

CHILI ZONING BOARD OF APPEALS
November 24, 2020

A meeting of the Chili Zoning Board was held on November 24, 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, Philip Supernault, Fred Trott, 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 from the Board members?

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

1. Application of Diane Ackerman owner; 1026 Chili Center Coldwater Rd., Rochester, New York 14624 for a variance to erect a concrete pad (porch & steps) 43' from front yard setback (75' req.) at property located at 1026 Chili Center Coldwater Road in R-1-12 District.

Diane Ackerman-Liese was present to represent the application.

MS. ACKERMAN-LIESE: Hello. I'm Diane Ackerman-Liese. I live at 1026 Chili Center Coldwater Road, Rochester 14624.

I'm just looking to replace an already -- concrete pad in the front of the house and just making it larger for a porch.

ADAM CUMMINGS: Okay.

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: This one is pretty self-explanatory. You currently have it at 49.6 feet, which I'm guessing that was pre-existing, Paul (Wanzenried)? So then the zoning code changed and required 75 feet and you're asking for this minor 6 foot extension on here.

One condition of approval would be a building permit -- or would be a building permit with the Building Department. So just continue on with that process with Paul (Wanzenried) and his department.

Anything else 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 James Wiesner seconded the motion. The Board all voted yes on the motion.

Mark Merry made a motion to approve the application with one condition. A vote (lacking a second) was held. On a revote of 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 finding of fact was cited:

1. The proposed variance will not results in a change in the character of the neighborhood since several other houses have porches and it will not encroach on the public right-of-way to obstruct sight distances.

2. Application of Matt Emens owner; 851 Morgan Road, North Chili, New York 14514 for variance to erect a structure (840 sq. ft. two-car garage) 64.6' from front yard setback (100' req.) and 10' from side yard setback (50' req.) at property located at 851 Morgan Road in AC District.

Matthew Emens was present to represent the application.

MATT EMENS: Good evening. Matt Emens, 851 Morgan Road, North Chili New York 14514.

Thank you, Mr. Chairman and gentlemen of the Board. I'm here tonight to ask for these three variances so that we can build a two-car garage. You should have received a packet with the five pages of the application, the variance application. Just want to make sure that we have those in case I or -- or I reference them and you have questions on them.

The first one is the instrument survey showing the existing structure, which is a single-car garage, approximately 12 1/2 feet by 21 1/2 feet deep.

Second one is that instrument survey again with sketch on there of the 28 by 30 proposed two-car garage. Also showing the side setback at the 10 feet that we're asking for the 9 foot at the pool, which would be the back corner of the garage, or the south -- let's see, southeast corner.

The third attachment is the aerial photo showing the house as it exists today.

And the last two are just two photos, one from the road showing the front of house with the existing garage and one from the side -- side yard actually that is on the neighboring property, which is vacant farmland, which you can also then see in that -- that aerial.

So I did -- just quickly background on the project, I did meet with Paul (Wanzenried) in the beginning of October. Paul Wanzenried, Manager of the Building Department, for those of you who didn't know what I meant when I said "Paul."

We reviewed the proposed project, talked a little bit about what we were trying to do and the issues that we were facing. So we reviewed those three variances, put that application together and submitted that as you see it in front of you tonight.

Just a couple of specific notes. Once again, looking to demo an existing one-car garage to erect a new two-car garage approximately 28 by 30 feet. The lot is preexisting, nonconforming, which is basically what drives all three of the variance requests that are in front of you tonight. At this time, I think I'm good and I'll let you guys ask any questions that you have. Thank you.

MARK MERRY: So are we going to review these as one or separately?

ADAM CUMMINGS: Good question. In this case -- they're all kind of tied together. The structure is not there. I know I typically in the past like to separate them all out, but some tutelage I have had since then is -- in this case, since the -- I guess we could -- yeah. I'm going to separate it. I'd like to separate them. Even though it is all tied.

MARK MERRY: Do you need a consensus? Or you have final call?

ADAM CUMMINGS: I have final call.

But one thing I do need to point out, that I just noticed as you came in on this one, and it was an oversight on my part, the 9 foot setback from the pool location to the new structure is not in the public notice.

MATT EMENS: Yeah. Actually, the other thing is -- since you brought it up, I will figure something out -- but out loud that Paul (Wanzenried) and I missed that day. When we actually did that measurement of the 9 feet that is shown in that second page on the instrument survey with the proposed existing, that 9 feet was actually measured off of the edge of the concrete surrounding the pool.

ADAM CUMMINGS: Not the pool.

MATT EMENS: So if -- if I go back to my CAD file, it's really close to 15 feet. So we may want to figure out if that one is even really exactly necessary, if that is going to be an issue, too.

