

CHILI ZONING BOARD OF APPEALS
May 28, 2019

A meeting of the Chili Zoning Board was held on May 28, 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, James Valerio, James Wiesner and Chairperson Adam Cummings. Fred Trott was excused.

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?

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

1. Application of Matthew Coccia, owner; 117 Stottle Road, Churchville, New York 14428 for variance to allow the total square footage of shed area to be 632 sq. ft. to include proposed 12' x 20' shed with a 10' x 20' overhang, and future 192 sq. ft. shed to replace existing 96 sq. ft. shed that will be demolished, variance for larger shed to be 16' high (12' allowed) at property located at 117 Stottle Road in PRD zone.

Matthew Coccia was present to represent the application.

MR. COCCIA: Matthew Coccia, 117 Stottle Road. And to clarify a little bit or to expound on what the Chairman said, the proposed shed is a pool house. There is an existing shed on the property that is 8 by 12. So the reason for the requested variance of the pool house or shed and a 192 square foot shed is that the allowable maximum in the Town right now is 192. If I had my existing shed was 192, I would only be asking for what the square footage of the pool house and overhang is.

The existing shed is in poor condition. It has been there before. I have lived there 15 years. It has been there before me. I nurtured it as much as I can and it's too small anyway. So I thought to, you know -- for expediency, I would request a variance for the pool house and overhang and still allow me the 192 square foot so I can replace the shed without having to come in for another variance.

ADAM CUMMINGS: Before we get too far, I will have to delegate to you, James (Valerio), since we're missing Fred (Trott), our audiovisual specialist. Will you put the map up on the overhead for me?

While he is doing that, I will report back the Monroe County Department of Planning and Development did review this and they don't have any comments from their Development Review Committee.

JAMES WIESNER: So this is just for the pool house and the future shed and the garage is not part of the shed square footage?

MR. COCCIA: Right.

MR. VALERIO: Just to clarify, I know you said here -- the old shed is coming down and you're putting a new shed, the same size as the old one?

MR. COCCIA: No. The issue is, I guess right now, the existing shed is 196 square feet.

MR. VALERIO: Okay.

MR. COCCIA: So -- and the proposed pool house and overhang is 440. So if I asked for 534 -- 538, um, then I would be confined to replacing that shed with another small 8 by 12 shed and if I want to go a foot bigger, I would have to come in to get another variance.

Like I said before, if the existing shed was already 192, it would kind of be a moot point. Since that is the allowable maximum. We would be here just talking about 440 additional square feet.

MR. VALERIO: Okay. Got it.

ADAM CUMMINGS: You got it?

MR. VALERIO: Yes.

ADAM CUMMINGS: Anything else?

ERIC STOWE: Just a suggestion that the demolition of the existing shed occur prior to the issuance of the building permit for replacement.

ADAM CUMMINGS: Does the replacement require a building permit or just the pool house?

PAUL WANZENRIED: It requires a permit.

ADAM CUMMINGS: Mr. Coccia, is that clear? We want you to remove the shed before

you come in with the next one for fear that the 192 square feet stays and then the 192 square foot comes in and then Code Enforcement has another enforcement issue.

MR. COCCIA: That makes sense. That would force me for another variance, like I say.

ADAM CUMMINGS: Right.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Valerio 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.

MR. COCCIA: Couple other things I would like to add. I didn't submit with the application either of these things, but I did receive -- I did have a form letter signed by my neighbors on either side.

ADAM CUMMINGS: Okay.

MR. COCCIA: If I can submit those to you.

ADAM CUMMINGS: Absolutely.

I will just read it out. A form letter, "To whom it may concern: I have reviewed the details of a proposed pool house at 117 Stottle Road with Matt Coccia. Details consist of survey map, floor plan and elevation sketches. I understand a variance from the Town is required in excess of 192 square feet and/or 12 feet in height. Mr. Coccia explained to me that the pool house and overhang would be 440 square feet and 16 feet in height. I do not have objection to the proposed pool house."

And that is signed by Richard -- and I can't read his last name but at 123 Stottle Road. And Stephen Kovach at 111 Stottle Road.

MR. COCCIA: Right. Those are the two neighbors that are on the screen right now, Lot 4 and 6.

ADAM CUMMINGS: Okay.

JAMES WIESNER: The cupola is not part of the height measurement?

MARK MERRY: Not the way it is shown.

JAMES WIESNER: Not the way it is shown. I'm just wondering how that is.

MR. COCCIA: I can answer that. I don't have an intent on a cupola. The architect who has not done construction drawings yet, just rendition, he put that on there. That is not part -- won't be part of the plan and is not considered as part of the height.

ADAM CUMMINGS: Okay.

JAMES WIESNER: That clears that up.

ADAM CUMMINGS: So you won't have a cupola, but I would defer over to Paul (Wanzenried), if a cupola was on there, would that pertain to your height of the structure?

PAUL WANZENRIED: Per 500-65, no.

ADAM CUMMINGS: Thank you. Any other questions?

JAMES WIESNER: I think your house is two stories, so it is well above that 16 height probably.

MR. COCCIA: Yes.

I understand I'm asking for a fairly large, you know, shed with overhang. So I just wanted to put this on here for perspective. Um, the area that is dotted around is the fence, the proposed fence. And that is approximately 75 feet by 75 feet. The -- the pool is in place right now. And this (indicating) is the -- this dotted line is the fence. And so here is the -- the pool house and then this area in here is the overhang (indicating).

