

CHILI ZONING BOARD OF APPEALS
August 25, 2020

A meeting of the Chili Zoning Board was held on August 25, 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, James Valerio, James Wiesner and Chairperson Adam Cummings.

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

This is a draft only and has not been filed according to Section 106 of the Public Officers Law. These are not certified verbatim minutes; they are a summary of the meeting. These minutes have not been approved by the Chili Zoning Board, and therefore, are subject to change.

PAUL WANZENRIED: Items 2 and 3 are not here.

ADAM CUMMINGS: Item 2 has been withdrawn or rescinded rather. Item 3 has been postponed until September. The other ones are there. So we will bump the other ones up.

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?

JAMES WIESNER: No.

ADAM CUMMINGS: We'll go ahead and move to Application 1, which is the Application of Spoleta Construction.

1. Application of Spoleta Construction, owner; 7 Van Auker Street, Rochester, New York 14608 for variance to exceed percentage of a 3-bedroom apartment building(s) with 30 units (proposed) (14 units permitted) at property located at 59 Union Square, North Chili, New York 14514 in the RM District.

Matthew Sinacola was present to represent the application.

ADAM CUMMINGS: This is a carryover from last month. Thank you for coming back in.

Anything you would like to add?

MR. SINACOLA: Great. Thanks, Mr. Chairman, and members of the Board. I -- I can review this application if you want. I suspect you have had a chance to review it already. But to just kind of encapsulate the whole purpose of tonight's request, the project is complete.

I will back up. My name is Matt Sinacola with Passero Associates representing Union Square Apartments tonight. We have 143 units total. They are constructed. I believe they are all either rented or in the process of being purchased, I should say. And due to an oversight, unfortunately, the number of three-bedrooms in the units for the whole project exceeds the code of 10 percent by a fairly significant amount. There are 30 units and there are 15 buildings of the 9-unit design with three -- or two units that have three-bedrooms in each one. So 15 buildings totaling 30.

So we're obviously requesting a variance from that specific part of the code that limits us to 10 percent or 13 buildings. So that is the desire tonight. I will answer whatever questions I can, I guess.

JAMES WIESNER: Just trying to figure out what the percentage actually ended up being. There is 30 units. You have 143 units total, right?

MR. SINACOLA: Yes. There is 143 total as constructed.

JAMES WIESNER: So somewhere probably around 30 percent?

ADAM CUMMINGS: Of the total units, but it is more than double what was permitted.

MR. SINACOLA: There's a current mix of one-, two- and three-bedroom units. There are two three-bedroom units in each of the nine-unit buildings that are -- there are 15 of them that are nine-unit. So this might help a little bit.

JAMES WIESNER: I was just trying to substantiate the actual density you have relative to what the code expected you to have.

ADAM CUMMINGS: Paul (Wanzenried), have we received any complaints about them having more?

PAUL WANZENRIED: (Paul Wanzenried nodded in the negative.)

ADAM CUMMINGS: I'm not certain where the 10 percent came from, other than it is in the code.

MR. SINACOLA: Obviously the ones highlighted in orange are the 30 buildings which -- I'm sorry, the 30 units showing 15 buildings that have 9 units in each one of them. And the orange -- the three-bedroom units that are under question.

Obviously, this is -- kind of a worse-case scenario. The structures are all built. It would

obviously be a pretty significant cost to go in and restructure them to modify them to be code compliant. That wouldn't impact the exterior of the building or the appearance of it or anything like that. But it would be a fairly disruptive activity, not to mention especially for those units that already have people living in them. Again, this was an oversight. Our office didn't catch it. The developer didn't catch it. Their attorneys didn't catch it. But it was caught by the buyers of this facility, their legal counsel and to their credit, going through the initial parts of the code they did catch it and brought it up which is what brings us here tonight.

JAMES WIESNER: So as part of the package that you submit to the Town, would they have had that information available as to what size units they were? Or would it not have been apparent to them? I guess where I'm going is, is there any -- is it solely -- should the Town have caught something like that?

PAUL WANZENRIED: Yes.

ADAM CUMMINGS: That's a yes.

JAMES WIESNER: Okay.

MR. SINACOLA: I didn't want to say it. We have nothing to crow about ourselves.

ADAM CUMMINGS: I believe at the Town level, it missed multiple levels there.

Because like you said, with the minutia, it is a small part of it and they weren't focused on that.

JAMES WIESNER: So it's not totally on them.

ADAM CUMMINGS: Correct.

JAMES WIESNER: That is all I was going for. Not solely on them.

ADAM CUMMINGS: Thank you.

PHILIP SUPERNAULT: How many of these units are presently occupied, do you know?

MR. SINACOLA: I would say about 90 percent. The last units built are over here on the extreme south side (indicating). These were built last (indicating), these last four. I believe they already have some -- there might be one or two units left. So I'm not sure if the four three-bedroom units in those last two units are sold or not, but I do know there are already tenants in both of those buildings. There might be one and two three-bedrooms that don't have tenants. It's possible.

