

CHILI ZONING BOARD OF APPEALS
December 15, 2020

A meeting of the Chili Zoning Board was held on December 15, 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?

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

1. 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.); B. To erect proposed structure 9' feet from existing pool (15' allowed) at property located at 851 Morgan Road in AC District.

Matt Emens was present to represent the application.

MR. EMENS: Adam (Cummings), members of the Board, good evening again. Matt Emens, 851 Morgan Road, North Chili, New York 14514.

Back again. We have got the -- all three of the variances now listed on the legal notice on the agenda here. Any other takeaway from that, I was going to go look at the 9 foot variance, which was the pool one that was missing last time to see if that was what was really needed or not. And I would like to request as a part of tonight's hearing that we change that from 9 to 12 feet.

ADAM CUMMINGS: Okay.

MR. EMENS: And that encompasses -- what I mentioned the last time, the 3 foot of concrete around the pool. So I believe that is the correct measurement and that gets us where we need to be.

ADAM CUMMINGS: I like that we're minimizing that variance, making it --

MR. EMENS: Absolutely, yes. I won't read through what I presented unless you think it is necessary. I think you guys still have the packet from last month and --

ADAM CUMMINGS: Yep.

MR. EMENS: And we went through it so I will leave it at that for now and answer any questions you have.

ADAM CUMMINGS: I'm good with that, because we did ask you -- as we tabled that not only for the notice part, but also to get the additional information. So thanks for coming back with that.

MARK MERRY: Mr. Emens, application, page 3, item 5, can you clarify for me what other solutions were reviewed but not feasible?

MR. EMENS: Page 3, Number 5? Sorry, Mark (Merry), can you say that one more time?

MARK MERRY: Page 3 of the application, item Number 5. Self-created.

MR. EMENS: Oh, sure. As we said previously, it's a preexisting, nonconforming lot. The house is constructed in 1951. It's a bush and stand block cut off the larger farm parcel that was actually owned by my great grandparents.

I did inquire at the time of the purchase of the home to try to buy more property off of that. That wasn't feasible at the time due to cost and also there really wasn't the interest in the owner to do that, to make that farm lot smaller. And being .56 or .7 acres, I need to get to 5 acres to even make that conforming. And we still had some pre-existing, non-conforming conditions. So that was one of them.

And then really just the fact that it is -- you know, we're trying to make the garage as big as we can without it being, I guess, disproportionate to a standard or average home. So it's a little bit bigger than maybe a garage we would have seen in the '60s, '70s -- let's say '70s, '80s, but not that much bigger and I'm trying to keep it with -- obviously architecturally so it relates well to the -- to the existing home and it doesn't stick out.

I don't know if this answers it, Mark (Merry), or if I --

MARK MERRY: That is satisfactory. Thank you.

PHILIP SUPERNALUT: I'm looking at satellite -- um, no questions.

FRED TROTT: I do have a question. You're not going any higher than the peak of the

house?

MR. EMENS: I'm not. Good question, Fred (Trott). That is one of the things Paul (Wanzenried) and I looked at.

So what I'm doing with that 30 foot depth, that is the actual width of the house. And the plate height will stay the same so it looks nice and also -- that peak is going to be the matching pitch of the existing roof so it won't go past that.

ADAM CUMMINGS: Thank you. Good questions.

PHILIP SUPERNAULT: Just want to clarify again. So the actual variance --

ADAM CUMMINGS: He asked for 9 feet.

PHILIP SUPERNAULT: That's to the pool proper or to the -- to the concrete around the pool?

MR. EMENS: So the -- is it -- 12 feet would be to the pool.

PHILIP SUPERNAULT: To the pool proper.

MR. EMENS: We mismeasured that before, so it gets 3 feet better because of that concrete.

PHILIP SUPERNAULT: Okay. I would -- that is my question.

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: We do have technically two variances here. I will break it up into two decisions. The first one will be A, which is going to be the front yard setback and the side yard setback, and the second decision would be the 12 feet separation from the pool.

One condition of approval would 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.

ADAM CUMMINGS: Now I would like to ask for Application 1A, which once again is the front yard setback and side yard setback variance requests.

Philip Supernault made a motion to approve Application 1A with one condition, and Fred Trott seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 1A: 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 surrounding properties are predominantly agricultural in nature. This new structure will not impede, deter, or adversely impact these neighboring properties or their use.
2. The proposed structure is similar in size, but smaller, than another detached barn found on the property to the west of this parcel.

