

CHILI ZONING BOARD OF APPEALS
January 22, 2019

A meeting of the Chili Zoning Board was held on January 22, 2019 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: Board members, any issues with signs on these three?

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

1. Application of Western Realty LLC, owner; 949 Bay Road, Webster, New York 14580 for variance to allow front parking for approximately 83 vehicles per plan submitted at property located at 30 Airline Drive in L.I. w/ADATOD zone.

ADAM CUMMINGS: Hearing none, I will go ahead and introduce Application 1.

Joe Ardieta was present to represent the application.

ADAM CUMMINGS: With this application, I did want to report to everybody we did get Monroe County's Department of Planning and Development -- their comment sheet. There are five comments on here. If you're not aware of those, they're more site plan ones, not for us tonight. I just want to point that out.

MR. ARDIETA: I'm aware of those comments and we have addressed them. Good evening. I'm Joe Ardieta of Vanguard Engineering tonight representing Western Realty, LLC for the variance application of 30 Airline Drive.

As you see, we're requesting front yard parking for this application requirement because honestly, and -- I will just get right off to the back and say it is self-created based on the amount of building square footage the applicant is requesting, in order for us to place utilities where necessary and the storm water infrastructure, it really mandated that we place that parking along the front of the building.

Also, the way the buildings are designed, um, the parking is actually in the best suitable location for it, as well, for access to those pools.

Also, I would like to say, using Google Earth, you can see the majority of the other businesses on that road also have front yard parking. And it is a dead-end road, so there would not be through traffic seeing this.

Also, the front yard parking is -- actually runs along the tree line and is contiguous -- the front yard of -- the majority of the front yard of this parcel is contiguous to the side lot line of an adjacent industrial use that also has front yard parking. So there is only about 80 feet of road frontage that is actually on a road, on this parcel.

ADAM CUMMINGS: All right. Any questions?

MARK MERRY: Will you be developing all of the parking spaces initially or are you land-banking some of the places?

MR. ARDIETA: The applicant will not construct all of the spaces. The site plan, hard to see with this image, but all of the spaces on the west side, on the very north along the property line and along the east are all reserved parking spaces just to meet code, but there is no intention to build those. We're reserving the spaces in case it is ever needed in the future, but at this time the only parking going in is the ones along the frontage of the building and the truck loading bay in the center between the buildings.

FRED TROTT: How many employees will you have there?

MR. ARDIETA: He currently has in the 20 to 30 range at this point. He is relocating from Lexington Avenue in the city. Actually his parcel is half in Greece, half city. But he is relocating his business.

He is going to take the eastern half of the southern building and he plans on -- he has a tenant for the western half of the building and the north building he plans on getting other construction companies like -- Western Realty is -- is owned by Ron Pattison, who is the owner of Western Concrete, which is a local concrete contractor. So the intent is to have Western Concrete, as well as other like-minded construction businesses, all housed at this facility.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

The Public Hearing portion of this application was closed at this time.

Fred Trott made a motion to close the Public Hearing portion of this application and Mark Merry seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

The Public Hearing portion of this application was closed at this time.

Adam Cummings 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.

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 5 yes with no conditions, and the following findings of fact was cited:

1. Surrounding properties in this industrial park also have front parking and the secluded nature of this parcel will not be visible from public vantage points.
2. Application of Artur Kadesh, owner; 327 River Heights Circle, Rochester, New York 14612 for variance to allow existing 14 ½' x 14 ½' gazebo to be 211 sq. ft. (192 sq. ft. allowed) at property located at 119 Attridge Road in R-1-15 zone.

Artur Kadesh was present to represent the application.

MR. KADESH: Good evening. My name is Arthur Kadesh. As you stated, I reside at 327 River Heights Circle, Rochester, New York 14612, and I'm requesting to allow me to keep the gazebo that I inherited when I purchased that property. I was unaware that it had no permits at that time. Only after I purchased it, after the fact I visited the Building Department.

I have been told -- and I was explained about the size, that it's a little bit exceeding the sizes that are permitted, so I'm asking you guys if I can keep the structure in place. I renovated it. It looks good.