PHILIP SUPERNAULT: Just so I can clarify my question, the question was about the three-bedroom units specifically. So --

MR. SINACOLA: Yep.

PHILIP SUPERNAULT: So how many of them are not occupied at this point?

MR. SINACOLA: I'm not exactly sure. They may have already been sold, but it is possible that one of two in those -- some of those buildings are still not sold. Because they were built last. They're -- I know they were showing them to prospective buyers. Just recently as last week. So there may be a couple units. But again, the -- it may be that the three-bedrooms are all -- they may be already sold. They are the larger units. There are -- I think there is one bedroom in each of those buildings. That might be what -- I'm not sure. It is kind of a moving target is what I'm saying. They're advertising.

FRED TROTT: Are these apartments or townhouses? When you say "sold" --

MR. SINACOLA: These are all apartments.

FRED TROTT: Rentals.

MR. SINACOLA: Rentals. I'm sorry.

FRED TROTT: No problem. Just wanted to make sure.

MR. SINACOLA: No. You're right. They are apartments.

PHILIP SUPERNAULT: Just so I can clarify, the -- the first entity to find this oversight, it was on -- it was a buyer? It was an occupant and not the Town; is that correct?

MR. SINACOLA: No. It was the attorney representing the buyers of the complex. They, as part of their due diligence, looked into all things potentially impacting it, including the code of the Town. And in going through that code, they caught that there was a discrepancy and this did not comply with the 10 percent limitation of the three-bedroom units. So that is when it was caught. Just fairly recently.

PHILIP SUPERNAULT: How much of the construction was finished at that point, that this was caught?

MR. SINACOLA: Unfortunately, just about all of it. The structure of the buildings -- some of the interior finish work was still under way, but the exterior was complete. The whole shell of the buildings. They were also advertising for rental up front and they -- I believe they had buyers for a lot of these units that anticipated moving in and -- so again it was caught very late in the whole process, and essentially after construction was done.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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: This is one of those catch-up ones. I don't want to belabor the point. Let's just try to minimize this as they move forward so we don't have oversight. We don't have many of these.

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 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 3 yes to 2 no (Mark Merry and Philip Supernault) with the following findings of fact having been cited:

1. Buildings are located within the vicinity of other similar structures.
2. Additionally, this was an oversight by several parties and no adverse impacts or complaints have been received related to the other buildings present on the site or the larger number of units present on the site.

ADAM CUMMINGS: 2 and 3 are not being heard tonight.

2. Application of John Haffey, owner; 12 Cross Bow Dr., Rochester, New York 14624 for variance to erect a 12'-0"x 20'-0" shed with loft 425 sq. ft. (192 sq. ft. allowed) to be 14' high (12' allowed) and to be 5'-6" from side lot line (8'-0" required) at property located at 12 Cross Bow Drive in R-1-15 District.

Not heard this evening.

3. Application of Ronald T. Pones, owner; 11 Bright Oaks Dr., Rochester, New York 14624 for (A)- variance to erect a shed 5'-6" from rear and side lot lines (8'-0" required) (B)- variance to erect a hot tub to be 5'-6" from side lot line (8'-0" required) at property located at 11 Bright Oaks Drive in R-1-15 District.

Not heard this evening.

4. Application of Phil Nicolosi, owner; 301 Chili Scottsville Rd., Churchville, New York 14428 to amend variance of side yard setback 20.00' proposed (30.2' previously granted) at property located at 301 Chili Scottsville Road in PRD, FPO District.

Phil and Audrey Nicolosi was present to represent the application.

MR. PHIL NICOLOSI: My name is Phil Nicolosi. I reside at 301 Scottsville Chili Road, Churchville, New York 14428.

MS. AUDREY NICOLOSI: Audrey Nicolosi, 301 Scottsville Chili Road, Churchville, New York 14428.

MR. PHIL NICOLOSI: We pride ourselves on our public speaking.

ADAM CUMMINGS: Very good. Well, if you have anything to add from what I read, by all means.

MR. PHIL NICOLOSI: Um, so we built the house in 2010. We had intentions all along of building a garage when time permitted and financially when it permitted. So we -- so we have reached that point. We were also waiting to pour a driveway, but if you remember from the original project, if anyone was on it, it was a great deal of fill involved and we were told by Avery Engineering at the time that it was going to take quite some time for that to settle so we could have a stable foundation for a driveway, et cetera.

So I believe we have reached a point now where we would like to proceed forward with that. It's a proposed 30 by 30 garage with a 2-foot offset. And if there is any questions, please let me know.

FRED TROTT: Did you look at -- 30 by 30, was that -- how did you come to that size?

MR. PHIL NICOLOSI: That was with the help of the architect that is kind of working on it with us. You know, originally when we were looking at 24 by 28, and then just based on the dimensions and where it came to, it seemed like 30 by 30 would be a better fit.

Additionally, at one point in time, my original thought process was I was going to do a garage over a garage with the back out into the backyard so that we could store the lawn mower and things of that nature. But as I looked into that project more over the years, it is extremely costly and it didn't -- it didn't feel right. So that -- so that is how we came up with that.

