

CHILI ZONING BOARD OF APPEALS
June 30, 2022

A meeting of the Chili Zoning Board of Appeals was held on June 30, 2022 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: Fred Trott, James Wiesner and Chairperson Adam Cummings.

ALSO PRESENT: Matthew Piston, Assistant Counsel for the Town; Paul Wanzenried, Building Department Manger.

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

ADAM CUMMINGS: Any issues with the signs?

JAMES WIESNER: I didn't see the one on International Boulevard.

ADAM CUMMINGS: International?

JAMES WIESNER: That was yesterday. Maybe it was there for the other days.

ADAM CUMMINGS: Did you hand out the sign for International, Paul (Wanzenried)?

PAUL WANZENRIED: Yeah.

Way in the back. Did you go in the back?

MR. WINTERKORN: We did post. I'm from Costich. We did post it.

ADAM CUMMINGS: Okay. Thank you.

1. Application of David Mesiti, 12 Edgeware Road, Rochester, New York 14624, owner; for a variance to A.) Erect a porch 52' from front setback (60' req.) B.) Erect an accessory structure 4' from the principal structure (8' req.) at property located at 12 Edgeware Road in R-1-15 District.

David Mesiti was present to represent the application.

MR. MESITI: My name is David Mesiti. Address is 12 Edgeware Road, Rochester, New York 14624.

The only other thing I would like to add to what you already have is I just got a signed letter from my neighbor adjacent to the area where the shed will be just expressing that they don't have any concerns.

ADAM CUMMINGS: Okay. Have -- you just received that today?

MR. MESITI: Just got that today.

ADAM CUMMINGS: Can you hand it to me and I'll add it to the file for this project?

MR. MESITI: I think I forgot to put their home address on it. Nilah and Paul -- Nilah and Paul Shean.

ADAM CUMMINGS: Yes. I don't see an address on here. They're the adjacent neighbor to the -- the one next to the shed.

MS. MESITI: Yes. They would be to the left of the house. I think their address is 18 Edgeware Road.

ADAM CUMMINGS: So 18 Edgeware.

MR. MESITI: I believe that's true.

ADAM CUMMINGS: I can attest that they -- they don't have any objections to this.

JAMES WIESNER: So this building is 12 feet by 20 feet?

MR. MESITI: Uh-huh.

ADAM CUMMINGS: Yes.

JAMES WIESNER: So that's not considered a shed then. It's considered part of the garage, for the variance? Because it's one -- it's beyond our square footage.

ADAM CUMMINGS: Right. For a shed. Yes. Well, it would still need a -- well, in terms of square footage, I see what you're saying. That it would need a --

JAMES WIESNER: Variance.

ADAM CUMMINGS: You're saying area variance for the square footage for it being an accessory structure, if it's defined as a shed. And we're defining it as a garage; is that correct?

PAUL WANZENRIED: That would be correct, sir.

ADAM CUMMINGS: What is the difference on the definition?

PAUL WANZENRIED: An overhead door.

ADAM CUMMINGS: Got you.

JAMES WIESNER: Nice to know. When I build my shed, I'll put an overhead door on it. It means I can build it as big as I want.

PAUL WANZENRIED: All of the way up to 1200.

MR. MESITI: You're welcome.

JAMES WIESNER: Nice. I'm marking that down.

ADAM CUMMINGS: Good questions.

FRED TROTT: So on Google Earth, I'm looking -- it looks like there's a shed in the back corner of your lot?

MR. MESITI: Yes.

FRED TROTT: Is that your shed?

MR. MESITI: Yes.

FRED TROTT: Which, of course, because this is considered a garage --

ADAM CUMMINGS: They don't count together.

FRED TROTT: They don't count together?

PAUL WANZENRIED: That's correct. See the method of madness?

FRED TROTT: I see that. But it's not marked on his drawings.

PAUL WANZENRIED: It's not. He didn't have it on there.

Is your question whether it's compliant or not?

FRED TROTT: Well, my initial question was going to be why he couldn't put that in replacement of the shed, in that spot. But seeing as it's a garage and not a shed -- but then I was wondering -- I just wanted to confirm that's his shed and it wasn't on the drawing.

ADAM CUMMINGS: So I'm not sure. It's not really part of our consideration tonight. But I -- I would like to think that we want these parcels to be accurate of what the inventory on the site is.

MR. MESITI: If it helps, the intention is to demolish that shed, the existing shed in the rear.

ADAM CUMMINGS: That would clear it up. So if we approve that, it would be removal of that existing shed.

MR. MESITI: Whatever. Whether it's -- whether it matters to this case or not, I'm going to remove it any ways.

ADAM CUMMINGS: Fred (Trott), is that what you would support?

FRED TROTT: I would support that.

ADAM CUMMINGS: Side Table, anything else?

PAUL WANZENRIED: No.

