

CHILI ZONING BOARD OF APPEALS  
January 24, 2023

A meeting of the Chili Zoning Board of Appeals was held on January 24, 2023 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Adam Cummings.

PRESENT: Mark Merry, Fred Trott, Philip Supernault, James Wiesner and Chairperson Adam Cummings.

ALSO PRESENT: Jared Hirt, Counsel for the Town; Paul Wanzenried, Building Department Manager.

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: We'll go over signs for the Board members. We briefly discussed Application 1. Didn't see one up there. The updated signs are still in the Building Department. We have had this happen sometimes in the past.

Go ahead.

PAUL WANZENRIED: Ask that woman right there (indicating).

ADAM CUMMINGS: I figured it was going to be her. I was going to put Jared (Hirt) on the spot and say can we still perform -- move forward with this one.

JARED HIRT: The signs have not been posted?

ADAM CUMMINGS: So the original -- go ahead.

MS. IRWIN: I'm going to say the original sign was taken from us and I called and she was going to issue a new sign for us.

ADAM CUMMINGS: They're still sitting there.

MS. IRWIN: But amazingly that afternoon the original sign came back dumped in my front yard. We keep putting it up and every day it keeps coming down. I don't know if somebody is messing with us. Currently as I drove out of my driveway tonight, it is there but on the ground again.

JARED HIRT: You posted the sign, though?

MS. IRWIN: Every day I put it up and every night it is down. I don't know if somebody is screwing around with it, but I get up in the morning and it is not there. But I literally -- it's on the ground right now as I pulled out tonight.

JARED HIRT: Sounds like you complied with the law.

ADAM CUMMINGS: And we did have it for the last meeting -- we had a neighbor that came and spoke, so our Public Hearing is still open from the last one. So...

JARED HIRT: You're good.

ADAM CUMMINGS: Okay. So with that, I will go ahead and read -- Number 1.

1. Application of Misty Irwin, 2339 Westside Drive, Rochester, New York 14624, owner; for a variance to A.) Erect an accessory structure in the front yard (not permitted) B.) Front yard setback to be 50' (75' req.) C.) Side yard setback to be 5' (10' req.) at property located at 2339 Westside Drive in R-1-15 District.

Misty Irwin was present to represent the application.

MS. IRWIN: I'm Misty Irwin and I live at 2339 Westside Drive, which is Rochester, 14624.

ADAM CUMMINGS: Okay. So on this one, as it says here -- this accessory structure is built. It's kind of off to the side of the house there in the front part.

Jim (Wiesner), any questions? Numerous photos here.

JAMES WIESNER: I guess what brings it here? Obviously you didn't get a permit originally.

MS. IRWIN: And we didn't -- we didn't actually build it. We actually bought it and had it brought in. It was a playhouse for my kids and then my grandkids. It -- you know, it's an 8 by 10, I think is what the dimension size of it is at. We just had it -- because it was already pre-built for us, we couldn't get it to the backyard at all. There is no access to get it down through between either one of my neighbors' houses down the side into the backyard. And so we just placed it on the side, over by the garage.

And eventually when -- we are looking to move -- it will be going with us. It's not meant to stay forever.

ADAM CUMMINGS: But that is what is unique to our application tonight. If we grant the variance, it allows such a structure, any structure.

MS. IRWIN: Which is fine. Once we knew there was a problem, we had to make obviously the right accommodations to get it taken care of hopefully the best we can.

ADAM CUMMINGS: Is it permanently affixed?

MS. IRWIN: No, it is not. It sits up on cinder blocks. No foundation to it. When it was brought in, it was brought in on a large -- I don't know if you have ever seen when they move sheds and things like that, it is the same kind of large truck that just backs it in, drops it onto the cinder blocks and that's the same way. It can go right away.

JAMES WIESNER: All I got.

MARK MERRY: No questions.

ADAM CUMMINGS: When you delivered it there, I suspect you put it there so the kids could play there and in the lawn instead of falling on the pavement?