FRED TROTT: Okay. Don't have any other 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 you would have to get a building permit and please just continue on with that process.

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.

Philip Supernault made a motion to approve the application with one condition, 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 (James Wiesner) with the following condition:

1. Building permit must be obtained.

The following findings of fact were cited:

1. Irregular configuration of the lot line, which prevents construction in accordance with zoning code.
 2. The additional variance request is still a substantial distance from the adjacent property.
5. Application of Keith and Tiffany Nicolosi owners; 295 Chili Scottsville Rd., Churchville, New York 14428 to amend variance for front setback 63.0 ft proposed (83.00' previously granted), side setback 10.00' proposed (40.6' previously granted) at property located at 295 Chili Scottsville Road in PRD, FPO District.

Keith Nicolosi and Tiffany Nicolosi were present to represent the application.

MR. KEITH NICOLOSI: Keith Nicolosi.

MS. TIFFANY NICOLOSI: Tiffany Nicolosi.

ADAM CUMMINGS: I'm guessing you're related?

MR. KEITH NICOLOSI: This is my older brother. And yes, we did the project at the same time and we built initially back in 2010. And we're both, you know -- the ground has settled and we would both like to build a garage and finish the driveway. That's why we're here tonight.

ADAM CUMMINGS: I didn't point out the first one, but both of these projects when they came in previously, it's a weird lot line the way it jogged -- jogs and makes the angled point. That is part of the reason why we're here with this strange configuration.

FRED TROTT: What are you proposing to do -- proposing a driveway?

MR. KEITH NICOLOSI: Well, the garage now is what we're applying for and the driveway. Once we know where the garage is going and engineers work it out and it is all settled, we would love to have a driveway in there.

FRED TROTT: So the garage is going to be in the setback?

MR. KEITH NICOLOSI: Um, yes.

FRED TROTT: That is why you need the approval for the setback.

MR. KEITH NICOLOSI: Exactly.

FRED TROTT: Nothing further.

PHILIP SUPERNAULT: Wonder what rationale is in pushing the garage so far in front of the house?

MR. KEITH NICOLOSI: So far in front of the house? I guess when our engineer came over, Matt Emens, he said this is where he thought it would fit, based on the fact there was a septic system back there. He said to be safely away from that and have it, you know, symmetrical with the property line and everything like that is what we had kind of discussed as what seemed the best fit for that location.

PHILIP SUPERNAULT: So if the back of the garage was -- that same line as the back -- your concern is that it impedes --

MR. KEITH NICOLOSI: Yes. It would be close to our deck. There is a bunch of stuff that is back there that it would interfere with per se.

PHILIP SUPERNAULT: Thank you.

ADAM CUMMINGS: And the exhibit that you did provide, it is Sharpie marker, but it -- one side of the street is 64 feet, 74 feet, it looks like 52 feet, 63 feet, 1 feet, 33 feet from the road?

MR. KEITH NICOLOSI: Yes.

ADAM CUMMINGS: Is that --

MR. KEITH NICOLOSI: Those are garage distances of all my neighbors from their garage to the road. Their distance. Either from their house or from the garage if they did not have a

garage.

ADAM CUMMINGS: And on that picture, which houses are yours?

MR. KEITH NICOLosi: Okay if I approach?

ADAM CUMMINGS: Yes.

MR. KEITH NICOLosi: It would be the two right here on the bottom.

ADAM CUMMINGS: 113 and 113?

MR. KEITH NICOLosi: Yes. Right there.

ADAM CUMMINGS: So on that street to point out, they're the farthest ones back from the road.

PHILIP SUPERNAULT: You probably talked, so -- I'm sorry. Am I in order? May I ask? So do you know how far the two garages would be apart from each other then?

MR. KEITH NICOLosi: I believe there is significant distance. Would you happen to have that information?

MR. PHIL NICOLosi: I think it is with 75 feet. Give or take. That is rough.

ADAM CUMMINGS: Because of the lot line and the angle the 20 feet is measured from there. It is actually further distance from the parallel line.

PHILIP SUPERNAULT: Yep. That is why I wondered.

MR. PHIL NICOLosi: Where we encroach for ours is the back corner, so it is actually in the backyard.

PHILIP SUPERNAULT: Yep.

ADAM CUMMINGS: Fred (Trott), I didn't skip you, did I?

FRED TROTT: No.

ADAM CUMMINGS: I will open up the Public Hearing. Now is your time, big brother, if you want to say anything about your neighbor/brother.

MR. KEITH NICOLosi: I'm just happy --

ADAM CUMMINGS: You have -- you have control over his project right now. (Laughter.)

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Wiesner 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 will be the need for a building permit.

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.

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

DECISION: Approved by a vote of 4 yes to 1 no (James Wiesner) with the following condition:

1. Building permit must be obtained.

The following findings of fact were cited:

1. Irregular configuration of the lot line, which prevents construction in accordance with zoning code.
 2. Numerous properties in the area are closed to the road in the front setback.
6. Application of James and Katherine Stocks, owners; 60 Hallock Rd., Rochester, New York 14624 for variance to erect a shed 2.5' from rear lot line (8'-0" required) at property located at 60 Hallock Rd in R-1-12/R-1-20 District.