Um, I think it provides some perspective to scale for what we're trying to do.

ADAM CUMMINGS: I think it clears it up nice.

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.

ADAM CUMMINGS: I have those two conditions of approval where you have to remove the 96 foot square foot shed prior to getting a building permit and allowance for the larger shed and then you have to get a building permit for all of the larger structures as necessary.

Mark Merry 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. Removal of 96 sq. ft. shed to be completed prior to issuance of building permit.
2. Building permit must be obtained from the Building Department.

The following finding of fact was cited:

1. The location of the shed, which will serve as a pool house, is located where it will be minimally visible from public vantage points. The neighbors most likely to be impacted, have provided a letter of support for this application.
2. Application of Jan Schneider, owner; 1515 Davis Road, Churchville, New York 14428 for variance to allow the total square footage of garage area, including a new 30' x 40' detached garage to be 1,932 sq. ft. (1,200 sq. ft. allowed) at property located at 1515 Davis Road in R-1-15 zone.

Jan Schneider was present to represent the application.

MS. SCHNEIDER: Good evening.

ADAM CUMMINGS: Anything you would like to add?

MS. SCHNEIDER: No. I'm applying for this variance so that we can have the pole barn, which is offset from the yard. I'm not sure if you're aware, but where my area is, I have a lot of wind damage.

In 2012, it actually blew over one of my snowmobile trailers and threw it into my car and I had to have my entire roof replaced.

2015, I built a sun room and that caved in from the wind. The pool caved in. This year alone the Town had asked me to move the existing shed back like 3 feet, which I moved back and the day afterwards, it blew over my fence and got destroyed.

So what I'm trying to do is put a barn in my backyard where I can actually put my equipment that I have, plus be safe as far as wind damage. All my surrounding neighbors have similar sized pole barns, as well. I'm on kind of farmland of the -- the -- the house to the far right is like a cow field and obviously the farmer has a bunch of barns, too. My immediate neighbor to the left also has a barn and the neighbor across the street, as well.

ADAM CUMMINGS: So it is pretty -- as I drove down there, it's pretty sparse. There is no trees out there. Obviously the wind damage, there is no trees --

MS. SCHNEIDER: Yeah, no trees or anything out there. It's in the far backyard.

JAMES WIESNER: There is obviously a lot of -- a lot of stuff in the yard. Is that part of a business at the property?

MS. SCHNEIDER: I do tree removal. I don't actually run a business out of my house. It is just have trailers and most of them are actually registered recreational, not industrial or anything like that. So I have obviously four vehicles that I own personally. Everything is all registered.

There is only one car on the lot that is unregistered that is covered, that the Town asked us to cover. That is going inside the pole barn, so that is not going to be seen anymore.

Pretty much with the pole barn, everything that -- that I own, whether four-wheelers or anything like that, everything is going into the backyard into this barn that is in the back field.

JAMES WIESNER: That's all I have.

ADAM CUMMINGS: I would like to ask, because the trucks do have decals on them for a business --

MS. SCHNEIDER: Right.

ADAM CUMMINGS: -- so to me it looks like you're operating a business out of there. One of the conditions we typically put on these pole barns, because it's not legal to put it -- to run a business out of a residential zone --

MR. SCHNEIDER: Correct.

ADAM CUMMINGS: -- is we do put a condition that prohibits the running of a business or storage of materials, whether they're products or equipment or anything like that within sight of the structure. So we would --

MS. SCHNEIDER: I don't have any customers that come to my house or anything like that.

ADAM CUMMINGS: Not related to customers.

MS. SCHNEIDER: It is just for my work. Obviously I have signs on my vehicles, but I don't do work on my own property or customers come.

So the alternative to this is to leave them on the driveway, which we have already worked out with the Town, that I'm able to leave all my equipment on the driveway. So the alternative was to make this to kind of -- not only help me with the wind damage for my recreational stuff like the boats and the four-wheelers, but the trailer, as well. So it would be off my driveway. Otherwise they will stay on the driveway.

And the contractor does have plans if I can't have a pole barn, we can stone the entire front yard, as well, to be able to utilize that. So the pole barn looks more kind of appealing to the neighborhood --

ADAM CUMMINGS: I'm not following that.

MS. SCHNEIDER: -- in the fact that all the other neighbors have all their equipment in it, as well, in their barns.

ADAM CUMMINGS: What contractor? You're saying the contractor that would make the pole barn?

MS. SCHNEIDER: Right.

So Option 1 is the pole barn. It looks a little more presentable for the Town, for the neighborhood. Obviously, like I said, all our neighbors have the same, similar sized barns in their yard as well that they store whatever they put in there, their equipment. Their business stuff.

Neighbor across the street owns Ace Swim & Leisure. All of his vehicles are in his pole barn.

So just again, to kind of like clean up the area and again with the wind damage, all of the other stuff I own -- obviously the small shed that I had, I couldn't keep that there either.

ADAM CUMMINGS: Okay.

MS. SCHNEIDER: So it is kind of to make everything look nice and make everybody happy.

ERIC STOWE: I have some issues with the parking in the front yard for a commercial enterprise, along with storage of vehicles on that. I guess the -- the receipt of customers at the location does not define a business. But I think your standard condition of no storage of commercial vehicles or operation of a business covers that. But that is my only concern.

ADAM CUMMINGS: Okay. Thank you.

MS. SCHNEIDER: If I could just say, that is the whole point of the pole barn, is to keep everything into the barn. So even my personal vehicles, everything that we have, goes out there.