ADAM CUMMINGS: Okay. Thank you. Once again, as you're -- it's tough to read on this, but I can somewhat decipher -- that is what I'm asking. It looks like a triangular-shaped parcel, but you are 8 feet off of it, so it is ample space off of what we'll call the rear lot line. And any idea on how long it has been there?

MR. KADESH: I have no idea. I purchased it from a bank, so I didn't get no survey maps or anything with this property.

ADAM CUMMINGS: Okay. All right.

JAMES WIESNER: How close is that to the house? The distance between the house and the gazebo? It looked pretty close.

MR. KADESH: Would you allow me to get my papers?

FRED TROTT: I think it's 12 feet.

JAMES WIESNER: From the house?

FRED TROTT: Yeah.

JAMES WIESNER: Okay. I do see that now. That answers the question. That's all I have. It looked like it was closer.

ADAM CUMMINGS: I don't think it is drawn to scale, Jim (Wiesner).

MR. VALERIO: Have any of the neighbors complained about it?

MR. KADESH: No. I think they're happy that I purchased it and will do something with the property.

ADAM CUMMINGS: I forgot to point out we did also get a review from the Monroe County Department of Planning and Development and they deemed it a local matter.

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: This is existing, so I don't have any other 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 Type II action with no significant environmental impact, and James Valerio seconded the motion. The

Board all voted yes on the motion.

James Wiesner made a motion to approve the application with no conditions, 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 no conditions, and the following finding of fact was cited:

1. Gazebo has existed for many years with no neighbor complaints. Several other properties in the area have detached buildings of similar appearance on these large parcels.
3. Application of Paul Moukperian, owner; 37 Morrison Avenue, Rochester, New York 14623 for variance to allow 3 sheds totaling 276 sq. ft. (192 sq. ft. allowed), variance to allow rear shed to be 6' from rear lot line (8' req.) at property located at 37 Morrison Avenue in RAO-20 and FPO zone.

Paul Moukperian was present to represent the application.

MR. MOUKPERIAN: Hi. My name is Paul Moukperian. As you said, I have three sheds on the property. When I purchased the property in 2015, it was inherited like that. I had thought in my title search and my lawyers in purchasing the property would have pointed out any discrepancies. I was shown last -- late last year that is not the case, so I would like you to allow me to keep those sheds as they stand.

ADAM CUMMINGS: Okay.

JAMES WIESNER: So this is your primary residence? This is the residence that you actually live at?

MR. MOUKPERIAN: Yes. Currently. I will be moving. I have purchased a new property, but I -- I intend to have tenants. There are tenants there now, but I will also keep the property.

JAMES WIESNER: Okay.

MARK MERRY: Have you taken the time to analyze what you could lose and stay within the Town Code? Could you do without one, two -- maybe a smaller second shed? Have you taken a look at that?

MR. MOUKPERIAN: I have. The options are to remove the largest shed at the back, which is also the one that is -- beyond the property -- 60 feet versus 8 feet. It's a -- it's on a permanent slab, so it would be difficult, but the least difficult because the other two sheds are much more in a permanent state. So if I -- if I was denied, I would have to, I think, remove this shed somehow. I don't know what this would entail, but that is the option.

MARK MERRY: Okay. Thank you.

ADAM CUMMINGS: That was actually going to be my question, if you have looked into the alternatives in relocating the -- the feasibility of relocating what is identified as Shed B or the rear one that is 6 feet off the rear property line. But thank you for answering that.

FRED TROTT: What are the purposes of why you need all three sheds?

MR. MOUKPERIAN: Um, they -- interesting statement. Require or need? I use them. I have a lawn maintenance -- lawnmower and snowblower and such in the rear shed. The shed on the driveway, I have -- one of my tenants has his motorcycles in there. And the shed on the back right, the C Shed has other storage of -- bins and miscellaneous. So I have them in use. I -- I would have difficulty having -- the lawn -- in Shed B removed somewhere, but I -- I have used them. They're not empty. So I would say I need to keep what is currently in them. To answer your question.

FRED TROTT: You said "tenants."

Do you rent out the house?

MR. MOUKPERIAN: I rent out rooms in the house to students at MCC. So they each have their own room, a shared space, along with myself.

MR. VALERIO: So would it be feasible if you had to get rid of Shed B to put the lawn equipment in C?