ADAM CUMMINGS: What Mr. Wanzenried just gave me is the decision from the Department of State.

PAUL WANZENRIED: It allows him to go 2.5 feet off the property line.

ADAM CUMMINGS: So it has been granted by the State for that variance request to be 2.5 feet?

PAUL WANZENRIED: Yes, sir.

James Stocks was present to represent the application.

MR. STOCKS: My name is James Stocks. I'm -- I live at 60 Hallock Road 14624. The

application is for a tool shed, as stated, 2 1/2 feet off the back lot line.

The drawing that I submitted shows that it would be just -- just north of the center of the lot line. The lot is unique. You can see by the pictures that I have included that half of my back lot has the drainage swale. The other has a drainage pipe that is buried. So half of my yard is essentially not usable. The other half is -- is small and so in order to maximize the usable space in the backyard, we're waiting for an application for the shed. I'm looking at a shed no larger than 10 by -- 10 by 8.

ADAM CUMMINGS: Okay.

MARK MERRY: Do you currently have a fence that runs along the back lot line?

MR. STOCKS: Yes.

MARK MERRY: You do. Thank you.

FRED TROTT: Did you try considering putting it over behind your garage here (indicating)?

MR. STOCKS: So there is a patio there, utility patio that I keep my garbage cans on and things like that. There is also a rock garden right adjacent to that that has flowers. There is a lilac bush right there in the middle. So it is not a very practical place. There is also an air conditioner right there, too. So it is not a very usable space. And I -- I think that -- if I understood the zoning regulations correct, that if I put it in that area where it is not violating the lot line, it would be too close to the structure of the house and the garage, so...

PHILIP SUPERNAULT: The Side Table, I read on the -- 10 foot storm drainage easement, is that -- are there any implications there?

PAUL WANZENRIED: He will need an easement release from the Town. It's a Town drainage easement and we'll work with the applicant in obtaining that, so I would make that a condition of approval.

ADAM CUMMINGS: Agreed.

ERIC STOWE: Can we just not call it a release? Just an access or something. We'll keep the easement presumably.

ADAM CUMMINGS: Right. He is just granting --

ERIC STOWE: The right to get into it, but the understanding that if we need to access it, it needs to come out.

ADAM CUMMINGS: Right.

So you're calling that an access for him to put something inside of the easement?

ERIC STOWE: Right. But we retain the right to use the easement.

ADAM CUMMINGS: Does not dissolve the easement?

ERIC STOWE: Right.

ADAM CUMMINGS: Clear?

MR. STOCKS: I think so. If --

ADAM CUMMINGS: The easement will stay in place so if the Town ever needed to fix that, whether fix the pipe, the end section or the ditch or the channel, the swale that is there, the Town can come in and any structures or things that you have in that easement, the -- I'm sure they will do their best to give you advance notice, but sometimes emergencies do arise, so there's a risk you could lose that structure.

MR. STOCKS: Sure.

ADAM CUMMINGS: Okay.

PHILIP SUPERNAULT: And that's all -- that's all implied? Does that have to be in writing?

ERIC STOWE: It's in the access agreement.

PHILIP SUPERNAULT: Okay.

ADAM CUMMINGS: It was a hypothetical, I'm saying. A hypothetical I have been through in my real life. In a different career.

MR. STOCKS: I do have one question, though.

ADAM CUMMINGS: Yes?

MR. STOCKS: If we sell the property, do the new owners have that same permission?

ADAM CUMMINGS: Yep. Stays with the land.

I lost where we were with questions.

PAUL WANZENRIED: If he stays at a 10 by 8, he won't require a building permit.

ADAM CUMMINGS: Right. Good clarification. Anything else? If not?

PHILIP SUPERNAULT: Just for my understanding, so if there were -- if it had to be removed, that would be at the owner's expense, not the Town's? And is the Town held harmless if the structure is damaged?

ERIC STOWE: Typically they say it would not be at the Town's expense. I think Mr. Cummings is correct. With advance notice, "Your shed needs to be removed. We're coming in three weeks for maintenance."

But the emergency situation can occur where it's, "We're coming in now."

ADAM CUMMINGS: By my experience, when it is the emergency, the water usually takes care of that shed.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

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: So one condition would be to obtain an access agreement, for lack of a better term, with the Town to be able to place this shed or this structure within the easement.

MR. STOCKS: Is that something that I have to apply for or does it come with the letter of approval?

ADAM CUMMINGS: I believe it goes through David Lindsay, our -- I'm not even positive on his title. Storm Water Management Officer/Commissioner.

ERIC STOWE: Commissioner of Public Works.

ADAM CUMMINGS: I was close. I said Commissioner. I was getting there. He would take care of it. He is the one that signs those. If you continue to go through the Building Department, they will direct you through that path.