ADAM CUMMINGS: So how about if we hold off on this one and table it until the next meeting to get that information to make sure it is accurate before we start moving forward with our decision? Because otherwise your alternative -- and I say this joking with a mask on my face -- you will have to move the whole house and the garage to maintain that pool to get it 15 feet away. So it -- if you -- I would appreciate it if you could request that and we'll update that information to see if it needs that variance or doesn't need that variance.

Would that work for you?

MR. EMENS: That is acceptable.

ADAM CUMMINGS: So in that -- just so we don't segment it, at the applicant's request and our acknowledgment, we'll table it until -- I will say a future meeting at which point we get the information we need for that one.

MATT EMENS: Understood.

ADAM CUMMINGS: All right. Clear to everybody on the Board?

JAMES WIESNER: So what are you saying about the -- the difference between the house and the pool?

ADAM CUMMINGS: Yes. So that 9 foot variance request, it's supposed to be a separation of 15 feet from that structure to the pool. It is listed as 9 feet. The applicant just stated that that measurement is actually -- on this CAD file or this electronic file, he measured it from the concrete, not the edge of the pool. It's not supposed to be from the concrete. It's supposed to be from the pool.

MATT EMENS: Actually to be clear, if we're going into the clear detail on it -- not to -- just to correct you, but when we were in the meeting and we were measuring this drawing, the sketch, we both missed it and thought it was 9 feet. But what I didn't realize until later, when I was in front of the auto CAD file, we actually measured incorrectly off of the concrete ledge as opposed to the edge of the pool.

ADAM CUMMINGS: And I like -- since you have the CAD files of it, I would like to know what that measurement on the CAD is and confirm what is out there. There could also be a scaling issue if they're reading it off the plans if it is shrinking on a printer or something.

MATT EMENS: Get a more accurate measurement and then request accordingly. That's fine.

ADAM CUMMINGS: Okay.

MATT EMENS: I guess just to be bold, if you don't mind, the tying the other two requests together, um, I don't have an issue with that. However, the request for the -- what is it, Adam (Cummings)? The 64.6? That -- that -- was asked of me to apply for this to clean up --

ADAM CUMMINGS: Right.

MATT EMENS: -- the preexisting, nonconforming.

ADAM CUMMINGS: Right.

MATT EMENS: As opposed to asking for a different variance for the new front of the garage, right? Which would also be out of that line.

So the reason we asked, you know, for that was based on the fact that the whole structure is now going to meet that.

ADAM CUMMINGS: Right. So it is not actually your garage that is 64.6?

MATT EMENS: That's correct.

ADAM CUMMINGS: It's the front of your house.

MATT EMENS: The closest point is what we took and that is why it is there.

ADAM CUMMINGS: Right.

MATT EMENS: Thank you.

ADAM CUMMINGS: Is that clear to the Board, as well? This new structure isn't proposed to be up to that level. This is to get the property up to the proper code to help any future real estate transactions, if he chooses. But it also does allow him the opportunity architecturally -- if he would like to bump his garage out to be in line with that front of that house, he could do that if he so chose.

But once again, the main structure already exists that close to the road. Thank you for pointing that out. That's a good point to -- to make.

So once again, this is us using our Board to bring this property up to current code compliance. So thank you, Building Department, for helping guide in that one.

So I have got the applicant requesting officially to table this until a future meeting to obtain that additional information. Can I ask for a motion to table?

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

ADAM CUMMINGS: So we'll have you on for the December meeting.

MATT EMENS: Great. Thank you, guys. Have a great Thanksgiving.

FRED TROTT: So we're doing all three next meeting?

ADAM CUMMINGS: We're saying December meeting, but it will be a future meeting. We'll do the whole package then.

There was discussion amongst the Board about the future handling of the application.

DECISION: Unanimously tabled at the applicant's request to obtain and provide more information.

3. Application of Edward VanDeWater owner; 3532 Union St., Churchville, New York 14428 for variance to allow retail display 10ft from front yard setback (75 req.) at property located at 3532 Union Street in GI District.

Rob Fitzgerald and Ed Van De Water were present to represent the application.

MR. FITZGERALD: Good evening. My name is Rob Fitzgerald, Fitzgerald Engineering, 277 Alexander Street, Rochester 14607, representing Ed Van De Water and the Amish Outlet who presently has their operation on the east side of Union Street. They're looking to expand it to the parcel that he does own to the south of that.

We presently have site plan approval to demo the existing structures that are on that site and bring some gravel out to approximately 75 feet which is the front setback line. What we're here for tonight, we have 75 feet of grass that Ed (Van De Water) is going to maintain as well -- that's on his property -- in addition to about another 50 feet from the right-of-way line to edge of pavement.

So within that front setback we're looking at just having some storage of playsets as well as gazebos and some other non-permanent structures, if you will. Things that are seasonal but that will help for display similar to what he has in front of his existing parcel.