MATTHEW PISTON: No.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application, and James Wiesner seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: One condition of approval will be the need for building permit. You have already started that process, so please continue it.

The other one, in relation to the garage, um, structure is -- we would have that condition on to remove that existing shed that's in the backyard.

MR. MESITI: Okay.

ADAM CUMMINGS: Since these two are tied together, I wasn't going to separate them on the decision, unless the Board would like to. All right.

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.

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

DECISION: Unanimously approved by a vote of 3 yes with the following conditions:

1. Building permit must be obtained.
2. Existing shed must be removed.

The following finding of fact was cited:

1. Variance requested is not excessive and there are numerous similar structures on properties in the area and none of the setback variances will result in an adverse impact to vehicular or pedestrian traffic and safety aspects.
2. Application of Kate Commarono, 412 Fisher Road, Rochester, New York 14624, owner; for a variance to erect an accessory structure (swimming pool) 20.4' from secondary front yard setback (60' req.) at property located at 412 Fisher Road in R-1-12 District.

Kate Commarono was present to represent the application.

MS. COMMARONO: Hello. I have some additional pictures. I don't know if you want them?

ADAM CUMMINGS: Yep. I will share those with the Board.

MS. COMMARONO: I'm Kate Commarono. I'm the occupant at the house.

ADAM CUMMINGS: Okay.

MS. COMMARONO: Hoping to put a pool in the side yard that we currently use for like our backyard, play purposes, stuff like that.

ADAM CUMMINGS: Okay.

JAMES WIESNER: So the pool that's there, that's not the one you're getting the variance for?

MS. COMMARONO: That's like a Quick Set pool.

JAMES WIESNER: So the actual pool is not there yet?

MS. COMMARONO: No.

JAMES WIESNER: I don't have anything else.

ADAM CUMMINGS: This one will be -- it's going to be about the same size?

MS. COMMARONO: Yes.

JAMES WIESNER: That one is probably 6 feet or 8 feet, the one that is there.

MS. COMMARONO: The one that is there is 15 and the one that is going to be there is --

ADAM CUMMINGS: 18.

MS. COMMARONO: -- 18.

ADAM CUMMINGS: Yep. That's what the plan says.

MS. COMMARONO: Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application, and Adam Cummings seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: You will need a pool permit for this one, so keep working with Paul (Wanzenried) on that. Once again, this is for the secondary front yard, not the other front yard. It can't be next to your driveway. It has to be over here where you got it here.

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

ADAM CUMMINGS: I'll ask for motion to adopt the application.

JAMES WIESNER: So you said you had a condition for which -- specifying which?

ADAM CUMMINGS: It says it in the application -- because it was publicly noticed and in her application it is 20.4 feet from the secondary front yard, not the primary front yard, so it has to be on that side yard and it has to be greater -- 20.4 feet or greater away from it.

JAMES WIESNER: Okay.

ADAM CUMMINGS: But the only condition would be the pool permit.

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

DECISION: Unanimously approved by a vote of 3 yes with the following condition:

1. Pool permit must be obtained.

The following finding of fact was cited:

1. Variance requested is not excessive and will not hinder line of sight for vehicular traffic on the roadway.
3. Application of Victory Express, 793 Beahan Road, Rochester, New York 14624, Rochester's Cornerstone Group Inc., 460 White Spruce Blvd., Rochester, New York 14623, owner; for a variance to allow front yard parking spaces (19) (not permitted) at property located at 350 International Boulevard in LI District.

Garth Winterkorn, Ryan Kaddah and Steve Vintonyak were present to represent the application.

MR. WINTERKORN: Good evening. Garth Winterkorn from Costich Engineering. With me tonight is Steve Vintonyak, Vice President of Victory Express, and Ryan Kaddah from the Cornerstone Group.

So we're here tonight for an area variance to allow the front yard parking. Just a quick overview of the site. It does have a long, almost like a flag-lot-type driveway that comes off the

very end of International Boulevard. So the office area, 3,000 square feet, will be on the east side and then the warehouse with the loading and maintenance and what have you will be further to the west.

So the parking that we're talking about is right in here (indicating).

We did receive Planning Board approval a couple weeks ago. We got airport approval from the County Department of Planning. I guess you guys have seen that also.

ADAM CUMMINGS: Uh-huh.

MR. WINTERKORN: Part of the Planning Board approval is -- the Chairman asked us before he would officially sign off on the plans -- if we could add additional trees and landscaping here (indicating), which Steve (Vintonyak) is good with, so we're going to do that.

ADAM CUMMINGS: Okay.

MR. WINTERKORN: Basically I guess the last thing I could say, there is precedent of this variance being granted in RICC. American Fleet Maintenance has it. Kamco. Lifetime Assistance. Aramark Uniform Services. Nowave and Rochester Stampings. And the people are here if you guys have any questions.

