

CHILI ZONING BOARD OF APPEALS
July 28, 2020

A meeting of the Chili Zoning Board was held on July 28, 2020 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, Philip Supernault, James Wiesner and Chairperson Adam Cummings.

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

Chairperson Adam Cummings declared this to be a legally constituted meeting of the Chili Zoning Board. He explained the meeting's procedures and introduced the Board and front table. He announced the fire safety exits.

ADAM CUMMINGS: Any issues with signs?

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

1. Application of Spoleta Construction, 7 Van Auker Street, Rochester, NY 14608 for variance to exceed percentage of 3 bedroom units 30 units (proposed) (14 units permitted), at property located at 59 Union Street, North Chili, NY 14514 in the RM District.

ADAM CUMMINGS: That will be moved or postponed until next month's meeting, so it will be at the August 25th meeting. That is Application 1 for Spoleta Construction.

DECISION: Postponed until the August 2020 ZBA meeting.

2. Application of Richard and Paige Miller, 801 Brook Road, Scottsville, NY 14546 for variance to erect a structure 30 ft. from property line (100 ft. required) at the property located at 801 Brook Road, Scottsville, NY 14546 in the AC, FPO District.

Richard and Paige Miller were present to represent the application.

MR. MILLER: My name is Richard Miller. This is my wife, Paige Miller. From 801 Brook Road.

As far as -- what else did you want?

ADAM CUMMINGS: So you're looking for the variance just that -- you got a lot that's -- has quite a bit of vegetation, but you're looking at it from the front to be 30 feet --

MR. MILLER: Correct.

ADAM CUMMINGS: -- where you're supposed to be 100 feet.

MR. MILLER: If you look at the map -- not sure which map you have, but there's a natural gully or valley that runs through that land.

ADAM CUMMINGS: Yep.

MR. MILLER: The only way to actually put a building that will be 40 foot deep where I want to put it -- it pushes it towards that the road that much. We actually had a guy come and look at it to see if he could actually fill it in. He said you don't want to do that because it's a natural water flow for everything.

ADAM CUMMINGS: Yep.

MR. MILLER: In order to be able to use the property and put a building where I need it pushes up on it.

ADAM CUMMINGS: So the map I'm looking at is a color map that shows a sketch where you're looking to put it. It shows the freshwater emerging wetland as well as the flood hazard zone. So you're trying to stay outside of the flood hazard zone?

MR. MILLER: Correct. Like you said, that flood hazard zone is actually a gully. It's a good 8 to 10 feet deep.

MS. MILLER: The rest of the property south of there is all wet.

ADAM CUMMINGS: Right.

MR. MILLER: And then I don't know if you can see it or if you've seen it before, but I really don't want to push over towards the house anymore because I mow all that. I keep all that perfect. So in order to for me to be able to use as much of my property as possible -- again, I would say the same thing if the barn was there -- it is just taking away from how much I like to keep.

ADAM CUMMINGS: Okay.

JAMES WIESNER: So the existing -- the little shed that is out there now, how far is that off the road?

MR. MILLER: Oh, I'm not sure exactly. Was it 100 feet? Okay. It was 100 feet. She believes.

JAMES WIESNER: So this would be even closer than the shed that is sitting up there right now?

ADAM CUMMINGS: Right. The house, it looks like according to the survey map, is 64 feet. So this would be half that distance, closer to the road from your house. Or the main structure.

MR. MILLER: And then any more that I push to the other side of the land, away from the house, is -- I don't know if you're aware, but it's downhill. So the more you go away from the house, the wetter it gets.

ADAM CUMMINGS: So to put it right there -- I mean it would keep it up dry enough.

JAMES WIESNER: So was there anything preventing you from putting it back, at least as far as the -- I don't know -- as far as the shed that is already there?

MR. MILLER: Only if I put it in front of shed? I would have to put it directly in front of the shed. From the driveway on here, I believe it is right about 180 feet. So it's actually going to be -- if you're looking --

JAMES WIESNER: So you will keep the shed at this point? You're not getting rid of it?

MR. MILLER: Yes. That shed is in absolute perfect condition. It has a concrete base.

PHILIP SUPERNAULT: Is this the shed here (indicating), over here in this picture? The one you're referring to?

MR. MILLER: Yep.

PHILIP SUPERNAULT: Okay.

