

CHILI ZONING BOARD OF APPEALS
July 25, 2023

A meeting of the Chili Zoning Board of Appeals was held on July 25, 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: Matthew Piston, Assistant 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: Any issues with the signs?

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

1. Application of Maribell Bermudez, 25 Minute Man Trail, Rochester, New York 14624, owner; for a variance to erect a front deck 57.9' from front yard setback (60' req.) at property located at 25 Minute Man Trail in R-1-15 District.

Maribell Bermudez was present to represent the application.

MS. BERMUDEZ: Maribell Bermudez, and it's 25 Minute Man Trail, Rochester, New York 14624.

ADAM CUMMINGS: So it looks like it is just a little -- little bit of a variance there. Instead of being 60 feet, you need 2.1 feet to make it.

The Board indicated they had no questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

Mark Merry 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.

FRED TROTT: You're 57.9. Are you 100 percent with that or do you -- is there a little bit of give and take there? I guess we don't want to give you 57.9 feet and come to find out you're actually 57.8 feet.

Do you know what I mean?

MS. BERMUDEZ: I'll just go by what is written, what was measured.

ADAM CUMMINGS: Okay. So it was measured?

MS. BERMUDEZ: Uh-huh.

ADAM CUMMINGS: All right. One condition you will have to get a building permit, which you already started that process.

MS. BERMUDEZ: Yes.

ADAM CUMMINGS: So just continue with that.

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

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

DECISION: Unanimously approved by a vote of 5 yes with the following condition:

1. Building permit must be obtained.

The following findings of fact were cited:

1. Requested variance is minor in nature as it is seeking relief less than 10%.

2. No adverse impacts to neighboring properties or viewsheds.
2. Application of Greg Gay, 1157 Paul Road, Churchville, New York, 14428, owner; for a variance to allow A.) Housing domesticated farm animals (chickens) on .92 acres of land (5 acres req.) B.) Housing structure for animals 10' from any lot line (200' req.) at property located at 1157 Paul Road in R-1-20 District.

Greg Gay was present to represent the application.

MR. GAY: Good evening. How you doing? I'm Greg Gay. I live at 1157 Paul Road.
ADAM CUMMINGS: You have the photos in there, Everybody?
Obviously he currently has chickens.
FRED TROTT: Do you have any roosters?
MR. GAY: No. I wouldn't listen to that anyway. I get up early anyway.
FRED TROTT: Where is the chicken coop on your property line?
MR. GAY: The back of the property. The very back.
FRED TROTT: I know you're pretty much isolated there.
MR. GAY: Yes. Really nobody around me except Tom Ford across the street.
FRED TROTT: No problems with --
MR. GAY: No.
FRED TROTT: -- animals getting in?
MR. GAY: It's a secured coop.
FRED TROTT: I don't have any other questions.
PHIL SUPERNAULT: Just to clarify, if we grant this variance, it stays with the property forever?
ADAM CUMMINGS: Correct.
PHIL SUPERNAULT: And zoning around it is consistent with that zoning, the zoning of the property?
ADAM CUMMINGS: I'm not -- it's all zoned R-1-20.
PHIL SUPERNAULT: So there could be houses at some point around it?
ADAM CUMMINGS: There could be.
FRED TROTT: He is right there by the expressway.
ADAM CUMMINGS: Yes. That sliver by Paul Road and 490 back there.
MARK MERRY: So the area that you have it at today, is that your intent that will always be the area or are you looking to relocate it at some point?
MR. GAY: No. It will probably stay back there. I have no reason to move it. It's in the far back of the property, not near the road. Nobody can see them, smell them, hear them.
MARK MERRY: The idea is that is also a permanent site?
MR. GAY: That will be a permanent site for them.
ADAM CUMMINGS: Once again, we're here for a side setback, but to point out, his entire lot is only 100 feet wide.
MARK MERRY: My question to you, Adam (Cummings), is that a condition we can put -- back to Paul (Wanzenried)'s earlier question -- on remaining with the land? Is this a condition that we put -- that it stays in that location?
ADAM CUMMINGS: What we're granting is that he can house animals and it can be 10 feet off the side property line. So it could be further to the north. It could be further to the south as long as it doesn't need a variance off the rear lot line. I think the Side Table is conferring on this.
PAUL WANZENRIED: If he wanted -- if you wanted to put a dimensional restraint on it greater than 10 feet; i.e., lot is 100 feet wide and his is -- his coop is 10 by 10, you wanted to say you have to put that thing in the middle -- you set the dimensions.
ADAM CUMMINGS: He is saying north/south.
PAUL WANZENRIED: Still doesn't matter. North, south, east, west. I think that you can put it -- if it is greater than the 10 feet, right?
ADAM CUMMINGS: Right. That's what we're allowing him to do.
PAUL WANZENRIED: Yeah. Is that -- did I understand Mark (Merry)'s question?
FRED TROTT: I think Mark (Merry) was looking to get it more -- yes.
ADAM CUMMINGS: He wants to have it right where it is located and keep it there.
FRED TROTT: So like I can't move it up to the front lawn.
ADAM CUMMINGS: Can't be closer to the house or closer to the road, but we're only doing a setback variance tonight. We can't make him put the fenced-in area coop --
MATTHEW PISTON: Are you saying -- are you saying that -- let's say the Board grants the variance. But as a condition, he can't move the coop into compliance with the code?
ADAM CUMMINGS: No. I'm saying if it was still 10 feet off the side lot line -- whether we're granting for our own variance -- and currently it is 56 feet off the south or rear property line -- he could move it the whole -- the whole thing is 388 feet in depth. So instead of 56 feet from the rear lot line, a property owner, whether this one or a future one -- as long as that coop area or pen area is 10 feet from the side lot line, it can be 250 feet north of it. It just can't be closer to the side property.
MATTHEW PISTON: Than 10 feet.
ADAM CUMMINGS: What Mark (Merry)'s question is, can we make him put it 56 feet off the rear lot line? And I don't believe so. It just needs to be compliant with the code.