JAMES WIESNER: So will the property where the business is and this property be

combined or are they going to still be separate properties when they're all done? I see there is something before the Planning Board.

MR. FITZGERALD: We do have separate site plan approval for each parcel, so we're not looking to combine those at this time. Mostly going to be storage on the southern parcel. If this were to change, one parcel could be sold separately from another one. So we're not looking to combine these two parcels.

JAMES WIESNER: So if you look -- I was looking at the conditions that were put on in the past, the property next door. Are you aware of what is allowed on that property where the business is, or are you looking for something different?

MR. FITZGERALD: Again, we went in front of the Planning Board and a month or two ago, at that meeting we were looking at getting playsets and gazebos allowed in the front setback and they said that would have to be something this Board would entertain.

JAMES WIESNER: Because what I saw for the conditions on the previous -- not this Planning Board but the one before was not allowing gazebos in the front yard. It appears it allows everything else but no gazebos. I don't know quite why that is, but it says gazebos must be stored in the northeastern -- southeastern corner, I think it is.

MR. VAN DE WATER: Ed Van De Water. I'm the owner of both 3550 and 3532 Union Street. I live at 38 Bunny Run in Churchville 14428.

To my knowledge, it was sheds that they wouldn't allow in the front. There is -- there was a restriction for sheds to be on the parking lot or to the east of the parking lot. But my recollection is they allowed all gazebos and -- well, like -- like it says on the site plan here, storage sheds and gazebos. Or it says storage sheds or gazebos, but I remember they told me no storage sheds in the front yard. But gazebos were okay. And wood products in general were okay in the front yard of the property that we're not really talking about tonight.

But we just kind of want to continue that vain to the other property. So it looks more pleasing from the road.

JAMES WIESNER: So you would -- you would be acceptable to have the same conditions as what is currently on the business property on this property, as well? I'm just looking at -- I think what you're stating is correct, that storage sheds are not to be displayed in front of the property. Sheds are to be stored on the north side or rear of property?

MR. VAN DE WATER: Yeah. Yeah.

JAMES WIESNER: Then it has listed gazebos, lawn furniture, et cetera, which I'm assuming -- it doesn't say anything -- is allowed in the front?

MR. VAN DE WATER: That's my -- that's my recollection of how it was supposed to be.

JAMES WIESNER: Okay.

ADAM CUMMINGS: And, Jim (Wiesner), those were Planning Board conditions; right?

JAMES WIESNER: Yes.

ADAM CUMMINGS: Okay.

JAMES WIESNER: That was back in 2002. That is all I could find as far as conditions relative to what was allowed in the front of the building. And there isn't anything in the current Planning Board notes other than all previous conditions imposed are still pertinent to the application and remain in effect.

ADAM CUMMINGS: Okay. You have got -- if it is handy, the property card -- well, that is just for this property, correct?

JAMES WIESNER: That's for the property that the business is on.

ADAM CUMMINGS: Okay. So the only variances he does have is for the double freestanding sign --

JAMES WIESNER: For some reason I thought there were variances associated at past Zoning Board meetings, but the only thing I could find was relevant to the Planning Board back in 2002.

FRED TROTT: I thought they came to this meeting.

ADAM CUMMINGS: For signs. I remember adding the sign underneath the sign.

FRED TROTT: Oh, okay.

ADAM CUMMINGS: Which is what I'm seeing here in 2011. Okay.

JAMES WIESNER: Just, I guess, a reference point when they asked for it.

FRED TROTT: I have a couple of questions. Is that already your storage stuff that is already behind on that property?

MR. VAN DE WATER: Yes.

FRED TROTT: Okay. I thought I remembered something about that. So now are you going -- the -- the -- before -- it is just because of the impression you get from the picture -- are you still going to keep the 75 foot setback? There is going to be green space 75 feet back?

MR. FITZGERALD: Yes. We will have green space, of course, in the right-of-way to the edge of pavement line and then from the right-of-way in 75 feet will be grass. That is where we're looking to temporarily have these items to store.

FRED TROTT: Past that 75 feet?

MR. FITZGERALD: No.

ADAM CUMMINGS: Within that.

MR. FITZGERALD: In the front grass area.

FRED TROTT: Oh, within the front grass area.

How many displays would you have?

MR. FITZGERALD: Something similar to the property to the north. I didn't call it out clearly, but there are little structures that -- like playsets. I think we had around eight playsets

and a couple gazebos just to kind of show the different variety of what package you could buy, if you will.

ADAM CUMMINGS: Remember, what we're looking at today is the 10 foot. We're looking -- just like that front gazebo, we're allowing it to be 10 feet.

FRED TROTT: 10 feet instead of the 75.