ADAM CUMMINGS: Now we'll move onto 1B, which is the separation from the pool.

JAMES WIESNER: That is from the existing structure?

ADAM CUMMINGS: This one is measured from the existing pool and the proposed structure. This is where he first measured it from -- he measured it from the pool and now you're going from the concrete -- or am I saying it backwards?

MR. EMENS: You have it backwards. We mistakenly measured it off the survey from the edge of the concrete, not the pool. That is why it looked like 9 feet, but it is actually 12.

ADAM CUMMINGS: Got you. All right. Now I will ask for a motion to adopt this application.

James Wiesner made a motion to approve Application 1B with one condition, and Mark Merry seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 1B: 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 surrounding properties are predominantly agricultural in nature. This new structure will not impede, deter, or adversely impact these neighboring properties or their use.
 2. The proposed structure is similar in size, but smaller, than another detached barn found on the property to the west of this parcel.
2. Application of NOWAVE, LLC, 350 Buell Rd, Rochester NY 14624; Property Owner, Rochester Cornerstone Group – RICC LLC; for a variance to allow front yard parking (not allowed) at property located at 300 Trade Court in LI District.

Jerry Goldman was present to represent the application.

MR. GOLDMAN: Good evening, Mr. Chairman, members of the Board. My name is Jerry Goldman and the attorney and agent for NOWAVE, LLC. My office is at 1900 Bausch & Lomb Place in the City of Rochester.

NOWAVE is a contract vendee of the parcel located to the southeast end of Trade Court, south of Paul Road, north of the wetland mitigation bank. It's Lot 202A of the Rochester International Commerce Center.

The subject property is located in the LI, Light Industrial District, under the Town Code.

The proposal for development of this currently vacant parcel is for a 27,000 square foot building and accessory 4,000 square foot maintenance structure on the site. Proposed future expansion of 19,000 square feet to the main building as shown on the plans. And I believe you have a single-sheet site plan that came in your packets.

Site plan shows 60 spaces to be constructed at the beginning with 78 land-banked parking spaces if needed. Ten of the parking spaces are to be located to the west of the building which is deemed to be the front yard, even though we're kind of -- we're -- we're at the bottom of a cul-de-sac. So it is really tough to tell exactly where the front yard is, but that is deemed to be the front yard.

And, therefore, in the Industrial District, we need a variance from Code Section 500-43(f) to allow for those parking spaces to be utilized by no -- by the NOWAVE Executive Team. There is a tendency to come in and out of this property a lot more often than the employees of the site who will be entering through a door at the front on the north side of the site. The Executive Team will be entering the building through a man door on the west side of the premises.

Employees and visitors will enter on the north side of the building. Deliveries will be made to the east side of the building going through that northern parking lot.

All of our neighboring uses in the Commerce Center on Trade Court, Aviation Way and those that front on Paul Road in this International Commerce Center all have front-yard parking.

The engineers have shown in the application material a number of the properties that have front-yard parking. Kamco, which is immediately north of us, has front-yard parking. Aramark to our east. Lifetime Assistance to the north and east of us. All at the Trade Court have front-yard parking. So do the properties off of Aviation Avenue.

We did receive approval from the Town Planning Board on December 8th for use of the property, which is primarily for -- primary use is for hemp production on the site.

In addition, we have received a response from Monroe County Planning on the Planning and Zoning Board applications. There are no substantive comments of issue either for the Planning Board or for us. We went through a more detailed engineering review as far as the Planning Board and that, and that all was done.

The application was completed by -- by the -- by the Project Engineer, so I think they did a nice job, but based on Mr. Merry's questions I heard before, maybe I would like to expand a little bit on -- on some of how we got to needing this front-yard parking where it is.

This site has -- has some wetlands and has some flood plain, so there's a constricted development envelope. In addition, there is an easement that runs north/south pretty much through the middle of the site, which pretty much pushes us to be on that far end and that constricts where our parking field can be.

Given the nature of the -- of the use, given the -- the fact that the office door is -- is on the west and that is where the -- the Executive Team is going to be coming in and out and the fact that we do have this parking in the front yard in -- in a lot of Industrial District properties and certainly within -- certainly within this Commerce Center, we would ask for the Board to -- to grant this variance this evening.

Just like to point out again, the -- the self-created standard, unlike the use variance is not the qualifying standard. It is a balancing standard of the benefit to the applicant as well as the detriment to the health, safety and welfare of the community.