MR. STOCKS: So is there action on my part, is what I'm asking?

PAUL WANZENRIED: Yes. Stop in tomorrow and see me.

ADAM CUMMINGS: Yes. I don't know that action, but I just learned there is an action to be done.

PAUL WANZENRIED: Actually, I will email you the form. You fill it out. Bring it into me and I will route it to where it needs to go.

MR. STOCKS: All right. Thank you.

PAUL WANZENRIED: 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 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 one 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. Obtain access/release from Town to place shed within easement.

The following findings of fact were cited:

1. Location of shed does not adversely encroach neighboring properties.
 2. There are numerous properties in this neighborhood with similar structures.
 3. A variance request for relief from the rear and side property lines was granted by the NYS Department of State on 8/20/2020 and the request was decided to be a routine variance and will not substantially adverse effect the neighborhood.
7. Application of David and Linda Leupold, owners; 1 Freedom Pond Lane, North Chili, New York 14514 for variance to erect a 10'-0" x 22'-0" porch 20.0' from rear property lot line (25.0' required) at property located at 1 Freedom Pond Lane in PUD District.

David and Linda Leupold were present to represent the application.

MR. LEUPOLD: Dave Leupold, 143 Freedom Pond Lane, North Chili 14514.

MS. LEUPOLD: Linda Leupold, 143 Freedom Pond Lane, 145 -- North Chili, 14514.

ADAM CUMMINGS: Anything else to add?

MR. LEUPOLD: We would like to build a covered porch on the back of our house. If you look at this drawing here (indicating), it shows we live on a corner. College Greene Drive is one side, on the east side and Freedom Pond is on the south side. So we essentially have two fronts. We have no space in the back, no rear in the back to do anything else.

ADAM CUMMINGS: Okay.

ERIC STOWE: Mine would only be the HOA and they provided that they got proof from there.

ADAM CUMMINGS: I was just going to say that. Their Board of Directors/Architectural Committee action did approve this request.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

ADAM CUMMINGS: One condition of approval for this will be to get a building permit, which you have already started that.

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.

Mark Merry made a motion to approve the application with one condition, and Philip Supernault 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. The proposed porch location will not be easily visible from the public right-of-way. The HOA variance/Change Request Committee has previously approved the change and that it will not adversely change the character of the neighborhood.
8. Application of Susan Buckner, owner; 266 Stottle Rd., Scottsville, New York 14546 for variance (A)- To allow an existing 12.0'x 24.0' shed 288 sq. ft. (192 sq. ft. allowed); (B)- To erect a second 12'x 24' shed, 288 sq ft. (192 sq. ft. allowed) for a cumulating 576 sq. ft. at property located at 266 Stottle Road in PRD District.

Susan Buckner was present to represent the application.

ADAM CUMMINGS: We'll treat this as two different ones, so A and B. If you're okay with that. Then we have two different decision sheets, to explain why I recommend doing that. If we combine them together and we vote one of them down, they both are voted down. So if we split them up, it's two decisions.

MS. BUCKNER: One of the sheds is already on the property. It was on it when I purchased it, the first shed. So what I'm doing is moving that shed from my old house to this house. And when we actually got out and measured it, it was a 10 by 20 -- or 24, I mean.

ADAM CUMMINGS: So it is 10 by 24. It's smaller?

MS. BUCKNER: Yes.

ADAM CUMMINGS: The existing one is actually 10 feet by 24 feet.

MS. BUCKNER: The existing is 12 by 24. The one we're moving is 10 by 24.

Sorry. I lost my voice.

Susan Buckner, 266 Stottle Road, Scottsville 14546. The 12 by 24 is already there. It was there when we bought the house. We're moving the 10 by 24 --

ADAM CUMMINGS: Okay. So the one that is letter B, the second shed, once again, is 10 foot by 24 foot. So I have that as being 240 square feet, not 288. Anybody concur with that?

So that gives me a grand total of 528 square feet.

MARK MERRY: Correct. So when we get to those numbers, to be clear, we're going to change your application for Number 8, letter B, to be 10 feet by 24 feet and instead of asking for 570 -- 76 square feet, you're going to be asking for 528 square feet.

MS. BUCKNER: Okay.

ADAM CUMMINGS: So this is letter A, the existing 12 foot by 24 foot shed. We're speaking about the square footage here.

FRED TROTT: So -- I'm a little confused. So there would be two sheds on the property?

ADAM CUMMINGS: Correct.

FRED TROTT: Or is one replacing one?

ADAM CUMMINGS: One is existing that is oversized of what the code allows. So it's already there and it's referred to as the existing. And so the reason she is here asking is because it didn't have a variance before and it's larger than 192 square feet.

MS. BUCKNER: So yes, there will be two sheds on the property.

FRED TROTT: Two sheds on the property.

ADAM CUMMINGS: If we approve everything today, we -- there will be two. It is depicted, um, where she has got one setback behind the other further to the east.

FRED TROTT: I know these are two separate --

ADAM CUMMINGS: Yep.