JAMES WIESNER: So you're moving from your facility on Beahan Road to this site?

MR. VINTONYAK: That's correct.

JAMES WIESNER: I think you have been here before actually.

MR. VINTONYAK: Yep.

ADAM CUMMINGS: They're unique lots as you pointed out, so to have it in the back would kind of restrict your traffic circulation with the trucks. So I don't have any comments or questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application, and James Wiesner seconded the motion. The Board unanimously approved the motion.

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.

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 Fred Trott seconded the motion. The Board all voted yes on the motion.

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

DECISION: Unanimously approved by a vote of 3 yes with no conditions, and the following findings of fact were cited:

1. Site is located in isolated industrial park with majority of the neighboring parcels having front yard parking.
2. Additionally, the unique configuration of the lot requires front yard parking.
4. Application of Second Wind Stable, LLC 827 Ballantyne Road, Scottsville, New York 14546, owner; for a variance to A.) Amend previously granted variance of building and housing livestock 50' side setback granted (100' req.) proposed/existing 34.5' B.) To allow proposed/existing side setback of 34.5' (50' req.) at property located at 827 Ballantyne Road.

Gerad Levey was present to represent the application.

MR. LEVEY: Evening. Gerad Levey on behalf of Second Wind Stable. I live at 827 Ballantyne Road, Scottsville New York. And as you -- it was noted in the application, this is to correct a mistake that was made by the surveyor. So in order to have a conforming lot, we would need the variance to be amended.

ADAM CUMMINGS: So when you're saying it was by the surveyor, can you elaborate? Did you just do a subdivision and the lot line was put closer than it was supposed to?

MR. LEVEY: No. The prior -- the prior owner subdivided this property from 833 Ballantyne and when the survey was done, they had the lean-to on the map at like -- I think it was like 15.6 or almost 16 feet and actually it's been there since we purchased the property. So because of that distance, they incorrectly set the pins for the survey. So that they're -- they're currently at 34 1/2 instead of being 50 where they should have been.

So rather than get into a dispute with our -- our landlord/prior owner -- as you can imagine, we're just taking this position and trying to work through it.

ADAM CUMMINGS: And obviously it wouldn't be easy to move the frame barn.

MR. LEVEY: No. The other challenge is that if someone was to say ours stay at 50 feet,

then 833 would be coming to you for a variance.

ADAM CUMMINGS: Right.

MR. LEVEY: Which should have happened back in 2010 or 2012, but certainly you can't change that.

ADAM CUMMINGS: Understood.

FRED TROTT: So you -- just trying to clarify this. So the property was subdivided and the surveyor did -- marked it off wrong?

ADAM CUMMINGS: They had to choose -- when they put the line in, there were two parcels. And they had to choose which one they would set to. Whether the house being the right one, 50 feet off, or this, and they drew the line to just be 34.5 feet instead of making this line over 16 more feet to make this parcel compliant with the variance.

But then as he just said, the 833 Ballantyne Road would not meet the 50 feet setback requirement, so they would have had to come for a variance.

So one or the other would be coming in for a variance for where the surveyor subdivided it those years ago. So we're looking to correct it right now. And they have controlling authority on this property, so that's why they're here.

JAMES WIESNER: So both parcels were previously owned by the same owner?

ADAM CUMMINGS: Yes.

JAMES WIESNER: So it really didn't matter at that point?

ADAM CUMMINGS: Correct.

JAMES WIESNER: But now it does.

FRED TROTT: I understand now. Thank you, Jim (Wiesner). Okay.

ADAM CUMMINGS: You good?

FRED TROTT: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JOHN HELLABY, 850 Ballantyne Road

MR. HELLABY: John Hellaby, 850 Ballantyne Road. Just here to speak in favor of this application. I have no qualms with it whatsoever. They run a nice operation over there. Like the job they're doing and in my eyes it's not a self-created hardship as they stated.

Mr. Summerhayes apparently made a couple wrong calculations that landed them in the position they're in today.

ADAM CUMMINGS: Yep. Thank you.

JOHN HELLABY: Yep.

ADAM CUMMINGS: Thanks, John (Hellaby).

Fred Trott made a motion to close the Public Hearing portion of this application, and Adam Cummings seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: It's already built. That's why it is existing. So no condition of approval for a permit.

I'm going to keep A and B together. So we're going to decide on those as one.

Adam Cummings made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an Unlisted 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 no conditions, and Adam Cummings seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 3 yes with no conditions, and the following findings of fact were cited:

1. Variance is unique as it originated from the subdivision of the adjacent parcel.
2. The requested variance is the lesser of possible variances to provide relief from the subdivision action that was previously executed.

James Wiesner made a motion to accept and approve the 4/26/22 and 5/24/22 Zoning Board meeting minutes, and Fred Trott seconded the motion. All Board members were in favor of the motion.

The meeting ended at 7:19 p.m.