ERIC STOWE: Personal is different than commercial.

MS. SCHNEIDER: Right. But what I'm saying, everything is going out there.

ERIC STOWE: I -- that is running -- the storage of commercial vehicles for a commercial enterprise -- if people are coming and taking those vehicles on a daily basis, that's operating a business --

MS. SCHNEIDER: Yeah, but it's not people. It's me. I'm the only person. Me and my fiancé are the only two people that own and operate all of the equipment. It is all registered to either me personally or to my fiancé personally. Nothing is actually registered through a corporation, even though it has signs on it. They're all New York State registered. Everything is.

ADAM CUMMINGS: Well, they have to be registered by New York State.

MS. SCHNEIDER: I'm not saying they're registered to a business name. They're all my personal property.

MR. VALERIO: How will you access the pole barn from the street?

MS. SCHNEIDER: So where that drawing is, where that slab is, the little piece above it, that is driveway. Behind that is all concrete from where a shed used to be. Then they're putting just gravel back there to get to the pole barn. They're not extending the driveway. They're just putting in gravel.

ADAM CUMMINGS: Extending the asphalt, you're saying?

MS. SCHNEIDER: Not -- they're putting gravel where the asphalt is. Can I show you?

ADAM CUMMINGS: Yes.

MS. SCHNEIDER: So this is part of the driveway (indicating). This is over on the side (indicating). This area right here (indicating) is actually concreted in, this whole square. Back through here (indicating) is going to be gravel that is going to be poured in.

MR. VALERIO: So there will be trucks leaving like on a daily basis in and out of there?

MS. SCHNEIDER: Yeah. They will come in and out of this way (indicating). At nighttime everything goes in there (indicating) so this driveway is cleared. Obviously there is some vehicles that are on here because I own multiple and there are only two of us.

MR. VALERIO: Is there trees and wood and scraps left from your business in your yard?

MS. SCHNEIDER: We have some wood. Supervisor Dunning said I'm allowed to have a small pile of wood where I can chop up for firewood to use, so there is only a small portion. Not anything huge. And no chips or brush or anything like that on my property. Everything would be taken to a dump or the customer's house.

MR. VALERIO: Is that wood brought there on a daily basis? Is it a daily basis that wood comes in or --

MS. SCHNEIDER: No. No. The wood that has been in my front yard is seasoning so I can use it for this year. It is from last year. We have the wood splitter next to it that we use for the camp.

ADAM CUMMINGS: Do you plan on selling any excess wood out of there? Because again, that would be a business.

MS. SCHNEIDER: Well, we did at one point. We were selling it to the neighbors. But Supervisor Dunning said it was frowned upon doing that, so we do not sell any wood.

ADAM CUMMINGS: Nor do you plan to?

MS. SCHNEIDER: Nor do I plan to. It's actually too much work to split it and sell it. You don't get enough profit.

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 will let you know that we did receive a letter today. We're still

reviewing it with the Building Department. It was from some concerned property owners and neighboring property owners of Davis Road. On it it does highlight an LLC that is operating out of it, which I suspect is you and your fiancé's business, as well as some tree cutting and chipper equipment which I think would go beyond a trailer.

MS. SCHNEIDER: Which we talked to the building -- or the Code Enforcement about already. Twice now we have this issue and we have complied with everything that they had and Kristen said we shouldn't have any more problems. That as long as we're keeping everything on the driveway, that it's not an issue.

ADAM CUMMINGS: We -- the front yard --

MS. SCHNEIDER: So that has all been settled with the equipment. Whether the neighbors keep complaining or not, we already have it resolved I don't need to move any of that.

ADAM CUMMINGS: Okay. Thank you.

And then you mentioned that the only employees were your family?

MS. SCHNEIDER: Right.

ADAM CUMMINGS: But just a reminder, that if you have had employees --

MS. SCHNEIDER: Absolutely.

ADAM CUMMINGS: -- not that I'm saying we're allowing it because we do have the restriction on it, the prohibition of running it out of it, but just a reminder if you had employees, they can't park at this --

MS. SCHNEIDER: Absolutely. I don't have employees. It's an incorporation so everything is with the State on record that there is no employees, so.

MR. VALERIO: Can there be a condition about no front yard parking?

ADAM CUMMINGS: Well, I think we already have it in our code there is no front yard parking.

MS. SCHNEIDER: That is the whole point is to keep anything from being in the front yard because it would not be needed. I would have the storage in the back.

ADAM CUMMINGS: Whether it was approved or not.

PAUL WANZENRIED: I think that the application is for a garage. That the applicant should probably come and talk to us again regarding -- we, too, have this letter and pictures. So we should revisit this and discuss the parameters of the customary home occupation. That being said, if -- if this garage is on a separate basis, it's for storage of personal items --

ADAM CUMMINGS: Equipment, vehicles.

PAUL WANZENRIED: Equipment, rock on. Okay.

But if an LLC is registered to a property, then there may be an issue with the parameters of the customary home occupation. So I would implore Ms. Schneider to come back to us, sit down and discuss that and find out the paths to compliance from that direction. Okay?

If she wants to put the car, four-wheelers and all her other equipment and items -- we did make her move a shed out of the front yard, which had storage of personal items in it. That was last year. And I know that that -- that did take place.

ADAM CUMMINGS: Okay. Thank you.

MARK MERRY: I'm hearing "personal equipment," "personally owned" and then I'm hearing, "Except, well, I could put trailers in," but you shouldn't be running the business "So I won't put the trailers in."