FRED TROTT: There -- so the other one, just because I notice this -- 262 Stottle Road, that's a different property?

MS. BUCKNER: Yes. When I bought the property, I bought 262, which is a half-acre lot. And it makes my whole property a rectangle. And I will be applying for a variance to incorporate 262 into 266, but they told me it would take at least a year and we really need the pole barn to put our equipment in.

FRED TROTT: So with the pole barn, and the two sheds, what do you need all that storage for?

MS. BUCKNER: I have a small plant business.

FRED TROTT: Uh-huh.

MS. BUCKNER: I have agricultural and Paul (Wanzenried) said the zoning was going to be switched back to agricultural in my area and so I do have a small hosta business that I used to run in Caledonia and I'm moving it to where I live now.

PHILIP SUPERNAULT: I didn't hear the last part. Your business? So you're going to be using this property for your business?

MS. BUCKNER: Yes.

PHILIP SUPERNAULT: I didn't hear what that is.

MS. BUCKNER: It's a nursery. A plant nursery.

ADAM CUMMINGS: She is going to raise hostas.

MS. BUCKNER: And other perennials.

ADAM CUMMINGS: Once again, that is an agricultural business operation.

FRED TROTT: So you couldn't alleviate that with the size of the pole barn?

MS. BUCKNER: The pole barn is to have a workshop, to work on the equipment and also to store the tractor and the UTV and many lawn mowers for -- for four acres of grass. And watering --

FRED TROTT: What I'm trying to say, could we have incorporated these two small sheds into the pole barn?

MS. BUCKNER: No, no. The property, um -- in the back, it's wet in the spring and I need the -- the smaller shed to store the pots and things that I -- and the -- the materials that I use to plant the -- to actually pot up and plant the plants.

FRED TROTT: The one is going to be in front of the other?

MS. BUCKNER: Yes.

ADAM CUMMINGS: To be clear, are you talking about the two sheds?

FRED TROTT: Two sheds. I'm sorry.

ADAM CUMMINGS: Let's stay away from the pole barn.

FRED TROTT: I tried to get away from the pole barn. But yes, okay.

ADAM CUMMINGS: So this is specific to that existing shed.

FRED TROTT: Okay. I guess I don't have any other questions.

PHILIP SUPERNAULT: So -- so take me back again to -- are you going to somehow combine the two properties into --

MS. BUCKNER: Yes. I would like to make them a whole into 266. Right now it is 262 and 266.

PHILIP SUPERNAULT: And once they're whole, how much property is there?

MS. BUCKNER: Four acres.

PHILIP SUPERNAULT: Four acres. Okay.

Side Table, if that becomes a four-acre area, does the 192 still stand?

PAUL WANZENRIED: It's a substandard lot. Yes, it would.

PHILIP SUPERNAULT: I can't hear.

PAUL WANZENRIED: It's a substandard lot. Yes, it will.

Currently the two properties are substandard lots, preexisting, non-conforming. These go back a long, long time. When she combines the two, it will be under four acres. She is currently in the PRD, but if you read the PRD, you will see that it directs you back to the AC. That's how you get into the Agricultural Conversation District. The lot minimum for Agricultural Conservation is five acres. And as such, when she combines the two lots, it will still be a substandard lot. She would still need the variances.

PHILIP SUPERNAULT: The 192 still stands?

PAUL WANZENRIED: Unfortunately, it does, yes.

PHILIP SUPERNAULT: Thank you.

ERIC STOWE: Just for clarification, the subdivision was done on liber 283 of deeds. I believe we're currently well over 10,000 libers. It goes back into the 1800s. So this is not a new development. These two lots have been substandard for centuries.

ADAM CUMMINGS: You haven't had to say that much.

ERIC STOWE: We were trying to find the subdivision. It wasn't until you look where they reference the map. 283 in deeds. "Oh, never mind. You will never find that."

ADAM CUMMINGS: So once again, for this one, Eric (Stowe), is it okay if I do SEQR for both of these as one?

ERIC STOWE: If you open a Public Hearing on both.

ADAM CUMMINGS: Right.

So, you know, I was going to move -- that is exactly where I was going. Now we'll move onto letter B, which once again, has been corrected to be a 10 foot by 24 shed totaling 240 square feet, which prompts us to the adding of those two together, which is 528 square feet.

MS. BUCKNER: A lot of stuff.

ADAM CUMMINGS: So any questions on that one, Jim (Wiesner)? And on the drawing, that is the one that has the slide slashes with the hashing on it.

JAMES WIESNER: I -- so you're saying there is going to be gardens. The gardens are going to be somewhere around where these sheds are going to be?

MS. BUCKNER: No. Actually, the gardens are behind the house. Um, I do garden tours or would hope to do garden tours again. I used to do garden tours at my other house and most of

the plants are going to be taken out of the gardens and potted up. I have gardens all behind the house. Going back quite far. Different gardens.

JAMES WIESNER: Okay. Having two of these sheds is important to that process?

MS. BUCKNER: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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 on this one is that you will have to get a building permit.