ADAM CUMMINGS: Not the number, not the type. We're allowing things to --

FRED TROTT: But just trying to give --

ADAM CUMMINGS: 10 feet. I just want to be clear on that, we can't condition he can only have four gazebos or three sheds. We're just looking at the area variance of -- it is a 10 foot setback.

FRED TROTT: It is a 10 foot setback at your present property?

MR. FITZGERALD: I don't believe there is any conditions on that existing parcel.

JAMES WIESNER: I don't see anything in there.

ADAM CUMMINGS: I don't recall seeing or hearing anything.

Paul (Wanzenried), are you aware of anything --

PAUL WANZENRIED: No, sir.

FRED TROTT: So would he have to come back for that? On that property also?

ADAM CUMMINGS: Technically, I believe so. Or is that preexisting?

PAUL WANZENRIED: He already has -- the Planning Board in 2002 already granted him that he can -- he is allowed to store it in the front yard setback. It says that.

ADAM CUMMINGS: Okay.

PAUL WANZENRIED: So they just arbitrarily gave him carte blanche to go there.

FRED TROTT: Oh, okay.

MR. VAN DE WATER: That was a good Town Board. They were -- they were very -- great -- great people. Actually, you know, we're just trying to stay consistent with that. All in all, it's -- it's not an ugly business. We have been in here for 20 years.

And, you know, these swing sets can come and go. I mean, they're not going to be up there, you know, late fall, all winter until spring. It's like April to like -- I don't know, September time frame. If you drive by the property now, there aren't any swing sets out there.

ADAM CUMMINGS: So, Paul (Wanzenried), have you seen any -- have there been any complaints with regard to this property?

PAUL WANZENRIED: No, sir.

ADAM CUMMINGS: Thank you. Zero complaints for this property or the adjacent one to the north where he currently stores?

PAUL WANZENRIED: There might have been a complaint regarding the -- having to do with the TV repair -- the house there, that Mr. Van De Water is going to tear down, so that's a moot point.

ADAM CUMMINGS: Okay.

PAUL WANZENRIED: Nothing with regards to the operation of his business.

ADAM CUMMINGS: Okay. Thank you.

JAMES WIESNER: So are you saying we can't restrict the sheds in that area, the same as the property next door?

ADAM CUMMINGS: Correct. All we're doing is saying -- whether they can be 10 feet off or something else.

Oh, we can restrict the number?

JAMES WIESNER: In my opinion -- my opinion, I would be open to -- he has already been given the same conditions on the property on the north side. I would be open to doing the same conditions on the south side of the property, as well.

MR. FITZGERALD: To clarify, too, we're not looking to have sheds within the -- this area at all. Those are all going to be pushed back further in the gravel area, which is 75 feet set back. This would just be for semi-permanent items, again, playsets and gazebos, chairs. So we're okay with keeping the -- all of the sheds 75 feet off the property line.

MARK MERRY: How about the time frame?

ADAM CUMMINGS: That was going to be my question to the Side Table. So can we do like our farm stand? I know that is a different one, that's a Special Use Permit. But can we restrict times of the year that he puts these in?

ERIC STOWE: Times of the year will be tougher, but number, type and I think -- the complaints we get that I'm aware of, okay, are more for a full -- a yard full of storage and display. And I think you would be consistent with prior conditions and keeping the character of that area if it is limited in, you know -- the applicant is okay with no storage sheds. And keeping it consistent with the parcel to the north on quantity.

Is that agreeable?

MR. VAN DE WATER: Yeah.

ERIC STOWE: I think that minimizes your variance, as well.

PHILIP SUPERNAULT: May I ask a question?

MR. VAN DE WATER: Sure.

PHILIP SUPERNAULT: Your intent or your purpose in placing those things in the front, basically that's -- that's advertising, right? You want people to see them when they go -- go by and they're sort of seasonal, sort of represent the season also?

MR. VAN DE WATER: Well, yeah. It is advertising, but it's hard to actually sell these things with people not able to, you know -- they have to see them physically, not in a catalogue.

PHILIP SUPERNAULT: That's exactly the -- the intent of my question. You're -- you're

putting them -- placing them out so people can see them and obviously it is conducive for them to stop in to buy them, to purchase them.

MR. VAN DE WATER: Yes.

PHILIP SUPERNAULT: So, therefore, they do come and go because people actually buy those units?

MR. VAN DE WATER: Oh, yeah. They --

ADAM CUMMINGS: And that's your intent moving forward?

MR. VAN DE WATER: Yeah. Yeah.

PHILIP SUPERNAULT: Thank you.

ADAM CUMMINGS: So did it state the exact number on there?

JAMES WIESNER: No. There is nothing about numbers. I didn't see anything about numbers.