MS. IRWIN: Correct.

ADAM CUMMINGS: To get it compliant, it has to be shifted over to the west 5 feet and it has to be --

MS. IRWIN: Which would sit it on our driveway in front of the garage.

ADAM CUMMINGS: Right. Right. And then actually your house doesn't meet the setback requirement as it is. So it is preexisting because that is 61.2 feet from the front. So even if you went and moved it so that it was in line with the front of the house, that would still require a variance. Okay. I'm just pointing those out.

MS. IRWIN: That's okay.

FRED TROTT: There -- so why can't you move it into the backyard?

MS. IRWIN: There is not accessibility to get back there from it. My one neighbor's house and us, there -- she has a fence that runs down the property line. I can't fit it with a truck back through there to get it back in.

And on the other side that we have, there's -- it's pretty kind of a steep hill where we go down where we have our garage and we have the variance for that when we actually built the garage on.

FRED TROTT: Because it looks like between the shed and the garage, there is stuff behind there. It looks like the same width building.

MS. IRWIN: But there -- it's a hill. It's actually like a hill. So it can't actually get down into that. Because where the garage is, if you were to go behind that fence that is there, it's not -- it's not flat at all. It's got quite a good, steep slope to it. So we wouldn't be able to get -- the only way to get it back there is to be able to drive into our neighbor's lawn and then take out that one pine tree that is back there to get back into it because of the size truck it has to have.

FRED TROTT: Did you -- you didn't think about this when you purchased the shed?

MS. IRWIN: I didn't -- we weren't aware that there were any issues. We just -- ignorantly just didn't know. It was not -- the intent was not ever -- I mean we just always wanted to have it right there where we could see the kids and things like that, where they would be able to access it. So that was our error.

PHILIP SUPERNAULT: Is the shed being used?

MS. IRWIN: It's not a shed. But a playhouse.

PHILIP SUPERNAULT: Is the playhouse being used?

MS. IRWIN: Yes, it is.

PHILIP SUPERNAULT: As a playhouse?

MS. IRWIN: Uh-huh.

PHILIP SUPERNAULT: So there's children involved?

MS. IRWIN: Yes. It -- it has a little up above -- I don't know if you have pictures of the playhouse. There is like a porch and up above is a little loft area. Up there -- there is a little mattress up there and down below is the little kitchen set and -- my grandkids play in it now. It was my kids and now it is my grandchildren that live with me.

FRED TROTT: Aren't you concerned about it being that close to the road?

MS. IRWIN: No. Because I'm out there with them.

MARK MERRY: So question for Adam (Cummings). Back to your earlier statement. If we were to approve this variance, understanding what today's use is -- the house gets sold. I move in the house. I could put a shed where the playhouse was --

ADAM CUMMINGS: Yes.

MARK MERRY: -- and use it as a shed?

ADAM CUMMINGS: Yes.

MARK MERRY: If we grant the variance.

ADAM CUMMINGS: To be clear, we're not approving or considering the square footage of the accessory structure. It's the setback distances from the side and from the front. Correct?

MARK MERRY: Okay. Thank you.

ADAM CUMMINGS: Good question.

PAUL WANZENRIED: What's -- what is the side of the yard -- yard at the side of the garage look like? Is it relatively flat?

MS. IRWIN: No. That is where I'm saying it's a good slope.

PAUL WANZENRIED: Right from the front of the garage?

FRED TROTT: No.

ADAM CUMMINGS: From the side of the garage, towards the side lot.

PAUL WANZENRIED: Towards the neighbor?

ADAM CUMMINGS: Yes. To the neighbor on the east.

MS. IRWIN: We actually had to build up that to actually even put the garage -- when we put it in -- to put it in.

ADAM CUMMINGS: Right. So just --

PAUL WANZENRIED: What I'm trying to do -- not necessarily go to the backyard, but to try to push it back so the front of the shed is equivalent to the front of the house.