MR. MILLER: This one right here (indicating).

PHILIP SUPERNAULT: So you're proposing to put the building between the shed and the house?

MR. MILLER: No. The other side of the shed.

PHILIP SUPERNAULT: Oh. The other side of the shed.

MR. MILLER: Because I mow all that and I don't want take away from --

MS. MILLER: The area is currently --

MR. MILLER: Actually, right now it's a lot of fallen trees.

ADAM CUMMINGS: That's on the eastern side of the property, east of the existing shed?

MS. MILLER: Correct.

JAMES WIESNER: That's all I have.

PHILIP SUPERNAULT: The 40 by 40, um, you -- your -- you want to store your boat in that?

MR. MILLER: Correct.

PHILIP SUPERNAULT: You will probably use it for other things.

MR. MILLER: We have talked about -- we want to buy a Jeep Wrangler and not worry about having to put the top on and store that in there. The building itself is a 30 by 40, but then we're doing another 10 foot overhang, so that considers it. 40 by 40, it won't actually be blocked in. It's just the roof is going to extend out and give us a small overhang.

PHILIP SUPERNAULT: The extension is.

ADAM CUMMINGS: The --

MR. MILLER: The side closest to the house.

PHILIP SUPERNAULT: Okay.

MR. MILLER: But that gully really -- there is nowhere to put it.

PHILIP SUPERNAULT: So you -- you need relief from the setback because of the wetlands and the size of the building pushes you towards the --

MR. MILLER: Correct. The way I was measuring it, from where that gully is, that's only going to give me literally a couple of feet beyond that building -- will that be that gully.

ADAM CUMMINGS: Mark (Merry), any questions?

MARK MERRY: I'm all set. Thank you.

ADAM CUMMINGS: Phil (Supernault), anything further?

PHILIP SUPERNAULT: No further questions, Adam (Cummings).

ADAM CUMMINGS: I have a couple. The distance from your house to the existing 16 by 24 shed, how far away is that?

MR. MILLER: To the existing?

ADAM CUMMINGS: Yes. Between the house and the existing.

MR. MILLER: Right. I don't know exactly.

ADAM CUMMINGS: More specifically, I know you lose land, but could it fit -- could the 30 by 40 fit in that space?

MR. MILLER: You're saying in front?

ADAM CUMMINGS: Between the house and the shed.

MR. MILLER: Oh. I probably wouldn't do it.

ADAM CUMMINGS: Okay.

MR. MILLER: There is two -- you can't see them. Actually, I don't think it would be. Because there is two gigantic -- three gigantic cotton woods. As much as I really dis -- hate them -- my like of cotton woods, they're absolutely enormous.

ADAM CUMMINGS: So you're saying you have some natural obstructions there?

MR. MILLER: Yes. There are three giant cotton woods and directly in front of the house is a giant weeping willow.

ADAM CUMMINGS: And then the orientation, it looks like you have got it -- well,

actually it is 40 by 40; correct?

MR. MILLER: Correct. The building is 40 by 40. The structure itself is -- like I said, 40 by 30 and a 10 foot overhang for the length of the 40 feet.

ADAM CUMMINGS: So the overhang is on --

MR. MILLER: The overhang would be on the side closest to the house.

ADAM CUMMINGS: So an east/west orientation with the overhang. So the actual building will be a rectangle with the overhang?

MR. MILLER: Correct.

ADAM CUMMINGS: I get how it is now.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

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: One condition of approval is that you will have to get a building permit.

MR. MILLER: No question.

ADAM CUMMINGS: Which you have already applied and they denied so you're coming here. So keep working with them at the Building Department on that one. I don't have anything else.

Board, 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 a Type II Action with no significant environmental impact, and Philip Supernault seconded the motion. The Board all voted yes on the motion.

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

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

1. Building permit must be obtained.

The following findings of fact were cited:

1. Location of shed does not adversely encroach neighboring properties.
2. Due to the presence of emerging wetland areas and natural topography, alternate locations are not feasible.
3. Application of Timothy Revans, 881 Chili Center Coldwater Road, Rochester, NY 14624 for variance to erect a detached garage (40ft x 50ft = 2,000 sq. ft.) (1,200 sq. ft. allowed) at the property located at 881 Chili Center Coldwater Road, Rochester, NY 14624 in the R-1-15 District.