ADAM CUMMINGS: So I would say for this one, it is calling out two gazebos and one, two, three, four, five, six, seven -- seven playhouses. Do we want to restrict it to what he has proposed here?

MARK MERRY: I think that would be a good idea.

JAMES WIESNER: I would say -- I mean, I understand the need to advertise, but you also don't want it to be a storage area, as well. I don't know what the applicant would be open to. If that would be something he has a prior opinion on or not as far as what he can put out there.

MR. VAN DE WATER: If you're asking me, I would agree to that.

ADAM CUMMINGS: Is that enforceable enough?

PAUL WANZENRIED: What we don't want is a -- another -- akin to another Amish Outlet on say Scottsville Road.

ADAM CUMMINGS: I was thinking the same one, where they're stacking chairs upon chairs.

PAUL WANZENRIED: Correct. Where I'm not sure if I can find the lawn. That's not what we want.

ADAM CUMMINGS: You can go get a steak hoagie right afterwards.

PAUL WANZENRIED: That's correct.

FRED TROTT: How was it, the hoagie?

ADAM CUMMINGS: I'm just saying you can do that there because those properties are so close together from a past decision.

I think it's a sound plan that you have your -- hopefully you can keep turning these around. I seem to notice that they -- as Phil (Supernault)'s point made, if these were stored behind the building, they probably wouldn't turn over as fast as they do, so then it would just keep piling up and piling up.

MR. VAN DE WATER: Yeah.

ADAM CUMMINGS: Then you wouldn't have enough storage space for the amount of inventory you have possibly.

PHILIP SUPERNAULT: So our concern, although it may not be spelled out, is these are display units, not storage units. Is that -- or do we -- we can't designate that, right?

ADAM CUMMINGS: No.

PHILIP SUPERNAULT: Okay.

ADAM CUMMINGS: Okay.

MR. VAN DE WATER: Whether -- whether they're displayed or storage, they come and go. They buy them off the lot or we have unassembled units in the warehouse. So --

PHILIP SUPERNAULT: I notice. I go by a lot.

MR. VAN DE WATER: If they buy one, then we may replace it with a different one. Again, it's by --

PHILIP SUPERNAULT: That is why I asked that question.

MR. VAN DE WATER: Okay.

ADAM CUMMINGS: And is the Board -- one last question on the 10 feet. Is the Board okay with the 10 feet? As you can see, the right-of-way line, for the northern property that's currently there, it's more parallel to Union Street. Now it makes an angle and actually makes it further away from the edge of the pavement for that 10 feet.

So my opinion, the 10 feet, compared to the one to the north, it would actually be further back. Or he is trying to maintain them pretty much in line. But by the right-of-way line, it's going to be further off the pavement, if that makes sense to everyone.

MR. FITZGERALD: That was our goal, too. We're standing out there, in relationship to where that hydrant was and we want to have a row equal distance off from the edge of asphalt.

ADAM CUMMINGS: Any other questions? I will open up the Public Hearing.

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 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.

ADAM CUMMINGS: Motion to adopt the application with a condition of two gazebos and seven playhouses being stored.

ERIC STOWE: Displayed.

ADAM CUMMINGS: Did I say "displayed"?

ERIC STOWE: You said "stored." Displayed.

ADAM CUMMINGS: Sorry. I meant to say "displayed."

JAMES WIESNER: And no sheds.

ADAM CUMMINGS: To make it clear, no sheds. Just gazebos and playhouses.

ERIC STOWE: No sheds where?

JAMES WIESNER: In the front setback.

ADAM CUMMINGS: I don't have sheds listed at all. So should I write down sheds are prohibited?

JAMES WIESNER: Sheds as stated in there is -- in the northeast corner, I think.

ADAM CUMMINGS: Are sheds allowed to be back in the --

ERIC STOWE: That is why I say where do you not want sheds to be?

ADAM CUMMINGS: So sheds are prohibited to be --

PAUL WANZENRIED: Any closer than the 75 feet.

ADAM CUMMINGS: That is exactly what I was going to say. They must be outside of the 75 foot setback. So further from the road -- or from the right-of-way than the 75 foot setback.

ERIC STOWE: No other storage within 75 foot of the right-of-way? Or display? Right?

ADAM CUMMINGS: Instead of just saying "sheds," we could say "no storage of other items."

ERIC STOWE: No storage of display or any items closer than 75 feet from the right-of-way?

MR. VAN DE WATER: Can I say something here?

ADAM CUMMINGS: Yes.

MR. VAN DE WATER: I was thinking of putting some paver areas, you know, temporary where I might have a couple of chairs near those gazebos or swing sets so the parents could watch their kids use those swing sets.

So -- if that is -- if that -- you really think that is necessary, I guess I can -- I can live with it, but I would prefer it not to be that way.