ADAM CUMMINGS: That is exactly what I was saying and shift it further to the west so we don't have 5 feet off the side setback.

PAUL WANZENRIED: You have to be careful there because if you get closer to 8 feet from the principal structure, that is a whole other ball of wax. Maybe that is what the Board needs to consider and the applicant needs to consider. You may have to fill in an area to get that shed back there. Because the alternative is you take it down.

MS. IRWIN: The alternative, yes, it would have to be moved out of the way.

ADAM CUMMINGS: Right.

PAUL WANZENRIED: To me, that might be an easier alternative, is to pushing it all of the way into the backyard. So I -- I understand the logistics of that.

MS. IRWIN: Right now, at this point, I'm home at -- at the house alone with my four daughters and my kids. My husband lives in Indiana now working and that is initially where we will end up. So the house will be up for sale come this spring. Unfortunately, if you guys don't approve the variance for us to at least have it there where it is now, I don't have the financial means to be able to fill all that in and pay to have it moved back and all that, too. And I understand --

JARED HIRT: If I may make a recommendation, if the Board is considering issuing a variance, keep in mind the Board has the ability to put reasonable conditions. Right now, the request is for an accessory structure in the front yard and there are no defined limitations on the size of that.

The other comment I would make is if the applicant is going to be listing and moving from her home in the spring, then there is the ability for the applicant to request that this be tabled, because variances do run with the land. So if the variance is granted, anyone purchasing that home could have the ability to not only put in a playhouse, but any type of accessory structure. So perhaps maybe that is one alternative that everybody would find acceptable.

ADAM CUMMINGS: In terms of the size restriction you are saying?

JARED HIRT: Size restriction, but also if the applicant is going to list and sell her house in the spring, perhaps maybe she would be amenable to putting a request in to have this tabled and then allowing some time to list, sell the property and then --

ADAM CUMMINGS: And then come back and figure out the code compliance with the property.

JARED HIRT: Correct. Maybe the new buyer doesn't care to have the playhouse there. I don't know.

MS. IRWIN: It probably would go with us, to be honest with you.

JARED HIRT: Okay. Then the issue would go away.

ADAM CUMMINGS: Right.

Which at that point, the issue would go away and -- if it was tabled. And likewise -- we were talking about if we granted it. But if we denied it tonight, it goes away, as well.

JARED HIRT: If it's denied, she would have to remove it. If she is going to move, then she could work with Paul (Wanzenried) --

ADAM CUMMINGS: We could put a stipulation how long she has to move it and we could put it --

JARED HIRT: Correct.

ADAM CUMMINGS: -- say three months?

JARED HIRT: You could.

ADAM CUMMINGS: So then, in essence --

JARED HIRT: But you would deny it. She would work with Paul (Wanzenried) and I'm sure he would be more than reasonable in the enforcement of that.

PAUL WANZENRIED: If you catch me on a good day. (Laughter.)

FRED TROTT: That may be a consideration because --

ADAM CUMMINGS: Tabling it you are saying?

FRED TROTT: No. What you're saying is if we would deny it -- because if somebody comes to look at the house and says "I want this," it's part of a deal --

ADAM CUMMINGS: Right.

FRED TROTT: Then we have to deal with this issue all over again.

ADAM CUMMINGS: Right.

JARED HIRT: If it is denied.

FRED TROTT: If it is denied. I'm saying if we tabled it.

JARED HIRT: I don't think the applicant is willing to sell it.

MS. IRWIN: No. It -- our realtor already knows it's not part of the property. It's not going with the house.

ADAM CUMMINGS: I pose the question to you, if you would be interested in tabling this matter?

MS. IRWIN: I would be more than willing to. It would buy us -- just so you guys know our time frame, so you're aware, our hope is to be able to have the house up for sale by April 5. Then obviously our realtor is pretty confident we'll sell fairly quickly -- my husband has been gone since October. We have been apart that long. We would like to get all together as a family as soon as possible.

