility of the owner of the property. Sign shall be maintained in good repair at all times.

The following finding of fact was cited:

1. The requested sign is similar to other signs in the Town. It does not restrict any vehicular or pedestrian line of sight areas.

ADAM CUMMINGS: Approve the minutes from August 28th, 2018. Any comments?

Adam Cummings made a motion to approve the 8/28/18 Zoning Board of Appeals minutes and James Valerio seconded the motion. The Board was unanimously in favor of the motion.

The Board had a discussion off the record with people remaining in the audience.

Adam Cummings 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 7:35 p.m.