Tim Revans was present to represent the application.

MR. REVANS: I'm Tim Revans, owner 881 Chili Center Coldwater Road. First time ever through this, so I -- I guess -- if you could guide me through it.

ADAM CUMMINGS: I'll do my best. So on yours, you have got a pretty narrow lot that is there. You're looking to match it up along the side lot, the same as the existing metal barn. It looks like you're going to remove the 10 by 10 shed --

MR. REVANS: Yes.

ADAM CUMMINGS: -- and leave the metal barn that is there?

MR. REVANS: Yes.

ADAM CUMMINGS: That is already 40 by 15, and you're adding a second one.

MR. REVANS: I wanted to attach it, but the pitch of the property is such that the amount of fill and everything that would have to be brought in to do so would be astronomical.

ADAM CUMMINGS: Okay.

MR. REVANS: As well as to -- to put proper footings in for the building, after putting all that fill in, which would be God knows what, would be problematic. So it would actually be more cost effective to keep them detached and then just add a secondary building as opposed to tying the two of them together and making them one.

ADAM CUMMINGS: Okay. And this one, it is on a residential property? So is this primary residence, secondary residence? I'm just asking out of curiosity. It has to be used for residential purposes. So we put a condition on it it can't be used for commercial purposes.

MR. REVANS: I don't run my business out of there. I do have a business. I store it there

to keep things out of sight. It's a duplex rental property next door and directly across the street from me is probably 10,000 square feet of garage space. I also am about to close on the property directly next door, 883 Chili Center Coldwater Road which is the rental property.

ADAM CUMMINGS: The duplex.

MR. REVANS: I'm purchasing the property behind it, which is Monroe County -- because it was essential because if I build a building and I can't back a trailer in and unhook it, it's irrelevant.

ADAM CUMMINGS: Okay.

MR. REVANS: So I'm actually -- like I said, it's all approved. I'm waiting to close on the property, in the month of August. I mean, I don't plan on putting electric or anything else in. It's just for closed storage.

ADAM CUMMINGS: Just like the existing metal barn?

MR. REVANS: Correct.

JAMES WIESNER: So were you the owner when the first --

MR. REVANS: No.

JAMES WIESNER: -- variance went through?

MR. REVANS: No. It will be ten years in November that I purchased it. The building there was -- I believe about ten years old when I first purchased the property. The former gentleman passed away. And --

JAMES WIESNER: Okay. You're saying you will store items from your business in these?

MR. REVANS: Yes.

JAMES WIESNER: Okay. That's all I got.

MARK MERRY: No questions.

FRED TROTT: So you -- you're saying you can't attach it to the metal barn because of the lay of the land?

MR. REVANS: Correct. I don't even know what kind of spoils were put in there when it was all put in. It will just actually sit on top of the parking lot that is already there.

FRED TROTT: The existing parking lot there?

MR. REVANS: Yes. I mean, I'm not removing trees. I'm not removing anything. It is existing crusher parking lot.

ADAM CUMMINGS: It is depicted as a gravel area.

FRED TROTT: Yeah. That --

ADAM CUMMINGS: To clarify that, you're now putting in gravel to make that a gravel area parking lot?

MR. REVANS: No. It is already there.

FRED TROTT: All right.

MR. REVANS: I'm not looking to go take anything away from the property. I'm just going to put it on what is already vacant.

PHILIP SUPERNAULT: Is this your residence in front of it?

MR. REVANS: It is soon going to be.

PHILIP SUPERNAULT: Okay. Your primary?

MR. REVANS: I live at 2540 Westside Drive.

PHILIP SUPERNAULT: You will be living here on this property?

MR. REVANS: Eventually. I have a daughter that is very ill and the house is not conducive for her living there. Right now she is living with us. So there is other things going on and preventing us from selling my current house and living there.

PHILIP SUPERNAULT: Okay. And -- this building is primarily for storage?

MR. REVANS: Yes.

PHILIP SUPERNAULT: And --

MR. REVANS: The only signage I have for my business is a -- is a magnetic sign on the side of the truck. I have too many toys.

PHILIP SUPERNAULT: Don't we all. No further questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and Philip Supernault 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 is that a building permit will need to be obtained from the Building Department to construct this and no operations of commercial business.

Counsel, is that specific enough?

ERIC STOWE: No commercial enterprise or operations.