ADAM CUMMINGS: So for tonight, we just need to -- receive her tabling request and that's our action tonight, correct?

JARED HIRT: It has already been tabled once?  
ADAM CUMMINGS: No.  
JARED HIRT: Has not.  
ADAM CUMMINGS: What we did is we opened the Public Hearing. We left it open and so we didn't actually table it. We just continued it to this meeting.  
JARED HIRT: Okay.  
PAUL WANZENRIED: I don't -- I don't remember -- I don't think so.  
ADAM CUMMINGS: That is what I have on my notes.  
PAUL WANZENRIED: Did we --  
FRED TROTT: We had a neighbor speak.  
ADAM CUMMINGS: Mosbruger was here.  
PAUL WANZENRIED: Oh. Mr. Mosbruger. I forgot about him. You're right.  
ADAM CUMMINGS: I still have to close the Public Hearing tonight.  
JARED HIRT: If you close the Public Hearing --  
ADAM CUMMINGS: I don't need to do SEQR if we're tabling?  
JARED HIRT: You would not have to do SEQR. So the applicant would make a request -- you can table it up to 60 days, but no more. And then on the record, I would like the applicant to waive any objection with regard to time and determination by the Zoning Board of Appeals.  
MS. IRWIN: Sure.  
JAMES WIESNER: We didn't table it last time? We just walked away?  
ADAM CUMMINGS: We just walked away from it.  
PHILIP SUPERNAL: Looking at the minutes here, we did make a motion --  
ADAM CUMMINGS: I didn't even do a decision sheet for it. We tabled it. We just left the Public Hearing open. I don't know what the legal terminology is for that. Adjournment, continuance. Whatever Matt (Piston) told us we could do.  
JARED HIRT: Any tabling will require the applicant to come back.  
ADAM CUMMINGS: Right.  
JARED HIRT: So if she would -- she would be required to come back next month --  
ADAM CUMMINGS: Right.  
JARED HIRT: -- the following month. Waiving these notices.  
ADAM CUMMINGS: Right.  
JAMES WIESNER: I feel like we're just prolonging the inevitable, so why would we table it?  
FRED TROTT: Wasn't there something we tabled for a period of like three months or something before?  
ADAM CUMMINGS: But there is a clock -- if we open SEQR, we have 62 days --  
MARK MERRY: Oh, right.  
ADAM CUMMINGS: As long as the Town is okay -- can't we extend it past two months, or no? As long as it is mutually agreeable between both sides?  
JARED HIRT: The options are yes, she could table it and everybody waive off on the 60-day requirement. Inevitably, though, it is going to still require you guys to do an action at some point.  
ADAM CUMMINGS: Yes.  
JARED HIRT: So there is that.  
She could withdraw her application. She would not be in compliance with the code and then Paul (Wanzenried) would be able to go forward and cite her. You could deny her application and then Paul (Wanzenried) would be in a position to enforce that.  
ADAM CUMMINGS: Enforce however many days she has to get rid of it.  
JARED HIRT: Or you could approve it.  
ADAM CUMMINGS: And put in conditions --  
JARED HIRT: You could impose conditions.  
ADAM CUMMINGS: And minimize the variance request that she has here tonight.  
JARED HIRT: Yes. So.  
ADAM CUMMINGS: I think for cleanliness and to avoid you coming back in here, I think we should move forward with a decision. I'm not going to pre-ordain what I think the decision should be, but is the Board in agreement for that? While the applicant did ask for a tabling, she did not ask for a withdrawal.  
JARED HIRT: She could withdraw.  
ADAM CUMMINGS: And then it doesn't matter what we decide. It will be between her and Paul (Wanzenried).  
JAMES WIESNER: It would appear this matter has been going on in the Building Department for quite some time because the order to remedy was almost a year ago. Is that a correct statement?  
PAUL WANZENRIED: That would be correct.  
JAMES WIESNER: It never moved to a court proceeding or anything like that?  
PAUL WANZENRIED: No.  
ADAM CUMMINGS: So if she withdraws and decided she didn't sell her house and her husband came back -- just going through a scenario -- she would have to reapply to maintain this if she wanted to keep it in the same spot. She would have to reapply.  
JARED HIRT: If she withdraws, she would have to reapply.  
MS. IRWIN: No.