Maybe I suggest we table this until that conversation happens and we get a crystal clear picture what's going to happen at this property because right now it sounds like a business is running out of it.

With the concerns of the side table, I think we would be hard pressed to approve something.

ADAM CUMMINGS: The side table is saying that's a separate discussion. Tonight we're talking about a pole barn.

MARK MERRY: Yeah, I think we're talking more about -- it doesn't sound that way. The conversation has continued. Sounds like we have a lot up in the air.

MS. SCHNEIDER: So Paul (Wanzenried) is actually one of the ones I met with to do this variance and we discussed before I did it that we would be putting the trailers and everything in it. And this was a better option.

Even though, both Paul (Wanzenried) and Kristen had met with me twice and both agreed that all of my equipment that I use for work wise, the chipping machine, all that, all that equipment wasn't going to be an issue anymore as long as I didn't park on the grass. We have had this conversation twice.

And then we went ahead with this variance knowing that this pole barn is going to be used not only for my personal equipment, my personal registered vehicles that I do use for business. The trailers are actually registered personally. The chipping machine obviously is used for the business, which he is aware of and so is Kristen. And that everything would be put into the barn to kind of make everybody happy.

Otherwise if it doesn't get approved, we're going to leave it on the driveway because we already had this conversation twice and with the Supervisor that this wasn't an issue.

ADAM CUMMINGS: But to be clear, even if it is on your driveway, if you have another location -- when you say -- you're using it for work. Is there another --

MS. SCHNEIDER: No.

ADAM CUMMINGS: -- work location that this is shuttled to?

MS. SCHNEIDER: No. We do tree work. So when customers call, all of the work is performed at their house, not my house.

ADAM CUMMINGS: Right. But yours is the corporate -- yours is the LLC --

MS. SCHNEIDER: My house is where I keep my --

ADAM CUMMINGS: This house is the headquarters for that business?

MS. SCHNEIDER: As far as where I bring my equipment home at nighttime, correct.

Customers don't come to my house. The business is not actually ran out of my house. It is just that I have personal equipment that I use for the business to help do my daily job. No different than the neighbor across the street does.

ADAM CUMMINGS: So your paperwork is done in the truck?

MS. SCHNEIDER: Everything is pretty much done on our cell phones with the customers there. We have an invoice system, an app on it and everything is done there. They pay by check right then and there and we email a receipt from our cell phones. Nobody is coming to our house to sign contracts or anything. We go to their house, give them an estimate right on-site. And then we go do the job, send them a receipt right there.

ADAM CUMMINGS: Okay. I'm clear on it. I still -- our traditional residential pole barn is that we have a prohibition of commercial operations or businesses out of a pole barn. As Paul (Wanzenried) said, that would be a separate conversation of operating a business off the property, which I agree we are not considering tonight.

Is that clear?

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

JAMES WIESNER: What was the condition?

ADAM CUMMINGS: Prohibition of a commercial operation or storage.

JAMES WIESNER: And a building permit too, right?

ADAM CUMMINGS: Sorry. The building permit went without saying. That's why you're here.

MR. SCHNEIDER: I know I need a building permit.

MR. VALERIO: If there is commercial equipment stored there, then is it revoked?

ERIC STOWE: No. It would violate the variance and it is subject to enforcement proceedings.

James Wiesner made a motion to approve the application with the following conditions, and James Valerio seconded the motion. The vote on the motion was 3 no to 1 yes (Adam Cummings).

DECISION: Denied by a vote of 3 to 1 (Adam Cummings) with the following findings of fact having been cited:

1. Variance will produce undesirable change on neighborhood. Based on the type and amount of equipment and testimony from the applicant, the intent of this structure was primarily to store equipment related to a tree-trimming business, which is not permitted in the R-1-15 zone.
 2. Alleged difficulty is wholly self-created.
 3. Benefit sought by applicant can be achieved by other means. To wit storage of vehicles used for commercial purposes on properly zoned parcel.
3. Application of Laura Bugajski, owner; 19 Bright Oaks Drive, Rochester, New York 14624 for renewal of special use permit to allow an in home business for a pet bakery at property located at 19 Bright Oaks Drive in R-1-15 zone.

Laura Bugajski was present to represent the application.

MS. BUGAJSKI: Laura Bugajski, 19 Bright Oaks Drive.

I'm just looking for a renewal of the business. We have minimal impact to the neighborhood. I'm sure if you drove past, you can hardly tell I have a business there. No signage, no trucks, no customers coming to the house. So it's -- it's a wholesale and online business only. So I ship UPS and FedEx from the house. That's pretty much it.

I would be looking for one part-time employee. He would be there after 9 a.m. and gone before 2 p.m. He actually has a driver because he does not drive, so there is not even a car there during the business hours. They drop him off and pick him up.

ADAM CUMMINGS: This is a renewal -- last one was granted for a period of five years from April 22nd, 2014. So we are just a little bit over that one --

MS. BUGAJSKI: I put in my application in time. That was just when the next meeting was.

ADAM CUMMINGS: Understood. So along with that we have six conditions. We'll continue those on, as well. We have done it in the past, in the more recent past on these renewals

instead of just five years, allowing them in ten. I would ask if the Board wanted to consider that as an option, and if the applicant was interested in that, just as a convenience for administrative renewal.

MS. BUGAJSKI: That would be great. I don't plan on being in this location for another ten years, because I'm probably going to have to expand shortly, but it would help if I could have it for ten years so it would always be available.