MS. BUCKNER: This is to bring the shed over?

ADAM CUMMINGS: Oh, that's right. I keep thinking B -- B, you're constructing a new one. Since you're moving it, does she actually need a permit?

PAUL WANZENRIED: Yes. Unfortunately, the size requires a permit.

ADAM CUMMINGS: But for the existing one she still needs one, as well?

PAUL WANZENRIED: Yep.

ADAM CUMMINGS: Okay.

So building permit must be obtained for A and B.

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.

Mark Merry made a motion to approve Application 8A with one condition, and Fred Trott seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 8A: 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. The proposed structure is being used for Agriculture Uses and is the primary use; therefore, a principal dwelling structure is not mandated for the parcel. Additionally, the pre-existing, nonconforming dimensions of this lot date back to the 19th century, which prohibits any structure placed on the lot to be in conformance with the current area setbacks.

ADAM CUMMINGS: Now we move on -- I ask for a motion to adopt 8B with the one condition of approval.

Fred Trott made a motion to approve Application 8B with one condition, and Mark Merry 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. The proposed structure is being used for Agriculture Uses and is the primary use; therefore, a principal dwelling structure is not mandated for the parcel. Additionally, the pre-existing, nonconforming dimensions of this lot date back to the 19th century, which prohibits any structure placed on the lot to be in conformance with the current area setbacks.
9. Application Susan Buckner, owner; 266 Stottle Rd., Scottsville, New York 14546 for variance to erect a structure to be 70.00' from front lot line (100.00 ft required), 35.00' from north property line (50.00' required), 27.00' from side property line (50.00' required) at property located at 262 Stottle Road in PRD District.

Susan Buckner was present to represent the application.

JAMES WIESNER: I have a question. I don't know if it's to you or the Side Table. But

we had several of these applications where accessory structure is not allowed on a empty lot. I don't know how this got here.

PAUL WANZENRIED: Here is how it got here. You go to PRD, B-2. Follow that to D-2(b). That directs you to the AC District where the building is agricultural purposes and is a primary use, not accessory use.

ADAM CUMMINGS: So to clarify, it's not the same as the one that we saw on --

JAMES WIESNER: Morgan Road.

ADAM CUMMINGS: -- Morgan Road.

We saw one on Route 252. And I fully --

PAUL WANZENREID: Which one on Morgan?

JAMES WIESNER: That was -- it was actually Old Morgan Road. AC District.

ADAM CUMMINGS: Right. It was in the AC District.

PAUL WANZENRIED: Not familiar with it.

FRED TROTT: Near Reed Road.

JAMES WIESNER: So where you come out of Clifton onto Morgan Road.

PAUL WANZENRIED: Yep.

JAMES WIESNER: Behind there is Old Morgan Road, or a section of that that is cut off by a creek. Back there is a vacant piece of property that kind of fronts on that stream and they wanted -- the people that owned that property wanted to put a building on it before they actually built the house and they came here for a variance.

PAUL WANZENRIED: What was the use, though? Use is key here. If their use was merely a garage, then that is different.

JAMES WIESNER: They wanted to store agricultural equipment to take care of the property.

PAUL WANZENRIED: I would have said that was the primary use. Ms. Buckner can't put anything else on this lot. Once she puts -- if you look at the drawing, once she puts this structure on here, it is not that she can put a house on this lot. This is it. It's so small. It's a postage stamp, so. So that's how we -- we got through the --

JAMES WIESNER: So interpretation. Obviously there has been different Building Inspectors involved.

PAUL WANZENRIED: Correct.

JAMES WIESNER: In this case, that is how it got here.

PAUL WANZENRIED: Yes, sir.

JAMES WIESNER: That's all I got.

FRED TROTT: The size of the building, you said they need that for the equipment that you're storing?

MS. BUCKNER: Uh-huh.

ADAM CUMMINGS: Once again, the storage was agricultural?

MS. BUCKNER: Yes. My tractor, et cetera.

PHILIP SUPERNAULT: So again, ultimately you are going be moving agricultural products through this property, mostly plants?

MS. BUCKNER: Plants. Perennials. It's a perennial nursery basically.

PHILIP SUPERNAULT: I forgot. I did take a picture of this one. What -- is there a property to the north? Maybe you guys can help me with this.

FRED TROTT: This is the property north of here.

PHILIP SUPERNAULT: Looking where your pole barn is going to be, the property to the left, is that -- that is a house also? I'm saying if you're looking at your pole barn.

MS. BUCKNER: There is a garage and then there is a house at the corner.

Fred Trott explained to Philip Supernault the layout.

FRED TROTT: She has enough distance between --

MS. BUCKNER: I did speak with the neighbors and she said she had no problem with it there. And actually, they don't see it because it's their garage.

ADAM CUMMINGS: And once again, we did find this -- once again, on Morgan Road, because it's a postage-size stamp parcel, it's only 102 feet wide. So the only building she could fit in there would be 2 feet wide. Because then she would have 50 feet.