MR. MOUKPERIAN: I believe -- I don't believe the riding lawnmower I have would fit in either honestly. I -- it would probably fit in A, but I would have to somehow make the door large enough to fit it. I don't -- honestly, I don't think it's -- anything is possible, but I think it would be difficult to do so.

MR. VALERIO: When you leave there, is the riding lawn mower staying?

MR. MOUKPERIAN: Yes. I -- I could probably -- yes. My current plan would be to keep it, but I -- I would entertain the idea of removing it, but I would need to have lawn maintenance. It could be an option, just to remove the -- so -- it's possible to remove it, yes.

ERIC STOWE: Is there a garage on the property?

MR. MOUKPERIAN: No.

ADAM CUMMINGS: Thank you. I did want to mention like the previous two applications, the Monroe County Department of Planning and Development has reviewed and deemed this a local matter.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

SHARON MURRAY, 39 Morrison Avenue

MS. MURRAY: My name is Sharon Murray. I live at the property at 39 Morrison Avenue which is directly west and adjacent to Mr. Moukperian's property. I'm not sure exactly what we can or can't address here, so stop me if I can't.

ADAM CUMMINGS: I will cut you off if it is outside of our jurisdiction.

MS. MURRAY: I have owned the property since 2006. To my knowledge, I am outside, I should say, quite a bit throughout the day. I have an office in my home. I work out of my home for Van Zile Travel. I'm a corporate travel agent. I'm home 100 percent of the time with the exception of right now.

I have a dog. I'm outside quite a bit with my dog, taking her outside. She is a very teeny, little dog so she can't be let out.

Having said that, at no time have I ever seen Paul Moukperian live in that home. He is there at times to take care of the property, and that is what I have to say about that. I do not believe him to be living in that home as a permanent resident.

Moving on, the residents in that home are college students. They're extremely disrespectful to the point where they could be legal matters. I could actually have the police involved at times with the different people that he has rented to. The noise-making is out of control. The yard is an absolute disgusting mess. I don't understand why there -- if there is so much room in these sheds, then move some of the debris, refuse that is accumulated. There are car parts, piles of wood. There is an abandoned vehicle on the property that is unregistered. Although there is license plate on it, it's not --

ADAM CUMMINGS: So right now, I will cut this one off. It sounds like you have a laundry list of complaints which really should be submitted to the Building Department.

MS. MURRAY: But they are still going to have the room --

ADAM CUMMINGS: That's what I wanted to get to, if you're for or against having an excessive amount -- per our code, an excessive amount of shed storage space on the property.

MS. MURRAY: I think there is, yes.

ADAM CUMMINGS: Okay.

MS. MURRAY: It's very unsightly. It's not aesthetically pleasing to me in my own house to look at that despite the garbage that's in the yard, to look at all of the sheds that are there.

ADAM CUMMINGS: Okay. Thank you.

MS. MURRAY: Thank you.

MR. MOUKPERIAN: Should I address some of those?

ADAM CUMMINGS: If you would like. It's your choice.

MR. MOUKPERIAN: As far as the being unsightly, from her vantage point, I believe only one of the sheds is -- maybe the B Shed is visible. I don't -- I don't believe that the sheds themselves are unsightly. I also disagree with the amount of debris, but I don't think that is relevant.

ADAM CUMMINGS: Okay. Thank you.

Don't see any other audience members, so I will ask for 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: Side table, Paul (Wanzenried), have you received any complaints in writing? Obviously we had some today voiced, but have we seen anything else regarding this property?

PAUL WANZENRIED: No.

ADAM CUMMINGS: Thank you. With this one, you -- did I say your name right?

MR. MOUKPERIAN: You said it great, yes. It was a great first try, 100 percent accurate.

ADAM CUMMINGS: You offered up a solution to that. We do try to minimize variances as much as we can. That is our goal. And in this case, it was nice to hear an applicant actually chime in to say they would do that. So in terms of that shed in the back, which was identified as B, if that is either relocated or removed, that would eliminate the need for us to grant any variances. So with that first proposal is -- I know it's on a concrete slab, but could that -- would you be willing to relocate that? Because you did state that you would like it for the -- the lawn tractor storage and just to extend the life of that asset, you would want to keep it under, and as side table noted, you don't have a garage to store it. Would you be willing to do that so that -- then we don't have a variance tying to the land unnecessarily, or run the risk of denying it for tonight?