ERIC STOWE: I understand. I'm trying to make sure we clarify what it is so we're not doing that later. I mean if you want to have a couple chairs per swing set or --

MR. VAN DE WATER: Yeah.

MARK MERRY: But those chairs for the swing set are not for sale, correct?

MR. VAN DE WATER: They -- they would be. We sell outdoor poly furniture.

PHILIP SUPERNAULT: Your purpose in providing them is to provide comfort for people who may be perusing your --

MR. VAN DE WATER: Exactly.

MARK MERRY: Or advertising the chair for sale. One or the other.

PAUL WANZENRIED: Either way. The premise is to limit the number of chairs. The premise is to limit the number of items in this front setback. Okay?

JAMES WIESNER: Maybe you give him a dozen items and he can pick and choose what he wants. Just so it doesn't become a storage area.

ADAM CUMMINGS: All right. I'm not sure how to word that one. I'm not good at setting up playhouses.

ERIC STOWE: Storage of -- is it seven playhouses, two gazebos and no more than two chairs per play house -- or per swing set?

ADAM CUMMINGS: It's like a staging area.

ERIC STOWE: Yeah.

ADAM CUMMINGS: No more than two chairs per --

ERIC STOWE: Swing set.

ADAM CUMMINGS: -- display staging area.

ERIC STOWE: Right.

MR. VAN DE WATER: Thank you.

ERIC STOWE: Total 14 chairs.

PHILIP SUPERNAULT: Or just designate the total chairs he can have there and let him put them where he wants. If our plan is we don't want a whole bunch of chairs out there being stored or stacked --

FRED TROTT: That is why it would be good to have two per playground and now he can't set 14 chairs up in a row. Just an idea. I know it seems kind of weird, but it's -- there is a goal for the end mean. You know.

PHILIP SUPERNAULT: Do both then. Designate the number that we can live with per staging area, but put a maximum number there also. Maybe.

ADAM CUMMINGS: Not to exceed a total of 14 -- not to exceed a total of 14 chairs with no more than two chairs per display staging area.

Is that what you're looking for?

FRED TROTT: Yeah.

ADAM CUMMINGS: Still looking for a motion with that condition.

Fred Trott made a motion to approve the application with one condition, and James Wiesner seconded the motion. The motion was approved by a vote of 4 yes to 1 no (Mark Merry).

ADAM CUMMINGS: Fred (Trott), why did you vote yes on this one for a findings statement?

FRED TROTT: I thought the quiz was for the "no"s.

ADAM CUMMINGS: No. For the vote.

FRED TROTT: It would be consistent with the adjacent property.

ADAM CUMMINGS: Jim (Wiesner)?

JAMES WIESNER: Consistent with the neighboring properties as well as we have not heard any complaints. It hasn't changed the neighborhood.

ADAM CUMMINGS: Okay.

ERIC STOWE: Perhaps the conditions minimize the impact of the variance.

ADAM CUMMINGS: Correct.

As well as the property lines and right-of-way lines being further back. I would agree we did a good job of minimizing this one and they are tasteful displays as proven by no complaints from the public on this one.

MR. VAN DE WATER: Thank you. Another good Board.

ADAM CUMMINGS: We're still being recorded. Can you say it is the best Board? (Laughter.)

DECISION: Approved by a vote of 4 yes with 1 no (Mark Merry) with the following conditions:

1. Building permit must be obtained.
2. Storage sheds are prohibited from display in the front of property.
3. Stored products in front property shall not exceed 2 gazebos, 7 playhouses, 14 total chairs, and no more than 2 chairs per display staging area.

The following findings of fact were cited:

1. This requested variance is consistent with the character of the neighborhood, especially the neighboring parcel.
 2. No complaints have been received related to the storage and display of materials on this site.
4. Application of Northern Soy Inc., Andrew Schecter owner; 345 Paul Rd., Rochester, New York 14624 for a variance to erect a front parking lot (not allowed) at property located at 345 Paul Road in LI District.

Steve Schultz was present to represent the application.

MR. SCHULTZ: Good evening. I am Steve Schultz with the MRB Group here representing Northern Soy, 345 Paul Road.

What they're proposing is another addition to their facility. 17,000 square feet facing International Boulevard. Just in general the building was constructed in 2001, the original office and manufacturing site. They put a 7,000 square foot addition on in 2014 and business is doing well. They're growing. They would like to add another addition.

We have been to the Planning Board back in October with a -- where they approved the site plan provisioned on the variance for the parking. Kind of -- the reason we need the variance, I would say it is twofold. As far as the hardship goes.

We have two front yards. Paul Road and International, as you know, the setback isn't just a distance. It's essentially from the right-of-way all of the way to the face of the building. So for parking, we really only have one side of the building that is available. We can't do the front and this front (indicating) and these sides is all loading. It's a manufacturing facility so obviously you need docks and receiving area and dumpsters, et cetera. That is all on the east side.