PHILIP SUPERNAULT: Yep. I just wanted to get a sense of how it impacted the property on that side. With the variance -- the side variance.

ADAM CUMMINGS: To be clear, um, because it's an ag use, we're not talking about the size. Because it's an ag use, we can't consider the square footage of the building, other than its distance from the setback or the property lines for the setbacks.

PAUL WANZENRIED: It's primarily because this is the primary use, not an accessory use. If it was an accessory use, then we would need to be talking about the square footage area of the barn.

ADAM CUMMINGS: Got it. Thank you.

PHILIP SUPERNAULT: What kind of tractor do you anticipate once you -- once the business gets going?

MS. BUCKNER: Not much. It's a small business.

PHILIP SUPERNAULT: Thank you.

ADAM CUMMINGS: Just to point out, it looks like -- not looks like. It is. It is shifted more to the south, meaning from that sense it is closer to her residence than the neighbor to the

north. By 8 feet.

JAMES WIESNER: So you do have room to push it back. Why wouldn't you put it 100 feet off the road and try to eliminate one of the three variances?

MS. BUCKNER: Because the -- the -- the property takes a steep drop after that. Before -- just right at -- before you get to the half-acre end of it, it drops down quite a bit. It's only level up there. The whole piece of property has three or four drop-offs. And the further you drop off, the wetter in the spring. You can't even mow back there for a while.

ERIC STOWE: It appears the house is also in violation of the setback but preexisting, nonconforming. It would be more in conformity with the neighboring parcel that she resides in.

ADAM CUMMINGS: I don't have the distance -- Fred (Trott), you had that aerial photo. How does that relate to the distance? Is it consistent with the neighboring property to the north? And -- and driving by, it is comparable?

FRED TROTT: Yep.

ADAM CUMMINGS: Looks like the other side of the street was actually closer to the street.

JAMES WIESNER: If this land is purchased, does she have to come back for the variances again, once it becomes one property again?

ADAM CUMMINGS: That's a really good question.

PAUL WANZENRIED: No. She will have to come back for a variance for a substandard lot, though. When she does combine -- business.

JAMES WIESNER: So the variances, the preexisting variances that she has gotten --

ADAM CUMMINGS: Will transfer over to that.

JAMES WIESNER: The 27 feet would be dissolved, wouldn't it?

PAUL WANZENRIED: It's kind of like a merger, Jim (Wiesner).

JAMES WIESNER: So if these two properties are merged together under the Monroe County -- Monroe County, under the property laws or however it goes, what happens to the variances that we -- that we provide tonight?

ERIC STOWE: She retains the square footage. The barn would be preexisting, nonconforming with respect to the size. And the location would stay the same for the barn.

JAMES WIESNER: Is 27 foot -- essentially that one can be cleared up by merging the property?

ADAM CUMMINGS: Right. That one would go away.

JAMES WIESNER: So in some ways, that one is self-created.

ADAM CUMMINGS: Obviously the other two would still be there. Once that is done. But the other would go away. At least not be relevant anymore.

FRED TROTT: Then we would be talking about the size, if it was after she had created the one --

ERIC STOWE: Whether she intends to or not, we can't really consider that. There is no application to merge them. So you can look at them as a stand alone on this parcel.

ADAM CUMMINGS: So the hypothetical I'm seeing here is if it was moved over 15 feet to the south, it would result in 17 feet -- or 12 feet for that one.

MS. BUCKNER: There is a row of trees there.

ADAM CUMMINGS: Okay. That --

MS. BUCKNER: A few trees and actually there is almost going to be enough room between the building and the trees to be able to drive through there.

ADAM CUMMINGS: The calculation I was pointing out is, if they moved it over to what Jim (Wiesner) was alluding to, if it was moved over close to that property line, yes, it would be more significant on that property line, but it would not require a side setback. But there is an obstruction with a significant monetary expense to remove those trees.

MS. BUCKNER: They're needed for shade, because the whole place is full sun except for those trees. I have a lot of shade plants that grow under there.

ADAM CUMMINGS: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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, you will have to get a building permit. Actually, does she have to for ag?

PAUL WANZENRIED: (Paul Wanzenried nodded in the affirmative.)

ADAM CUMMINGS: So you will have to get a building permit for this structure.

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

Mark Merry made a motion to approve the application with one condition, and James Wiesner

seconded the motion. All Board members were in favor of the motion.

DECISION: Approved by a vote of 4 yes to 1 no (James Wiesner) with the following condition:

1. Building permit must be obtained.

The following findings of fact were cited:

1. The proposed shed does not encroach on the neighboring properties and is not easily visible from the right-of-way.
2. Additionally, there are several other larger, similar structures in this area, which are comparative and similar use to the Agricultural Conservation Zone.

James Wiesner made a motion to approve the 7/28/20 Zoning Board of Appeals meeting minutes, and Mark Merry seconded the motion. The Board was unanimously in favor of the motion.

Adam Cummings made a motion to adjourn the meeting, and James Wiesner seconded the motion. The Board was unanimously in favor of the motion.

The meeting ended at 8:04 p.m.