ADAM CUMMINGS: Okay.

ERIC STOWE: For personal use only.

ADAM CUMMINGS: For personal use.

So that is all one, no operation or commercial and personal use only. Your person. I don't have anything else.

One last question on it with the square footage. Did you pick that size building because it's the same as the other one, trying to keep it symmetric? Or can it go smaller? Because you have a lot of storage going on this site with the size house you have.

MR. REVANS: Right. To go smaller -- I mean by 10 feet, I mean -- because other than that, it defeats the purpose. If I have a 20 foot trailer I'm trying to back in with the tongue and everything else, you just can't get it in.

ADAM CUMMINGS: Okay. And you said -- you described the neighbor's across the street -- if you could say that again? What is across the street?

MR. REVANS: Current owner, I believe, is Bill Thomas. I'm sure you all know him from the Town. He's got barns upon barns attached to barns and it's just ginormous. Even with this addition, I would be dwarfed by him across. Literally, if you pull out of my driveway, you drive into his. And I think the property behind me is owned by the State.

The property next -- other than the rental property next to me is all owned by the State. It is all wetland, unusable and it backs up to the railroad.

ADAM CUMMINGS: Okay. Thank you.

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 action with no significant environmental impact, and Fred Trott seconded the motion. The Board all voted yes on the motion.

Fred Trott made a motion to approve the application, and Philip Supernault seconded the motion. The vote on the motion was 3 no to 2 yes (Fred Trott and Adam Cummings).

ADAM CUMMINGS: This was the new thing we started last month. I would like to have some input from the considerations of the Board for helping my findings of fact.

So Jim (Wiesner)? With your no vote -- we got the five criteria we're trying to evaluate. If you could just help me out with this one.

JAMES WIESNER: I mean, it's excessive for a residential neighborhood.

MARK MERRY: I concur with Jim (Wiesner).

FRED TROTT: I vote yes just because of the neighbor across the street and it is not -- you can't really see that -- the building. So -- you know, we're not here to decide what is he doing with the property. We're just going with the size. I did think I was excessive though, but I couldn't deny it because of that.

PHILIP SUPERNALUT: Um, I think it's excessive storage for residential and I'm concerned that the line might be crossed between business use and residential with that much storage.

ADAM CUMMINGS: Okay. So once again, you will get a letter with our decision and if you have any questions, please go through Paul (Wanzenried) at the Building Department and he can always go through me to answer anything that you might have.

All right?

MR. REVANS: It is possible to contest it or no?

ADAM CUMMINGS: That would be -- that would be a Side Table question that you would have.

MR. REVANS: Okay. That's fine.

ADAM CUMMINGS: But typically, no. There is a rehearing process to bring these up. I don't want to elaborate too much. But --

MR. REVANS: I understand. If we have the right time -- this is all new to me, so I don't want to be out of place or rude or whatnot.

ADAM CUMMINGS: Okay.

MR. REVANS: Okay.

ADAM CUMMINGS: All right. Thank you.

MR. REVANS: Thank you.

ADAM CUMMINGS: Thanks for coming in. Good night.

DECISION: Denied by a vote of 3 yes to 2 no (Fred Trott and Adam Cummings) with the following finding of fact:

1. The requested variance is excessive as there is already a 5,000sq. ft. structure on the residential property.
4. Application of Rochester Cornerstone Group Ltd. 460 White Spruce Blvd., Rochester, NY 14623 for variance to erect a 6ft fence in front yard (4ft allowed) at property located at 3327 Union Street, North Chili, NY 14514 in the PRD District.

Ryan Brandt was present to represent the application.

MR. RYAN BRANDT: Evening. My name is Ryan Brandt from Rochester's Cornerstone Group. You may recognize me from a couple months ago we were in front of the Board seeking a couple variances. This is a -- not really a variance, but I guess for one of the two properties we were discussing back then.

This particular variance request is of the 3327 Union Street address. Just to summarize

again, it's a proposed 48 units of apartments, 6 different buildings, each one having 8 buildings -- or excuse me -- 8 units, 2 stories each. The egress point would be out to Union Street. To Union Square Boulevard. But currently it's a Union Street address. Obviously 3327.

So we have been going through the process. I was in front of the Zoning Board of Appeals and then in front of the Planning Board a few times.