ADAM CUMMINGS: I know it's not likely. I want to explain the scenario.

JARED HIRT: The issue is if you were to deny it and she were to not sell her house, she would not be able to come back before this Board for a period of one year.

ADAM CUMMINGS: Right. Right.

JAMES WIESNER: Or she has the option to move it.

ADAM CUMMINGS: Or she has the option to move it, correct.

MARK MERRY: So what are the conditions for an approval?

ADAM CUMMINGS: I like the condition for the size restriction. It's going to be a maximum of -- a structure -- detached structure maximum of 8 feet by 10 feet with a square footage -- measured square footage of 80 square feet. I don't have on the survey map -- it doesn't show the full garage so I can't say -- as Paul (Wanzenried) said, we can't assign how far it is, but we have to make sure it is 8 feet or 10 feet from the principal structure, Paul (Wanzenried)?

PAUL WANZENRIED: 8.

ADAM CUMMINGS: 8 feet. So you have to maintain a separation from the garage of 8 feet, which is our consideration here, if we wanted to have it moved around to get it minimized on the variances.

JAMES WIESNER: Did you close the Public Hearing?

ADAM CUMMINGS: I haven't -- I haven't discussed it yet.

MS. IRWIN: I don't think that would meet the requirements. If we had to push it back, it wouldn't --

ADAM CUMMINGS: No. It would minimize the variance. We still wouldn't have 75 feet. You would be at 61 feet.

MS. IRWIN: Yeah, but -- we wouldn't be 8 feet from the house. It's a two-car garage. It would not. Then it would infringe how close it is to the property line.

ADAM CUMMINGS: Correct.

MS. IRWIN: So all of the way around, there --

ADAM CUMMINGS: Yeah. I agree.

JAMES WIESNER: So why is this here, Paul (Wanzenried)? How did it get here?

PAUL WANZENRIED: Because she didn't apply for it. She applied for the variance. That's her option.

ADAM CUMMINGS: I think --

JAMES WIESNER: There was an order to remedy. So I would believe there was a complaint in the neighborhood?

MS. IRWIN: Uh-huh.

PAUL WANZENRIED: Uh-huh.

JAMES WIESNER: That's what brought it here.

MS. IRWIN: Yes. It is exactly what brought it here. I have one cranky neighbor. That's all I'm going to say. I know who it is.

PAUL WANZENRIED: Well, it's a structure in the front yard.

MS. IRWIN: Still needs to be right.

PAUL WANZENRIED: So -- I give the resident one of two choices. You can defy me and I take you to court or you can ask for relief from the code. That's why she is in front of you guys.

MS. IRWIN: Right.

JAMES WIESNER: Obviously you haven't taken the enforcement of taking it to court so it is not that critical.

PAUL WANZENRIED: It's not that high on my priority list.

MS. IRWIN: Sorry, Paul (Wanzenried). Didn't mean to make your life miserable.

ADAM CUMMINGS: I do need to address the Public Hearing. So I will go back and address that. The Public Hearing is still open from last month, so now I invite anybody from the public to speak about this application.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Phillip Supernault made a motion to close the Public Hearing portion of this application, and Mark Merry seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: I'm a stickler on the variances with the fact that they go with the land. I'm not trying to really push too hard on this, but I really think you're -- your best way with the relationship you have had working with the Town is to continue with that. My recommendation is to withdraw your application and continue working with Paul (Wanzenried). And then if that cannot be remedied, then come back to us for a final decision.