ADAM CUMMINGS: Side table, any issues with that? I'm hearing none.

JAMES WIESNER: I take it, there were no complaints?

ADAM CUMMINGS: We have received no complaints.

MS. BUGAJSKI: Only thing I heard from my neighbors, it smells really good and they forget I'm baking for dogs.

JAMES WIESNER: All of the dogs in the neighborhood end up in your yard. (Laughter.)

ADAM CUMMINGS: So those six conditions, Number 1 would be granted for a period of ten years.

No on-premises advertising.

Number 3, no on-street parking pertaining to the business.

Number 4, the hours of operation as per your application.

Number 5, applicant to obtain and maintain any required State and local licenses.

And number 6, a building permit must be --

MS. BUGAJSKI: Can we take building permit off because the building has already been built?

ADAM CUMMINGS: Yes. We don't need that anymore.

MS. BUGAJSKI: Okay. Thank you.

JAMES WIESNER: Are you doing SEQR?

ADAM CUMMINGS: We do have a full form.

MS. BUGAJSKI: They made me do it.

ADAM CUMMINGS: That is because it's part of the application form. We will cover that one later on, Jim (Wiesner).

JAMES WIESNER: It was in there for a reason.

ADAM CUMMINGS: That's part of the application form for these --

JAMES WIESNER: I don't remember doing it for a home-based business.

ADAM CUMMINGS: Yep.

JAMES WIESNER: That's all I have.

ADAM CUMMINGS: Obviously, you're not expanding on the bakery which is why you don't need the building permit?

MS. BUGAJSKI: That's correct.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Wiesner 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: Those five conditions there. I don't have anything else to add. Once again, we haven't had any complaints. The dogs also haven't spoken how much they like the treats or not. I haven't heard of anything else.

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 the following conditions, and Mark Merry 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. Granted for a period of ten (10) years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. Applicant to obtain and maintain any required state and local licenses.

The following finding of fact was cited:

1. The applicant requires one additional employee to develop her business investment and will be completely contained within the house and not result in adverse visual or olfactory impacts in the neighborhood.
4. Application of Charles Sibley, owner; 17 Gateway Circle, Rochester, New York 14624 for variance to erect a 15.2' x 26.11' deck to be 25' from rear lot line (40' req.) at property located at 17 Gateway Circle in R-1-15 zone.

Charles Sibley was present to represent the application.

MR. SIBLEY: How you doing? Good evening.

ADAM CUMMINGS: So once again, if you just say your name and address so the stenographer --

MR. SIBLEY: My name is Charles Sibley. Address, 17 Gateway Circle.

ADAM CUMMINGS: And you're looking for a couple of variances off this. Off that. You -- you have a very irregularly shaped lot.

MR. SIBLEY: Right.

ADAM CUMMINGS: -- which is part of why you're here. Actually, to help the public out, James (Valerio), can I have this tossed on that?

So you're just looking to put a deck off the back, and then we have got a couple of -- just because it's so irregularly shaped, that is why you have to be closer than the 40 feet. It looks like one side you can meet it. The other side you're short just because of the way your lot line goes. So one condition on this would be to obtain a building permit.

Any questions?

MR. SIBLEY: Not really.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

ANDREW HESFORD, 16 Gateway Circle

MR. HESFORD: My name is Andrew Hesford. I live at 16 Gateway Circle. I know the plans. I have no objection.

MIKE CAMPOLI, 14 Gateway Circle

MR. CAMPOLI: Mike Campoli, 14 Gateway Circle. I'm for all of the improvements that we're going to do. So no objections.

ADAM CUMMINGS: Thank you. Thank you both.

James Valerio 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: I don't have anything else to add. Any questions from the Board?

Adam Cummings made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Mark Merry seconded the motion. The Board all voted yes on the motion.

Mark Merry 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 condition:

1. Building permit must be obtained.

The following finding of fact was cited:

1. Due to the irregular shape of the lot, no alternative is available. Additionally, this application is a replacement of a previous deck. The neighbors most likely to be impacted voiced support and no objections for this application.

5. Application of Mr./Mrs. Frederick Rutterbush, owner; 11 Watch Hill Drive, Rochester, New York 14624 for variance to erect a 20' x 10' deck 48' from front lot line (60' req.), variance to erect a 12' x 20' shed to be 240 sq. ft. (192 sq. ft. allowed), variance for shed to be 9' from side lot line and in front setback area (55' req. abutting a street and not allowed in front yard area) at property located at 11 Watch Hill Drive in R-1-15 zone.

Mr. and Mrs. Frederick Rutterbush were present to represent the application.

MS. RUTTERBUSH: Hi. Kathy Rutterbush, 11 Watch Hill Drive, Rochester, New York 14624.

ADAM CUMMINGS: One of our many corner lots we have in this Town. Anything other than you're looking for a shed?

MS. RUTTERBUSH: We just moved here from Michigan. So we're really new to New York. We retired. And when we bought the house, we were hoping to be able to add on a garage. But since we're retired, you know, financially, a garage is not feasible so our next option would be a shed.

And, you know, we're -- we were hoping we could put the shed kind of in the same area maybe a garage would be -- you know, we're not spring chickens -- so in the winter we don't have to go all of the way to the back to shovel to get to our snow blower and things like that. Our garage is so tiny. We're lucky we can get the car in there. So on the shed, that is kind of what we were hoping for.

ADAM CUMMINGS: Okay.