Through that process, we have been engaging with the neighbor -- I guess our most direct neighbor, only single-family home neighbor at 3331 Union Street. Having emails, phone conversations. I walked the site with him, and as you can see from the site plan, there is some -- you know, there is some significant development going on around him. So a changing of the views from his house. So from the start of our process to now, we have done some tweaks and some concessions, I guess, within reason to some of his -- some of the requests were from the Planning Board, of course, too. We have moved the parking lot around so there is no more beams shining directly at him. We adjusted our shrubbery there -- there are some shrubs there, but most importantly and the biggest change is the decision of the fence all of the way around our boundaries with -- with him. Roughly 600 linear feet of fence.

Right now, we're -- actually, we have a sample right here. We have a type of board-on-board. Currently this (indicating) is not the height. It is just to show the style of fence. It will be a natural pine fence. Again, just a sample to show the material.

Right now we have 4 feet that we're proposing, the 15 feet with the right-of-way and then the 60 feet up to the start of the building and then all of the way around will be 6 feet and then would it stop again at the -- over on the other side of his house, where it would be 60 feet, 15 feet of 4 foot fence.

The only issue right now is there is a Section 500-41, Section 91 and 2, which the Town Code regulate fences. Because it is a Union Street address -- so item number 1 is saying if it is in the front yard, it can only be a 4 feet tall fence. Technically that is the property's front yard. The boundary that we have, facing Union Street, bordering our neighbor at 3341 Union Street.

Item 2 in the code section says the side yard will be 6 feet in height, but it is really that -- correct me if I am wrong, Paul (Wanzenried), but I believe it is just that one section of fence that we are seeking relief from. So that's what I'm in front of you here tonight for, to see if we can get relief from that section of the code to allow us to go up from 4 feet to 6 feet to provide a little more of a barrier and -- fences can often make good neighbors to provide that separation. So I can answer any other questions the Board has.

JAMES WIESNER: I guess I'm not clear as to where this fence is going to be. Do you have a bigger layout of that that you could put up or show or point out a little bit?

MR. RYAN BRANDT: I have an 11 by 17 here (indicating).

JAMES WIESNER: I can't see even with my glasses on the little drawing.

ADAM CUMMINGS: Jim (Wiesner), it is on the side. I can't read it well either, but there are dimensional lines and then I see where it says where it begins and ends.

MR. RYAN BRANDT: So the fence is going to go all of the way -- this is the neighbor's property (indicating). The fence goes all of the way around the property.

ADAM CUMMINGS: Shows the 4 foot. Can you highlight 4 foot for him over there?

MR. RYAN BRANDT: 4 feet right now is marked in the lines. That is where it is 4 feet currently. And 6 feet, all of the way around and another 4 feet section right here (indicating).

JAMES WIESNER: How long is the 4 foot section?

MR. RYAN BRANDT: 75 feet. 75 feet here and 75 feet here (indicating). About 450 foot the rest of the way around.

JAMES WIESNER: The 6 foot.

ADAM CUMMINGS: That is off Union Street and then matching up with the front -- I will call it the front -- or that line where the buildings are, the new buildings, correct?

MR. RYAN BRANDT: Right here is where it switched from 4 feet to 6 feet.

FRED TROTT: So -- so it is literally going to be around his property. I was thinking it would be this V here.

MR. RYAN BRANDT: No. That is the sidewalk. So it is really -- it is on the property line. On the property line. We don't -- we will fence and maintain it. But the variance request, because it is Union Street address, this is -- this is our front yard. This section right here, per the code, it is only allowed to be 4 feet. So we're asking for relief from that section to be able to go from 4 feet up to 6 feet.

ADAM CUMMINGS: That is the reason we're -- even though it is on the property line, we're focusing on this property. Not the single residence property. And that's why it is not going to the front of his house. It's going to those buildings.

Did I explain that correctly, Paul (Wanzenried)?

PAUL WANZENRIED: It's the rear of his property, of 3331. Okay?

ADAM CUMMINGS: 33 --

PAUL WANZENRIED: The gentleman in the white house.

ADAM CUMMINGS: Yes.

PAUL WANZENRIED: It's his rear property line.

ADAM CUMMINGS: Correct.

PAUL WANZENRIED: It's their front property line. Thus by the code they could only do a 4 foot fence. They want relief from that. They want a 6 foot fence. That's what I'm understanding here now.