We don't foresee there being any detriment to the health, safety and welfare of the community by doing this. And it definitely provides a benefit to the applicant.

So for those reasons, we believe that this variance is well supported and we would request your consideration. Thank you.

JAMES WIESNER: Now, so that little pocket of ten spaces you said is for the Executive Team to go in and out?

MR. GOLDMAN: That's correct.

JAMES WIESNER: And they don't -- they don't all use the same entrance then? So there would be no reason to put it up front?

MR. GOLDMAN: No. Actually, it's -- it's the layout of the production facility and the building. This is the best place for executive offices to be on the west side of the -- of the building itself and remote from the production facility.

FRED TROTT: My only concern is people parking on the cul-de-sac and going across. Is that -- I don't know what that distance is. I can't -- it is too small for me to read. Would -- with that only being ten parking spots.

MR. GOLDMAN: The ten spots will be reserved for the Executive Team. Not for general parking. Parking field we have up top has 50 parking spaces up there.

FRED TROTT: That is more than enough.

MR. GOLDMAN: We have more than enough.

ADAM CUMMINGS: And it's a secure entrance on the west; is that correct?

MR. GOLDMAN: That's correct.

ADAM CUMMINGS: So if there were no parking spaces in that and there was a door there, people would park on the cul-de-sac. But by providing the ten spaces gets them off the potential to park on the cul-de-sac. And there are two entrances to that parking lot which is nice. They can out go either the cul-de-sac or the main driveway off the stem of the cul-de-sac.

FRED TROTT: Oh, right here.

ADAM CUMMINGS: Yes. One there and there's one to the north.

MR. GOLDMAN: Up on top is where the main driveway is going into the parking field.

FRED TROTT: Okay. I have no other questions.

PHILIP SUPERNULT: No questions.

ERIC STOWE: Just one comment. There was no coordinated review, so your lead agency designation, not necessary.

ADAM CUMMINGS: Not necessary. Got it.

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: I don't have any conditions of approval on this one.

Very nicely done on the presentation. Thank you, Jerry (Goldman).

MR. GOLDMAN: Thank you.

Adam Cummings made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an Unlisted 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 no conditions, 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 no conditions, and the following findings of fact were cited:

1. The front parking provided with this variance is similar to other businesses within this LI District and will not change the character of the neighborhood or future planning initiatives for this area of town as numerous other sites have front parking in this LI District.
3. Application of Sarah Hubbard, owner; 103 Fenton Rd., Rochester, New York 14624 for a variance to allow parking of a 36 ft. RV (28 ft. allowed) at property located at 103 Fenton Road in R-1-12 District.

Sarah Hubbard was present to represent the application.

MS. HUBBARD: My name is Sarah Hubbard. I live at 103 Fenton Road, Rochester, New York 14624. I'm writing this application to be approved to have a 36 foot RV where a 28 foot is approved.

I come with letters of support from my neighbors. I have my across-the-street neighbor here who would be most impacted by the view of my RV. I have -- I have signatures from all of my immediate neighbors saying that they do not mind my camper being there. And my other next-door neighbor did write a letter here saying that it does not impede their obstruction of anything.

My camper is parked between our garage and the dense area of trees. It's not very noticeable to the public. And I would just like to be approved to have it parked there since it's not impeding anyone's obstruction of sight or traffic or anything.

ADAM CUMMINGS: So you're not looking to park it on the driveway?

MS. HUBBARD: No.

ADAM CUMMINGS: Where you have it off the side, where I'm visualizing it, by the code it is supposed to be behind the front setback, which would be about 75 feet. So from where your house is, if it is 5 feet closer to the house, that is what I'm visualizing as being 75 feet. Can that be accomplished? I think so.

MS. HUBBARD: What is the front setback?

ADAM CUMMINGS: So the front setback is the invisible line from the right-of-way to -- into your front yard, how far back you can go.

MS. HUBBARD: Oh. It is further than 75 feet. Yes.

ADAM CUMMINGS: Perfect. Thank you.

JAMES WIESNER: So in the position that it is parked right now, do you have any idea how far it is off the lot line? It looked like it was to almost a bunch of shrubbery or so --

MS. HUBBARD: The lot line to my next-door neighbors?

JAMES WIESNER: The side lot line.

MS. HUBBARD: About 6 feet. We have plenty of room to move it closer to the house if it is not enough also.

JAMES WIESNER: Is the shrubbery on your property?

MS. HUBBARD: It's on our property. At least that is what the neighbors said.