MS. RUTTERBUSH: And the neighbor, they have all said, "Oh, we think it would look nice there" and stuff. Nobody has a problem with it at all. They're -- they're glad we're trying to improve that property because not much has ever been done to it.

ADAM CUMMINGS: Just to ask the question, was there any thought to put it more towards the back? I know you just said to try to get the snow blower for convenience and all that.

MS. RUTTERBUSH: We thought about it, but if we put it to the back, the people that live behind us, when they come out their door -- the first thing -- they come out front door, the first thing they would see is the shed and we thought that would not be too nice on our part to do that to him.

ADAM CUMMINGS: The other side of your -- east you have overhead lines because there's a utility pole and overhead lines for the electric?

MS. RUTTERBUSH: Yes. It will be a very well maintained shed as far as that goes. On that aspect.

JAMES WIESNER: So there is actually two sets of variances, right?

MS. RUTTERBUSH: Yes.

JAMES WIESNER: One for the shed and another --

ADAM CUMMINGS: For the size of the shed and then the setback.

JAMES WIESNER: You're handling them together?

ADAM CUMMINGS: Yeah.

JAMES WIESNER: You didn't say --

ADAM CUMMINGS: I was planning on keeping them together just like the agenda had. I suppose we could separate them, meaning you could still have the larger size shed, but we would have you push it farther away -- we try to keep the separation off those setback lines for a reason so it is not encroaching on a roadway, visibility issues. And just to keep it uniform so that things are not encroaching on the roadway is why we have that there. And that is where we have got -- you are on a corner lot, so you actually have two front yards. So you have a unique one.

MS. RUTTERBUSH: We didn't realize that when we bought the house that that would be a -- you know.

ADAM CUMMINGS: Because even your house is only 31.2 feet off the front line. Even if you put it in line, you would still be here for a variance. It's just whether you need 9 feet or 31 feet or another number.

MARK MERRY: I wonder if there is a way you can turn it and have the short side -- bring it closer. Let me think.

MS. RUTTERBUSH: In our yard, too -- I'm sure you probably drove by it, but there are a lot of large trees that we really didn't want to have to cut down. We like the trees.

ADAM CUMMINGS: Mark (Merry), what you're saying is rotate it so it is paralegal to the house and set back further?

MARK MERRY: Right.

Would that work for you?

MR. RUTTERBUSH: If we can't get it there, I would have to do something. I would have to do something like that.

ADAM CUMMINGS: Because 9 feet is close. It's very close to the front on West Canon Drive. Not that it is -- I understand it is not the busiest intersection, but -- and they -- they are very mature trees out there, too. So what you're saying is rotating it -- long-wise, east/west -- and that can accomplish say moving it back 10 feet, 20 feet?

MARK MERRY: Just a thought if you're -- if you're willing to consider it --

ADAM CUMMINGS: The.

MARK MERRY: The configuration --

MS. RUTTERBUSH: We didn't really want to -- we have the sunroom back there. We enjoy watching the neighbors, you know, everybody walking up and down the street. We didn't want to have to block that from being able to see out of -- the sunroom that we enjoy.

JAMES WIESNER: So that would actually block from your enclosed back porch -- so the shed position would block you -- from looking over to West Canon Drive?

MR. RUTTERBUSH: If you move it back farther.

ADAM CUMMINGS: So along --

MS. RUTTERBUSH: We would -- we're hoping to put it -- it wouldn't take much of our view away at all.

JAMES WIESNER: So the actual position shown on this plot map, with the front edge with the back of the house is true or not true?

MR. RUTTERBUSH: It's -- yeah. It's right even with the back of the house. But it will be 9 feet from the back of the house to the shed and then 9 feet off the property.

ADAM CUMMINGS: Paul (Wanzenried), for code, how far does the attached structure have to be from the main structure?

MR. RUTTERBUSH: 8 feet.

ADAM CUMMINGS: Is it 8?

PAUL WANZENRIED: Per our code, yes. Zoning code, 8 feet.

ADAM CUMMINGS: So meaning he could shift it over one more from 9 feet to 10 feet. If you moved it to the east with the same orientation, you have there -- moving it closer to the house -- because your enclosed porch, you don't have a view of West Canon Drive. Nor does West Canon Drive have a view of your enclosed porch with this shed.

MR. RUTTERBUSH: I put it where we got it marked out right there. It don't take -- you can see more of Canon -- Canon -- West Canon Drive than you can -- if I move it back or turn it anyway, then it takes away can --

MS. RUTTERBUSH: Actually, right now, too the previous owners had put up like a privacy fence that runs from the back of the garage out. Well, that fence would come down and the shed wouldn't even go as far as that privacy fence that they put up. It was like one section they put up.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Valerio 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.

MR. VALERIO: My only comment would be it seems as though with all of the trees, it is definitely a difficult situation to find the right spot.

ADAM CUMMINGS: Right. That and overhead wires.

JAMES WIESNER: Are they -- I know pools aren't allowed to be over -- the overhead wires. Is that true for accessory structures, too? I don't know if there is any limitations on it.

ADAM CUMMINGS: I don't think so. Just not a good practice. One condition I will have on it, you do have to get a building permit. You knew that ahead of time.

MR. RUTTERBUSH: Right.

ADAM CUMMINGS: I don't have anything else to add to it.

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.

James Wiesner made a motion to approve the application with the following condition, and James Valerio seconded the motion. Approved by a vote of 3 yes to 1 no (Mark Merry).