MS. IRWIN: I have to think of, though, you said if we withdraw it -- it didn't sound like that was the wisest of options. Because we still have an issue --

ADAM CUMMINGS: You still have to get with him in terms of compliance. You work with him with the time frame when that needs to be remedied. So, therefore, you have two months, but if both sides agree to it, it could be longer.

MARK MERRY: If it is denied, she has how much time?

ADAM CUMMINGS: If it is denied, it still falls on Paul (Wanzenried) of how much time she has. Yes.

MARK MERRY: But to Counsel's point, if your husband -- something wrong happens and he has to come back and you keep the house, you have been denied.

ADAM CUMMINGS: Not only that, the new homeowner that comes in, if they want a shed in that same location because they can't get to the back, they would have to wait a year, as well. Not a full year. Whatever -- whatever the duration is.

MARK MERRY: That's why I'm trying to paint the big picture.

ADAM CUMMINGS: We're not considering specific -- specifically your situation. It's the piece of property. The impact on the neighboring ones. The Town Code requirements.

Am I out of line?

JARED HIRT: No. You're fine. You have advised the applicant --

ADAM CUMMINGS: It's up to you.

JARED HIRT: -- what her options are. So...

ADAM CUMMINGS: So if you would like to, this is your time to withdraw. Once again, you don't have to. You can ask us to move forward with a decision and I don't know if it will be approved or denied. We'll move forward with it.

MS. IRWIN: I just don't want to cause any more grief.

ADAM CUMMINGS: Which is our grief. It's not grief here.

MS. IRWIN: It's already been enough on Paul (Wanzenried). It has taken so long. He has been gracious enough. I don't know what the wisest decision is to do.

PAUL WANZENRIED: It's six and one, half a dozen of the other. Either way you're working with me. Anyway.

JARED HIRT: Unless it is approved.

ADAM CUMMINGS: Unless it is approved. You still have to work with Paul (Wanzenried) at that point.

MS. IRWIN: So I guess with -- withdraw it and then Paul (Wanzenried) and I can figure out from there on a time frame and all that.

Is that okay, sir?

PAUL WANZENRIED: Fine.

ADAM CUMMINGS: So withdrawn at the applicant's request.

JARED HIRT: The applicant wishes to withdraw their request, correct?

MS. IRWIN: Yes.

ADAM CUMMINGS: Board doesn't have to do anything at this point because it has been withdrawn. Keep working with Paul (Wanzenried) on that one, please.

MS. IRWIN: Thank you.

DECISION: Withdrawn at the applicant's request.

2. Application of Doug Drago, 210 Humphrey Road, Scottsville, New York 14546, owner; for a variance to erect an accessory structure 4' from the principal structure (8' req.) at property located at 210 Humphrey Road in PRD District.

Doug Drago was present to represent the application.

MR. DOUG DRAGO: How are you?

ADAM CUMMINGS: Assuming you are Mr. Drago?

MR. DOUG DRAGO: I am, indeed.

ADAM CUMMINGS: Anything else to add?

MR. DOUG DRAGO: The -- the purpose for doing it that way is simply my -- I work in my garage, you know, doing some of my hobbies there and I have accumulated so much clutter that the idea was to move it back there. And that -- that 4 foot is just to have ease this time of year. There is a man door in the back of the garage, facing the side of the shed and to put a door adjacent to it and -- this time of year, especially, with all of the slop and rain, it would make it much easier to move things back and forth between there because I need access to that all of the time and that is the fastest way to go between the two structures. So that was the idea behind it.

ADAM CUMMINGS: And that's the shed that is there now, correct?

MR. DOUG DRAGO: Correct.

ADAM CUMMINGS: You're not putting another one on?

MR. DOUG DRAGO: No. No.

JAMES WIESNER: This is just taking care of an existing zoning variance because you're saying the shed is already in place next to the garage?

ADAM CUMMINGS: Yes. It is the one behind the garage.