That only leaves a small area and -- with the code requirement being -- is -- is -- I don't call it strict, but there is a lot of spaces required by code, a lot more than they need. Over 150. Right now they have 61 and that's more than they need. Even with the addition, they still don't need to add any parking. The 61 will still be more than what they need.

But we do need the variance for all this parking (indicating) along the south and west sides that is all shown as land banked. But just the fact that we need it by code means we need the variance even though they will not build it.

They seem like a real good company. They're doing well and we would love to get going on the project. I know we have already even submitted some mylars to the Town in anticipation hopefully of everything going well tonight.

ADAM CUMMINGS: Okay.

JAMES WIESNER: I do have a couple of questions. The first one is an odd question, but

it says they manufacture tofu and tempo. What is tempo?

MR. SCHULTZ: It's a -- I think it's an Indian-type grain.

JAMES WIESNER: Never heard of it.

MR. SCHULTZ: I didn't either.

JAMES WIESNER: Not soybean based?

MR. SCHULTZ: It's soy based. A different composition.

JAMES WIESNER: Different texture.

MR. SCHULTZ: Different texture. I'm pretty sure it is Indian. The only reason I know is because I looked it up because I didn't know.

JAMES WIESNER: Never saw that word before.

Last question, how many people will actually be employed here? Will that expand with the expansion, as well?

MR. SCHULTZ: It will expand. Unfortunately, the owner couldn't make it tonight. I want to say they have maybe 30 people -- 30, 40 people is what they had told me.

JAMES WIESNER: All one shift?

MR. SCHULTZ: Two shifts. They work until midnight.

JAMES WIESNER: So not 30 at one time?

MR. SCHULTZ: No. As -- a lot of it is automated and a lot of it is storage. You know, obviously being that type of product, a lot of it is coolers and stuff like that. With this addition, they're doing -- a lot of it is coolers and then there is a smaller part for the manufacturing that will increase. I want to say it was only around 30 to 40 people and then we'll add maybe another 10 or 20 roughly.

That's why it is nice to have the owner come in.

ADAM CUMMINGS: So piggy-backing on his question, is there a lot of customers that come in?

MR. SCHULTZ: No, no.

ADAM CUMMINGS: So it is really just employee parking?

MR. SCHULTZ: Employees, UPS dropoff and stuff like that. Just employees. The only time I have been -- I have been there on business days and that, there -- there is maybe 20 cars in the parking lot at the most.

FRED TROTT: So these are proposed parking. You don't plan on building them?

MR. SCHULTZ: No, no.

ADAM CUMMINGS: He is only putting them on because our Town Code requires them to be put on.

FRED TROTT: Why wouldn't he come to the Town Board, the Zoning Board for relief of that?

ADAM CUMMINGS: Because our Comprehensive Plan wants to have no front parking.

PAUL WANZENRIED: Our code has no front parking.

ADAM CUMMINGS: Well, I think that is when they changed the code, was after the Comprehensive Plan said no front parking.

PAUL WANZENRIED: Comprehensive Plan is a guideline.

ADAM CUMMINGS: Then they adopted it into the code.

So this one is unique in being land banked. It could be one variance. The applicant is looking for less parking spaces or asking for a variance to allow parking in the front, right?

PAUL WANZENRIED: Correct.

ADAM CUMMINGS: Either way they will be here for a variance. So this is the variance path that was chosen.

MR. SCHULTZ: What it does is it allows them -- because if you look at the overall Master Plan, they even have a larger future building. So if they do that, then we would have to show more land-banked parking and now they would already have permission to put that in the front yard; whereas, they'd have to come back if they went for a specific number of spaces.

ADAM CUMMINGS: When you say "come back," that would come back before the Planning Board first and then come back to us for another variance.

ERIC STOWE: Delineation on which front the parking is to be permitted.

ADAM CUMMINGS: All right. As opposed to primary and secondary.

MR. SCHULTZ: Our application said "International Boulevard." They really couldn't put any on the Paul Road side. It's a steep bank. It would be impossible.

ERIC STOWE: International, right.

ADAM CUMMINGS: The International --

ERIC STOWE: Front yard parking on the International.

ADAM CUMMINGS: That's what he has listed. Should we make the distinction whether that is the primary front or secondary front?

PAUL WANZENRIED: No. The address is the primary front.

ADAM CUMMINGS: That is what you're saying, the International Boulevard is the primary?

PAUL WANZENRIED: No. The address is 345 Paul Road.

ADAM CUMMINGS: Now I'm following you.

PAUL WANZENRIED: Paul Road is primary front. International is secondary front.

ADAM CUMMINGS: Okay.