DECISION: Approved by a vote of 3 yes to 1 no (Mark Merry) with the following condition:

1. Building permit must be obtained.

The following finding of fact was cited:

1. Due to the presence of large, mature trees and overhead lines, the placement of the shed has few options on this corner lot. This location was deemed to be the least intrusive and did not produce any unsafe visibility or other hazards for pedestrian and vehicular traffic at the intersection.
6. Application of David Kuyt, owner; 888 Marshall Road, Rochester, New York 14624 for variance to erect a 26.8' x 24'; garage to be 24' from rear lot line (40' req.) at property located at 888 Marshall Road in R-1-15 zone.

David Kuyt was present to represent the application.

MR. KUYT: 888 Marshall Road: I bought the property about 3 1/2 years ago. It was a foreclosure. It was vacant for quite a few years, I think. So I have been doing a lot of repairs to it.

The garage -- the current garage is in really bad shape, so I probably would have to tear it

down and rebuild. It's so close to the property line that I would need a State variance and a Town variance and so it would be a lot of money spent and dealt to get both of those -- we're talking like 2 feet from the property line.

Even if I got those all approved, then the driveway is really bad. I would have to redo that at a big cost. And because that's so close to the property line, um, it would only be a single lane. So it would be a lot of money spent without really bettering the situation.

So I had a neighbor, architect Feldman Hazelwood (phonetic) came up with this plan to let's go on the other side, be at least the 10 feet required from the side property. I checked with the DPW. They stopped by. They approved the curb cut for the driveway. Um, and it will give me a two-lane driveway which is great. A single lane gets old real quick, especially up against the neighbors' fence. We have been creative how to park cars but it gets old.

So we came up with a plan for a slightly larger, but -- pretty much take down a garage, build a new one on the other side of the garage where I can have a two-lane driveway.

The old garage will be torn down. Not a deal-breaker if you guys have opinions, but I was hoping to keep it up until I'm done with the new garage so it will give me a place to store tools, materials, things like that, keep some of the noise down during the summer. But the plan is to take the old driveway up and take the garage down. Um, but not take the 20 by 20 concrete patio -- we're going to make it a patio essentially. So we'll leave that concrete if it gets approved.

JAMES WIESNER: No questions. Pretty solid plan.

ADAM CUMMINGS: I will add the Monroe County Department of Planning and Development, their DRC did send back their letter. You have been removed for airport considerations and granted airport approval.

MR. KUYT: My garage is not that tall.

ADAM CUMMINGS: No. But they still go through that process.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

ADAM CUMMINGS: I will place a condition of approval a building permit is to be obtained.

Continue on with your plan of action.

MR. KUYT: To be clear, you're okay with the garage being up until I'm done with the new one?

ADAM CUMMINGS: All I'm saying is I'm not adding it on as a condition of approval. So you just go with your plan unless the Board feels we need to be stricter on that.

Mr. Side Table, would you like it?

PAUL WANZENRIED: What were you saying?

JAMES WIESNER: 60 days.

ADAM CUMMINGS: Sounds like Code Enforcement would like some assistance to hold you to it. So let's say -- what is your schedule you're looking for from us?

PAUL WANZENRIED: Mr. Chairman, I can put that as a condition of the building permit --

ADAM CUMMINGS: Perfect.

PAUL WANZENRIED: -- that the other garage is demoed prior to the issues of C of O for the constructed structure.

ADAM CUMMINGS: That's how I would prefer to do it.

PAUL WANZENRIED: I'm okay with that.

MARK MERRY: The driveway --

ADAM CUMMINGS: I think the driveway is part of the construction. That's really not --

PAUL WANZENRIED: I'm not worried about the driveway. I think what will happen, Mark (Merry), is when the new curb cut is enacted, the old one will cease to exist. Whether or not there is asphalt beyond that point, um, that is up to the homeowner. But I won't -- I won't burden him with that cost.

Adam Cummings made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Mark Merry seconded the motion. The Board all voted yes on the motion.

Mark Merry made a motion to approve the application with the following condition, 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 condition:

1. Building permit must be obtained.

The following finding of fact was cited:

1. Due to the small size of the house and lot, there are numerous restrictions to add a garage to this property. This plan maximizes the space on the lot and provides additional separation from the neighboring property compared to the location of the existing driveway and single-car garage.
7. Application of James Emens, owner; 54 Ballantyne Road, Rochester, New York 14623 for variance to erect a 20' x 32' detached garage to be 5' from side lot line (8' req.) at property located at 54 Ballantyne Road in RAO-20 & FPO zone.

James Emens was present to represent the application.

MR. EMENS: James Emens, 54 Ballantyne Road, Chili New York.

ADAM CUMMINGS: As it is shown there, that's what you're looking for, the garage.

MARK MERRY: On page 3 of the application, sir, it says this is not self-created. It's granting permission to rebuild on the same fingerprint; is that correct?

MR. EMENS: Yes.

MARK MERRY: No other questions.

ADAM CUMMINGS: I would like to add Monroe County Department of Planning has also identified this application on the airport review area. It has been reviewed and granted Board approval.

But I do need to point out that according to the flood boundary and floodway map from FEMA, the Federal Emergency Management Agency, it may be located within a flood insurance, 100-year flood plain boundary, so just work the Building Department on that. I'm not certain exactly which area of your property that is on, but that is a comment that you will want to make note of.

MR. EMENS: Okay.