MARK MERRY: No questions.

FRED TROTT: No questions.

PHILIP SUPERNAULT: No questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

PETER WIDENER, 4280 Union Street

MR. WIDENER: Peter Widener, 4280 Union Street, North Chili, New York.

My farm is about two miles south of the Drago Farm and the Drago Farm and Stolz Farms have been active for approximately five consecutive generations. And I'm not sure what the total acreage is there on that farm, but for 4 foot or 8 foot, Doug (Drago) has my verbal endorsement

to go forward with this.

ADAM CUMMINGS: Thank you. Thank you for coming to speak tonight.

MIKE DRAGO

MR. MIKE DRAGO: My name is Mike Drago. I'm his son. I live next door in the farmhouse. I look at it every day. I have no problems with it. And I would like him not to break his, you know, neck taking his stuff out back. So I'm probably the only neighbor who actually looks at that thing. So there you have it.

ADAM CUMMINGS: Thank you.

MR. MIKE DRAGO: Just so you know, there is like 150 acres behind it. It is not encroaching on anybody.

ADAM CUMMINGS: Thank you.

Motion to close?

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

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 a Type II Action with no significant environmental impact, and Mark Merry 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 finding of fact was cited:

1. Variance requested is not excessive and its location is furthest away from neighboring properties to minimize potential impacts to them.
3. Application of Leonard and Cathy Costello, 17 Sunridge Drive, Rochester, New York 14624, owner; for a variance to erect an accessory structure A.) 1' from side yard setback (10' req.) B.) 3.5' from principal structure (8' req.) at property located at 17 Sunridge Drive in R-1-15 District.

Leonard Costello was present to represent the application.

MR. COSTELLO: Evening. I'm Leonard Costello from 17 Sunridge Drive. The purpose is we have three vehicles and one very small garage and it's -- the one vehicle in the garage now gives us about a foot and a 1/2 on either side to walk by. It is stored every winter. So I would like to have this garage put up. It's pre -- pre-fabricated Amish-built garage, 12 by 20. And I have talked to my neighbor on the north, which is the side it would be on. She has no problem at all with it.

There is access to the backyard on the south side of the house if some -- something was needed to get back there. And my neighbor across the street has no objections. Probably -- I'm going to say in our development there, there is -- probably 85 percent of the homes have either 1 1/2 car or two-car garages, so it's not out of place in that neighborhood.

ADAM CUMMINGS: Okay.

MARK MERRY: I think a very easy one. Did you ever explore another option to what you're proposing?

MR. COSTELLO: I mean as far as -- I thought about one of those canvas-type --

ADAM CUMMINGS: Carports?

MR. COSTELLO: -- carports. But everything I have read on them, they -- they have a very short life expectancy either with the wind or the snow and I rather have a more permanent structure that's going to be there. And it would be sided in the same -- close to the same color as the house. I don't know if we could get it exact anymore.

MARK MERRY: Did you bring with you any letters of support? You mentioned neighbors. Any letters of support?

MR. COSTELLO: No. I just went over and talked to them. They had no -- no problems with it. They know about the meeting. I told them if they had any problems, to show up and voice them and they said they don't care.

MARK MERRY: Okay. Thank you.

FRED TROTT: Just a couple of questions. Did you explore like Mark (Merry) had said -- did you explore into making a two-car garage?

MR. COSTELLO: I really didn't want to go -- that's quite a bit more expense to tear down an existing wall and -- and extend it out.

FRED TROTT: Did you look at the availability to try to put it in the back behind the house?

MR. COSTELLO: Well, then you would have an access problem driving a vehicle back

there. So I -- I -- you know, all of the lawn would get tore up just trying to get back to something like that.

FRED TROTT: Okay. These are just questions I have to ask. I have nothing further.

ADAM CUMMINGS: Paul (Wanzenried), is this the one you were corresponding with the State over the State variance? That was a different application, correct?