ADAM CUMMINGS: You get to maintain them. I don't think we have a restriction to the side lot line.

MS. HUBBARD: We have about 10 more feet to the garage, so if there is a restriction, we can move it over also.

JAMES WIESNER: You're 75 feet. Adam (Cummings) --

ERIC STOWE: It's 60. It's not a major highway.

ADAM CUMMINGS: Oh, so it is 60. So she is well -- well within that one.

JAMES WIESNER: You're not trying to get it behind the house. You're just trying to get it within that setback area?

ADAM CUMMINGS: Correct. So I will say no closer than the front setback allowance.

ERIC STOWE: And there is no code provision with respect to the side setback. It's just the front setback that is referenced.

ADAM CUMMINGS: Because it's not a structure so we wouldn't need to worry about the side.

JAMES WIESNER: Is it possible to place it back -- it looks like there is a fence behind where it is right now.

MS. HUBBARD: There is a fence.

JAMES WIESNER: No possibility of kind of camouflaging it behind the garage at all?

MS. HUBBARD: No. There is a patio there and a hill that goes downwards. Like right behind the fence it's not flat land any longer.

ADAM CUMMINGS: Next to the pool?

MS. HUBBARD: Yeah.

FRED TROTT: I have no questions. I think is it far enough back. I might only recommend that you get a cover for it.

MS. HUBBARD: Okay.

FRED TROTT: Just to protect it. I think it would kind of not stick out as much.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

ADAM CUMMINGS: I will take the letters and add those to the file.

ERIC STOWE: If the neighbor is in support, just perhaps a verbalization of it. I saw a thumbs-up.

ADAM CUMMINGS: I heard a thumbs-up (Laughter.)

PATRICK COLLINS, 104 Fenton Road

MR. COLLINS: I'm Patrick Collins, 104 Fenton Road. Across the street. Love it. Love them.

ADAM CUMMINGS: Okay.

PAT TINDALE: Glad to have them as neighbors.

ADAM CUMMINGS: Great. Thank you.

JAMES WIESNER: So why is it here then?

MS. HUBBARD: It's here --

ADAM CUMMINGS: Because of the size.

JAMES WIESNER: Yes, but why is it here? Did you apply for it?

MS. HUBBARD: No. We received a complaint in the mail about a month ago from a Chili resident who took it upon himself to take pictures and make formal complaints of 145 campers throughout Chili that were too large to be parked where they were.

JAMES WIESNER: So it was not someone in your neighborhood?

MS. HUBBARD: Not in the neighborhood. He lives on the other side of Chili. Not that I went to his house.

ADAM CUMMINGS: We don't need to know that.

MS. HUBBARD: It was nobody in our neighborhood. I spoke to many people. Even his next-door neighbor who lives right here (indicating), when I asked him to sign, he says he didn't

realize I had a camper. I mean those trees are pretty -- they're pretty dense. And when I asked people for signatures, they approached me later and was like, "I had no idea. I live near your house. You can hardly tell you have a camper."

It sits pretty far back. It's pretty well hidden.

JAMES WIESNER: I asked the question because sometimes these originate from complaints in the neighborhood. Obviously in this case it didn't happen.

MS. HUBBARD: No. Apparently someone complained about his, so he -- he felt it was his duty.

ADAM CUMMINGS: There have been multiple complaints filed around the Town.

MS. HUBBARD: I felt odd that I was the only one coming in for a variance. I don't know what everyone else is doing.

ADAM CUMMINGS: They're still getting the paperwork.

MS. HUBBARD: I just thought I should do the correct thing.

JAMES WIESNER: We don't know about it sometimes unless someone complains about it.

ADAM CUMMINGS: I will take the letters.

Adam Cummings 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 -- it's more of a reiteration of the code -- you can't park it closer to the front setback. So you can't park it next to the road.

Not on the driveway, correct, Eric (Stowe)?

ERIC STOWE: Well, it's not on the driveway April 1 to November 1 under the current code.

MS. HUBBARD: About a week before we got the complaint, he actually extended our driveway with gravel and it's parked very nicely on that.

ADAM CUMMINGS: Okay. That will work nicely.

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

1. RV must be parked no closer than the allowed front setback.

The following finding of fact was cited:

1. The location of the RV will not impede any line-of-sight areas of the neighboring driveways.

Fred Trott made a motion to approve the November 24, 2020 Zoning Board of Appeals meeting minutes, and Philip Supernault seconded the motion. All Board members were in favor of the motion.

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

The meeting ended at 7:28 p.m.