ADAM CUMMINGS: Other than that, I don't have anything else to add.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Valerio 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: Now we'll go with -- I will just move on to it. The one condition, you will have to get a building permit for this one.

Adam Cummings made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Mark Merry seconded the motion. The Board all voted yes on the motion.

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

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

1. Building permit must be obtained.

The following finding of fact was cited:

1. This new structure will be a replacement of an existing structure that resided in this location for many years with no complaints from neighbors. Additionally, this area is less developed and many parcels have structures similar in size.
8. Application of Mr. & Mrs. Eric Stowe, owner; 4 Orange Tree Circle, Rochester, New York 14624 for variance to erect a 20' x 8' addition to deck to be 30' from rear lot line (40' req.) at property located at 4 Orange Tree Circle in R-1-20 zone.

Eric and Neha Stowe were present to represent the application.

ADAM CUMMINGS: Good evening. This is our most patient applicant we have in the entire audience. I'm sorry, sir, but I had to call that out.

ERIC STOWE: Eric Stowe and Neha Stowe, 4 Orange Tree Circle.

I did file just -- stating the obvious, I'm the attorney for the Zoning Board and if you would like legal advice, you would need to engage the Town Board for Special Counsel.

And other than that, we're looking to build a deck and the -- the weird shape of our lot, like the Sibley's, would require us to be closer. We're only going 8 feet. We did request 10 because

there was a discrepancy with the survey from the initial build and the one that we received, such that the existing stairs may be not be perfect, so rather than come back and ask for expansion of a variance, it is 2 feet more than we intend to use.

I spoke to both the neighbors on the west and the east and neither one of them had any issue. I did take a number of pictures which I would be happy to share with you where we would go and what we would see. So that would be the -- which is the existing deck, which has been demoed down to the structure, but the post would be where it would go. There is nothing -- it's pretty much in line with the existing deck on my neighbor to the east.

This is the neighbor to the west and my view to the west, which is no other -- you can't see any other homes. It goes right through to First Presbyterian Church of Chili that you can see in the background.

And in the rear is fully wooded. And I do not go to those pine trees. They are not mine. The lot line runs just on the other side of this ridge here (indicating).

We would not be going any past the existing structure of the home. It stays right in line with that. You can't see it unless you're coming right around the circle. You can also see it coming into the neighborhood, but those are the only two vantage points for the deck. That's it.

ADAM CUMMINGS: All right.

JAMES WIESNER: I will clarify, so the stairs aren't heading out into the setback; they go to the side?

ERIC STOWE: Go both to the side. Nothing towards the rear.

JAMES WIESNER: So the end of the deck, is it 7'?

ERIC STOWE: Correct.

PAUL WANZENRIED: You guys are too easy. (Laughter.)

ADAM CUMMINGS: Should we check --

PAUL WANZENRIED: Did -- did the applicant say he was building to 10 feet or building -- or asking for 10'?

ERIC STOWE: Building 8, asking for 10 because there is a discrepancy in the survey.

MARK MERRY: But he is not using it.

ERIC STOWE: We are not using it.

PAUL WANZENRIED: Did he reference the deck would not go past the existing structure?

ERIC STOWE: No. Of the home. On the western edge of the home.

PAUL WANZENRIED: Just for clarification purposes. Okay.

ERIC STOWE: I appreciate you keeping me on my toes.

JAMES WIESNER: There is already a variance on the house?

ERIC STOWE: No. It was zoned that way.

JAMES WIESNER: When it was built?

ERIC STOWE: This is the only house in the neighborhood that does not have a 50 foot setback. They're all 40. And if you go on the north side of the development, those all go way back.

ADAM CUMMINGS: So to further clarify, when you're talking edge of the structure, it will be blocked by your chimney?

ERIC STOWE: Correct.

ADAM CUMMINGS: Or your protruding fireplace insert and that's the edge of it?

PAUL WANZENRIED: The deck would not exceed the west side elevation.

ADAM CUMMINGS: Thank you.

PAUL WANZENRIED: I think that is what the applicant was meaning to say.

ERIC STOWE: Appreciate the architectural clarification.

ADAM CUMMINGS: All right. I don't have anything else. You will have to get a building permit.

ERIC STOWE: Just to further clarify, we did begin the demo process, but that was because the boards and railing were shot. If this were not granted, we would still replace the existing. So the demolition did take place but no construction.

ADAM CUMMINGS: We don't know anything about demolition permits on this Board. That's their job.

PAUL WANZENRIED: As long as he didn't take any of the structure down, he is fine.

JAMES WIESNER: I don't think it fits demolition. There is no TNT involved.

ADAM CUMMINGS: More for the safety. I don't have anything else.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Valerio made a motion to close the Public Hearing portion of this application and James Wiesner seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

Adam Cummings made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and James Wiesner seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: Now, I would just like to point out we don't have Special Counsel or legal counsel here, so if we fail to have a second for this motion to adopt this application, I don't think we can continue to act on this application. But I will go ahead and ask for a motion to adopt.

PAUL WANZENRIED: Adam (Cummings), you need a second. (Laughter.)

ADAM CUMMINGS: I ask for a motion to adopt this application with the one condition.

Mark Merry made a motion to approve the application with the following condition, 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 condition:

1. Building permit must be obtained.

The following finding of fact was cited:

1. Due to the irregular shape of the lot, no alternative is available. Additionally, this application is a replacement of a previous deck, which became dilapidated and was a safety hazard.

Mark Merry made a motion to approve the 4/23/19 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 8:08 p.m.