ERIC STOWE: I would think --

PAUL WANZENRIED: Sorry.

ERIC STOWE: No. Rather than a future Building Inspector, Code Enforcement Officer,

Town prosecutor determining which one at that point is the primary and secondary, if we delineate the road, we're not having a discussion about that.

ADAM CUMMINGS: Gotcha. Gotcha.

It's not that we need to condition it at all. It's just we're clarifying --

ERIC STOWE: No. I think it needs to be in your approval that front yard parking is permitted on International.

ADAM CUMMINGS: Yep. And it's per the plan submitted.

ERIC STOWE: Per the plan, right.

ADAM CUMMINGS: To be clear, that is front yard parking permitted along -- if this is granted -- should be permitted along International Boulevard frontage as per plan submitted. 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 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.

Philip Supernault made a motion to approve the application with no conditions, and Mark Merry seconded the motion. Three votes were cast at this point.

MR. SCHULTZ: So you mentioned as per the plan submitted.

ADAM CUMMINGS: Yes.

MR. SCHULTZ: But like I -- if they did some more addition and they were going to add some more parking in the front yard of International, would it be covered? Because if you're saying per the plan submitted --

ADAM CUMMINGS: Oh, I see what he is saying. If he wants to expand it further. We're allowing him to put the front in but not marking how many spaces.

PAUL WANZENRIED: That's all you're considering.

ADAM CUMMINGS: Right now.

PAUL WANZENRIED: Thank you.

ADAM CUMMINGS: So yes, you would have to come back at that point if you're looking to expand more parking spaces. So your plan as it states --

PAUL WANZENRIED: No, no, no.

ERIC STOWE: It would just be revised site plan.

PAUL WANZENRIED: Right.

ADAM CUMMINGS: Oh, okay.

PAUL WANZENRIED: You're giving him front parking. You don't care if he parks 1,000 --

ADAM CUMMINGS: That's what I'm getting at, per the plan. It's for front yard parking there. I don't want to say per the plan of 63 parking spaces that are 10 by 20. I just want to say per the plan that you're submitting in parking along --

PAUL WANZENRIED: That is what Mr. Schultz is questioning. He is showing 60 or whatever up there. If he comes back and puts a 1,000 in the front --

ADAM CUMMINGS: We're okay with that.

MR. SCHULTZ: We wouldn't have to come back? It -- the wording to me sounded like -- when you said "per plan," it sounded like per this plan and if they added more, added another little addition and needed more, I didn't know --

ADAM CUMMINGS: I guess I strike out as the "per plan submitted"?

At that point, why even call it out it is on International Boulevard?

MR. SCHULTZ: Because you don't want it on the Paul Road side.

ADAM CUMMINGS: That is why I like the reference of the plan, because in order to put it on the other side, you would be encroaching on a whole lot of other stuff.

ERIC STOWE: So we have a motion and a second. We would need to finish that out and you could -- do an amended motion.

PHIL SUPERNAULT: I haven't voted yet, so you could probably -- that is why I didn't vote. So can we revise the motion and --

ERIC STOWE: We could -- I would say close it out and then a motion to amend the decision to remove "per plan submitted" -- or "per submitted plan."

PHILIP SUPERNAULT: I vote yes on the original motion. Now you can amend it.

ADAM CUMMINGS: I have to vote yes, as well.

Now that is passed.

Now I'll ask for a motion to amend that decision to remove the "as per plan submitted."

JAMES WIESNER: I make a motion to amend the decision -- what was the rest?

ADAM CUMMINGS: And remove the "as per plan submitted."

FRED TROTT: And I will second it.
ADAM CUMMINGS: All in favor?

The Board was unanimously in favor of the motion.

ADAM CUMMINGS: I think we're clear on that one. You will get parking along International Boulevard.

MR. SCHULTZ: I just wanted to avoid them having to do more to come back for the same.

ADAM CUMMINGS: But if the budget gets tight and we need another \$100 variance application, we may have to come back. I'm just kidding.

MR. SCHULTZ: You are a great Board.

ADAM CUMMINGS: The best.

MR. SCHULTZ: Have a nice Thanksgiving.

DECISION: Unanimously approved by a vote of 5 yes with the following findings of fact having been cited:

1. The existence of front parking in this LI District will not change the character of the neighborhood.
2. This property has two front yards. The front yard parking will be facing the industrial street (International Blvd) versus the residential street (Paul Road); thus, minimizing potential impacts to the neighboring residential properties.

Phil Supernault made a motion to approve the September 22, 2020 and October 27, 2020 Zoning Board of Appeals meeting minutes, and James Wiesner seconded the motion. All Board members were in favor of the motion.

Adam Cummings made a motion to adjourn the meeting, and Mark Merry seconded the motion.

The meeting ended at 7:59 p.m.