ADAM CUMMINGS: Understood.

MR. RYAN BRANDT: But it would be a little bit awkward to have the last -- the rear of

his property -- I guess it would be considered the front of ours, down to the 4 feet.

ADAM CUMMINGS: And this was a unique situation because if he were in for the application, it would be different than what we're seeing right now.

PAUL WANZENRIED: He wouldn't have to come in because it would be his rear yard.

ADAM CUMMINGS: Exactly.

MR. RYAN BRANDT: The discussion we had with him was he take ownership and we pay for it, but that -- he didn't want any part of it. So it is our fence and we're paying to maintain it.

ADAM CUMMINGS: So Paul (Wanzenried)'s statement is exactly what I wanted to hear. If we were looking at that parcel, it's in compliance with the code. This is a unique circumstance because they're fronting it on Union Street and it is their front yard. It does provide the screening for the single-family residence for this large development going around it.

FRED TROTT: Because all of the trees are going to be coming down? I was looking at his backyard and I couldn't see anything because of all of the trees.

MR. RYAN BRANDT: Our goal is -- we're trying to outline this in an email and we're also in touch with him, we're going to meet with him a few weeks before we clear the site with our site contractor and general contractor and site people trying to pick out a few trees we want to leave. We'll flag them, tag them, however we do it and then during clearing, it is a quick process, takes maybe a few days to clear the whole site. We'll set a time and date to meet out there and decide okay, can we keep these trees? We want to keep as much as we can. If they're -- there are newly planted shrubs, that will take years or decades to get to some of the heights the trees are now.

So even if we're able to keep some of -- of the existing trees -- we will not be able to keep all of them. That is our designated green space, his direct backyard. The green space would be a tot lot or playground-type thing. So that is -- for obvious reasons he would like to have a 6 foot fence as well to provide a little more visual barrier but also potentially -- he's a little concerned about a cut-through situation, as well.

JAMES WIESNER: Essentially the intent is to protect the homeowner --

MR. RYAN BRANDT: Yes.

JAMES WIESNER: -- that is kind of encircled.

MR. RYAN BRANDT: That is how we're looking to have an additional barrier from our tenants to him.

FRED TROTT: Is there enough room in between -- where it shows he has a barn, the lot line, where the fence is going.

MR. RYAN BRANDT: That is something we walked with him. It is a little bit tight back there. Our survey shows exactly what you see on the plan right there, and he is -- he agrees it is very tight. It is kind of the same thing, we'll meet out there and try and -- and provide a foot or two. Sometimes the title company can be flexible about it, to give him back a foot, let's say. But we can't go too far because the sidewalk is there in the corner. It starts to get a little tight.

But there some -- there was a tree that he pointed out that his property -- is almost on the property line but he would like to save it. We're going to work with him as best we can to try to keep anything back there.

ADAM CUMMINGS: Does --

MARK MERRY: A couple questions. Do you have a letter from the homeowner supporting your proposed --

MR. RYAN BRANDT: We don't have a formal letter. He did appear at the last -- I guess it wasn't the last site plan. It was two Planning Board meetings ago. It is when we had a Public Hearing. I have met with him. You don't have to take my word for it.

You can speak to it, Paul (Wanzenried), that he's in support of that?

PAUL WANZENRIED: Yes. He was actually at both. He spoke at your first meeting.

MR. RYAN BRANDT: It was a type --

PAUL WANZENRIED: Online.

ERIC STOWE: That was our YouTube Planning Board meeting.

ADAM CUMMINGS: I got you.

ERIC STOWE: Then we left the Public Hearing open and he appeared the next month.

MR. RYAN BRANDT: He was -- he was very -- he happy to hear this and we told him it would be this type of fence as opposed to a straight board fence, where you get those light sweeps through it. You get the little holes that separate over time and it really kind of accentuates that light going through.

PHILIP SUPERNAULT: Jim (Wiesner), what was your question again? I didn't hear it. I'm sorry.

ERIC STOWE: We don't have the letter. About the letter. We don't have the formal letter from him.

MARK MERRY: Thank you.

MR. RYAN BRANDT: Requesting it, though.

MARK MERRY: Question Number 2, why are you not at different points leaving the natural barrier rather than putting up a maintenance nightmare in his backyard?