ERIC STOWE: Wouldn't we be still be over the square footage?

ADAM CUMMINGS: I don't know, because I don't really have the size of them.

MR. MOUKPERIAN: I believe you would still be over the square footage.

ADAM CUMMINGS: Would be?

JAMES WIESNER: B says 10 feet by 10 feet.

PAUL WANZENRIED: Moving it doesn't address the over the square footage. It only eliminates one variance, Adam (Cummings).

ADAM CUMMINGS: If the size of B is 10 by 10, it would bring it down to 176 square feet, which would be below 192.

MR. MOUKPERIAN: That's if -- you're -- one of the options you mentioned was to -- moving. Moving the shed will --

ADAM CUMMINGS: Yes. I'm sorry. I was talking about relocating and then we would only be thinking one variance. I didn't finish the thought in my head. If we remove it, then it gets rid of both of them. I did misspeak.

The first option is minimizing it to just one variance instead of two. Removing it would eliminate both.

MR. MOUKPERIAN: Right. I believe the -- this would need to be -- I would like to look at the cost of -- of moving it. I don't know -- I wouldn't be able to do it myself. I would have to hire somebody. I think that it would be, at the very least, a very large inconvenience. I agree it's possible, but I don't think that doing so -- I think -- the having the -- the shed -- the slab still there after it moved would -- would also be unsightly. So I don't -- I don't think it's my best option.

ADAM CUMMINGS: Okay.

MR. MOUKPERIAN: I think I would rather -- prefer to attempt the variance.

ADAM CUMMINGS: Well, with the shed, you already made a point that it's not visible from the neighboring property anyway. So if it is just a slab, it would only be visible from your property.

MR. MOUKPERIAN: The neighbor -- at present. As far as the neighbor to the rear and to the east, I believe, they would -- they would still have it be viewable.

ADAM CUMMINGS: Understood.

JAMES WIESNER: Another compromise would be getting rid of the 8 foot by 8 foot, that would take it down to actually 192. Then he would only have one variance for the back shed that would remain.

ADAM CUMMINGS: Yes. And the 8 foot -- the 8 foot by 8 foot, just so it is clear on the record, is which one Jim (Wiesner)?

JAMES WIESNER: That would be C. So that would be over 64, which would get him under 192 or below. Then he would only have one variance of just -- just another compromise to consider.

ADAM CUMMINGS: It depends on how accurate these are. It is kind of nice to see them to the tenths place. I think they would still be above 196.

JAMES WIESNER: Well, 8 by 8 alone would be 64.

ADAM CUMMINGS: Right.

JAMES WIESNER: Less than 276. So 8 -- gives you 64 --

ADAM CUMMINGS: That gives you 213.

JAMES WIESNER: That doesn't come out.

ADAM CUMMINGS: Or sorry. 212.

JAMES WIESNER: Yeah. Has to come down 8 -- he has to come down 84, it says.

Right?

ADAM CUMMINGS: Right. It would really --

PAUL WANZENRIED: 23 times 8.3 is about 68. It drops down 207 and change, give or take a couple. Still going to need a variance.

ADAM CUMMINGS: Right. And Shed A is 8.2 times 12.2 --

PAUL WANZENRIED: It's 100.2.

ADAM CUMMINGS: That would be 100.04. That would get him down underneath.

That one gets you down below. So Shed A, which does not house your lawn tractor -- sounds like it's for tenant storage.

MR. MOUKPERIAN: That is true. I think that one is the most difficult to remove based -- that is on -- it's -- it's more -- I don't know how -- I'm not an engineer, but I believe the way it is -- it's not just sitting on the driveway. It's -- I believe that's more permanent. I don't know how to describe it otherwise than the others.

ADAM CUMMINGS: I -- I would actually beg to differ. No structure is permanent sadly.

MR. MOUKPERIAN: I don't mean permanent.

ADAM CUMMINGS: More difficult to remove I think is what you're trying to say.

MR. MOUKPERIAN: Yes. Yes.

JAMES WIESNER: Does it sit on the driveway?