PAUL WANZENRIED: No. This is one, too.

ADAM CUMMINGS: This is where they stated their opinion that it wouldn't need one?

PAUL WANZENRIED: Yeah. If I remember correctly.

ADAM CUMMINGS: That's what I remember. I just couldn't remember if it was this one or an application from the previous month.

MR. COSTELLO: I think we got a letter saying it was a local matter.

ADAM CUMMINGS: We have that from --

PAUL WANZENRIED: That's from Monroe County.

ADAM CUMMINGS: -- from Monroe County. I was going to mention they had -- from the Monroe County Planning Department -- Planning and Development Department.

But I'm pretty sure it was this one, Paul (Wanzenried).

PAUL WANZENRIED: Okay.

ADAM CUMMINGS: So thank you for reaching out to them and getting their opinion on it. So I won't have that -- one condition of approval will be the need for a building permit. So continue on with that process with Paul (Wanzenried).

FRED TROTT: I have another question. Now, it's like 1-foot 1-inch I think you have written down here?

PHILIP SUPERNALUT: 11 inches.

FRED TROTT: 1 foot, 11 inches.

ADAM CUMMINGS: I have 1 foot as the variance request. The setback he has listed here is -- 1.92 feet is the proposed setback. I assume the 1 foot is to give it buffer when they place it or if there's an overhang on it for the soffits.

FRED TROTT: That was my only concern, is that we got the numbers right.

ADAM CUMMINGS: Yes. So on his map, it shows proposed setback being 1.92 feet plus or minus. And the -- the application is actually asking for 1 foot, just so there is conservatism there. Wiggle room.

Am I accurate?

PAUL WANZENRIED: That's correct.

MARK MERRY: Just looking at the roofline of the house and the roofline of the structure.

Do we know if there is --

ADAM CUMMINGS: I'm pretty sure with this one having a 7-foot height on the overhead door -- I don't have a height on it, but I suspect it's going to be at or lower than it. If it's not, then he will come back for another variance if it is going to be lower.

MARK MERRY: Just trying to save it --

ADAM CUMMINGS: But we can't consider the variance tonight.

MARK MERRY: Okay.

ADAM CUMMINGS: That was square footage -- okay. Just looking at the detail there. Good question. I don't think it is going to be higher than it. If -- 7 foot door, another 3 feet there, you're talking 10 feet. I'm not sure how tall your house is for that ranch, but I suspect --

MARK MERRY: Okay.

ADAM CUMMINGS: Because it's going to be wider. The house is wider, so the peak is going to be taller. All right.

Any other conditions the Board would consider?

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Philip Supernault 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: Now I will read my SEQR statement SEQR.

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.

ADAM CUMMINGS: I'll do decisions separately. We'll do A, which is the side yard setback at 1 foot where 10 feet is required. This does have one condition of approval of a building permit must be obtained.

Motion to adopt?

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

DECISION ON APPLICATION 3A: 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. Variance requested is not excessive and the structure is a detached structure.
2. Owners of the neighboring properties were in support with no objections.

ADAM CUMMINGS: Now go onto B, which is the 3 1/2 feet from the principal structure. That same question is going to be there.

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

DECISION ON APPLICATION 3B: Unanimously approved by a vote of 5 yes with the following condition:

1. Building permit must be obtained.

The following findings of fact were cited:

1. Location of the structure cannot be placed anywhere else.
2. Creation of an extension of the existing principal structure was cost-prohibitive for the property owner.
3. The use of the detached space was described to be identical to the use of the adjacent attached garage, or similar to a detached storage shed, of which there are numerous nearby properties with similar structures.

ADAM CUMMINGS: Please continue to work with Paul (Wanzenried) and the Building Department.

Fred Trott made a motion to accept and adopt the 12/20/22 Zoning Board of Appeals meeting minutes, and Mark Merry 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. All Board members were in favor of the motion.

The meeting was adjourned at 7:40 p.m.