MR. RYAN BRANDT: We are -- we're going to keep as much as we can within reason, but I guess the -- it is also going to provide -- there are some -- there are some very large trees that are existing back there. There is a lot of just kind of brush, as well, that after clearing it -- if you're looking at the whole boundary line, there is 20 we can keep, 40 we can keep. It is a long, linear distance and it will really -- it will provide some visual barrier. But the way the site plan

lays out and how much clearing you have to do for --

ADAM CUMMINGS: I would like to interject real quick. You are talking about trees a lot. It was a great question on that. You are starting to run on a bit about the trees and the landscaping. We're here about the height of the fence, whether it is 6 feet or 4 feet. So if you can keep your answers specifically to that one.

You are providing a screen. The natural vegetative -- I'm not sure where the Planning Board went, but I read in your application that you're, in essence, here because the Planning Board told you to come here.

MR. RYAN BRANDT: It came up at the last -- I think it was two Planning Board meetings ago. This was the next meeting, the ZBA, we could get in front of. But the neighbor was there. He voiced his support for this and the Planning Board agreed this was something we should pursue, this variance.

ADAM CUMMINGS: That is where they wanted it to be the 6 foot, not a 4 foot all of the way around.

MR. RYAN BRANDT: Right.

ADAM CUMMINGS: Now 4 foot with trees, but they wanted a 6 foot for screen.

MR. RYAN BRANDT: We agreed with that, too. And we're going to do this. And he -- he is in support of it. Like you said, the Planning Board is looking for us to get this variance, as well.

MARK MERRY: Last question I had was given the height of the surrounding buildings, what is the advantage of the 6 foot over the 4 foot?

MR. RYAN BRANDT: Yep. I think the -- one of the concerns the neighbor had was the cut-through. So he is -- we did have a 4 foot versus 6 foot. It's much more difficult to climb, I would say.

ADAM CUMMINGS: When you say "cut-through," I'm assuming you're saying pedestrian traffic to get to Union Street from these apartments?

MR. RYAN BRANDT: Right. If you're looking at it from the green space, it is maybe a little quicker. I'm not sure how much quicker, but -- but I guess if you're in that -- if you're in his barn or garage looking back -- it's a two-story house, you're clearly -- you're in the house, looking out the window, you can see over the fence either way.

But he does have some gardens back by -- by his rear property line that would be better secured with 6 feet obviously as opposed to 4 feet. So the house is kind of on a mound and it slopes down. So there is a -- if you're standing up by the house, you will see a lot -- you will be able to see the tops of the building and you will be able to see over the fence. But it is just going to provide -- as opposed to being up on the ground here and being here (indicating), 6 feet. It will just provide a little more privacy, I guess.

MARK MERRY: Okay. Thank you.

MR. RYAN BRANDT: Not total obscuring, but it is better.

MARK MERRY: Thank you. Appreciate it.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and Philip Supernault 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.

ERIC STOWE: Adam (Cummings), this was not a coordinated review.

ADAM CUMMINGS: Okay. Thank you for letting me know. Unlike the last one we had with Cornerstone, the Planning Board did do SEQR on that. This one is a separate action.

Adam Cummings made a motion to declare the Board lead agency as far as SEQR.

ERIC STOWE: Not lead agency. It was an uncoordinated review.

ADAM CUMMINGS: Okay. I missed you saying that one. I misunderstood you. Sorry, Eric (Stowe).

Adam Cummings made a motion as far as SEQR that based on evidence and information presented at this meeting, the Board determined the application to be an Unlisted Action with no significant environmental impact, and Philip Supernault seconded the motion. The Board all voted yes on the motion.

James Wiesner made a motion to approve the application with no conditions, and Fred Trott seconded the motion. All Board members were in favor of the motion.

DECISION: Approved by a vote of 4 yes to 1 no (Mark Merry) with no conditions, and the following finding of fact was cited:

1. This property is in a unique situation as it surrounds a single residential property. The higher fence provides additional screening to this neighboring property.

Philip Supernault made a motion to accept the 6/30/2020 Zoning Board of Appeals meeting minutes, and Fred Trott seconded the motion. All Board members were in favor of the motion.

Fred Trott made a motion to adjourn the meeting, and Philip Supernault seconded the motion. All Board members were in favor of the motion.

The meeting ended at 7:40 p.m.