MR. MOUKPERIAN: I don't -- I don't have the answer to that. When I -- when I -- it's not as if I can push against it and have it -- like it -- it has some more -- "permanent" is not the right word, but more structural attachment somehow.

ADAM CUMMINGS: So you're saying it has a foundation that goes down into the ground?

MR. MOUKPERIAN: I don't have that -- I wouldn't be able to confirm that. But I just know in trying to -- to move the structure, it has -- it is very rigid and it is not something that is just sitting on top of the driveway.

ADAM CUMMINGS: Sorry. Just looking it up right now. I didn't focus on that shed. I looked at the aerial view on top.

MARK MERRY: Are you then staying with your original request application for a variance?

MR. MOUKPERIAN: Yes. I believe that's in my best interest at this point.

ADAM CUMMINGS: Okay.

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.

Adam Cummings made a motion to adopt the application.

JAMES WIESNER: Will you divide this up into two?

ADAM CUMMINGS: I was going to leave it one. Would you like it separated?

JAMES WIESNER: I think there is value in having it separated.

MARK MERRY: I agree.

JAMES WIESNER: There are aspects of one --

ADAM CUMMINGS: That's true.

JAMES WIESNER: -- of one, not the other.

MARK MERRY: It may be more appealing.

ADAM CUMMINGS: Okay. So we'll split this up into two decisions. The first one being the total square footage requested is 276 square feet. The SEQR statement still ties with both of them.

And Board vote on that one, as termed 3A, which is total square footage of these sheds.

ERIC STOWE: There was a motion to adopt?

ADAM CUMMINGS: I made a motion? I don't believe it been seconded. No. You're right.

Is there a second.

MR. VALERIO: Second.

ADAM CUMMINGS: On 3A. We had a second to vote on this one. Square footage of 276 square feet.

Adam Cummings made a motion to approve Application 3A with no conditions, and James Valerio seconded the motion. All Board members voted against the motion.

DECISION ON APPLICATION 3A: Unanimously denied by a vote of 5 no with the following finding of fact having been cited:

1. Applicant attested to the excessive square footage of accessory storage to be unnecessary.

ADAM CUMMINGS: So now, the next one is 3B. I will refer to it as the variance to allow the rear shed to be 6 feet from the rear lot line.

Can I have a motion for that element of the application?

Fred Trott made a motion to approve Application 3B with no conditions, and Mark Merry seconded the motion. All Board members were in favor of the motion with the exception of Adam Cummings.

DECISION ON APPLICATION 3B: Approved by a vote of 4 yes to 1 no (Adam Cummings) with the following finding of fact have been cited:

1. Location of shed was determined to be a minor variance and the existence of a concrete slab was deemed to be an excessive burden for the property owner to remove.

ADAM CUMMINGS: So that one did pass. You can still have it 6 feet off the property line, but you will have to come up with some compromise on the square footage. That could be shrinking that back one down, eliminating a shed. Continue to work with the Building Department on that to remedy that one.

MR. MOUKPERIAN: Thank you.

Just for clarity, as you said, I could shrink the current B, leave it to the back line is still -- because it passed 6 feet away, as long as it meets the requirement of 192 feet total?

ADAM CUMMINGS: Yes. But once again, we denied total square footage of 276 square feet, so your total square footage has to equal 192 square feet or less.

MR. MOUKPERIAN: Understood. And for further clarity, I understand it probably wouldn't pass, but if I came back with 200, because if for whatever reason, the number is higher than 192, I could go through this process to try to get it approved or -- separate, or is this no matter what?

ERIC STOWE: I would just ask that we not pre-judge any application.

ADAM CUMMINGS: Okay. Thank you.

MR. MOUKPERIAN: Okay. Thank you.

ADAM CUMMINGS: Side table answered it for me.

MR. MOUKPERIAN: Appreciate it.

ADAM CUMMINGS: All right. That is all we have on that one. Thank you for coming in tonight. Thank you for coming in tonight.

And last order of business for us is the December 18th minutes.

James Wiesner made a motion to accept the 12/18/18 Zoning Board of Appeals meeting minutes, and James Valerio seconded the motion. All Board members were in favor of the motion.

The meeting ended at 7:33 p.m.