MATTHEW PISTON: I would agree with that.
ADAM CUMMINGS: So no. We can't make it say that.
MARK MERRY: So the side setback --
ADAM CUMMINGS: We're here for the side.
MARK MERRY: -- is why he is asking for 10 foot.
FRED TROTT: 10-foot side setback.
ADAM CUMMINGS: Because the code asks for 200 feet.
MARK MERRY: So I guess can --
ADAM CUMMINGS: He can put it in the middle of his lot.
MARK MERRY: Can we limit it to 10 feet? I'm looking at the applicant going -- can we shorten that, right, so it's not -- I don't know -- back to Phil (Supernaault)'s point, if there would ever be development. That thing is pretty darn close to --
MR. GAY: I can say one thing. There won't be redevelopment for houses unless I sell that place to Perna Homes. They have already tried to buy it from me twice.
ADAM CUMMINGS: For your lot.
MR. GAY: They have roads in but they got one. Tom is not selling. I'm not selling. There will be no homes there.
PHIL SUPERNAULT: We have to look beyond you.
ADAM CUMMINGS: The minimizing of the variance would be to move it to the middle of the property. So instead of a 10-foot setback and 10-foot coop, say you move it -- we'll take away 10. You're at 90, so if it is 45 feet over, then it would be dead center in the middle -- it would still be 56 feet from the back lot line and --
MARK MERRY: Not worried about the back line.
ADAM CUMMINGS: I understand. I'm just saying according to his map. But you're saying to get more of a buffer from the property abutting to the west, the -- the minimization of the variance is not 10 feet. It would be 30 feet.
MARK MERRY: Right. Heaven forbid, Tom is not here and someone else in charge of it decides to sell. Someday we're all not going to be here. This stays with the land.
So now -- I'm just trying to look at the big picture. So -- I don't know if there is a compromise we could -- instead of ten.
FRED TROTT: Realistically, though, that's -- how much of that property does -- that's Perna Homes that owns that.
MR. GAY: All around me. To the west and the south. And the back. And Tom owns the 30-acre field, the pumpkin farm. Tom owns the 30-acre field. Perna owns all of the way back to the tracks and all of the way over to Chestnut Ridge.
FRED TROTT: But how wide of a lot line does he have there?
MR. GAY: Perna? It's wide. I'm butted up to a field, to a bean field.
PAUL WANZENRIED: He has limited access -- if we're talking about the adjacent property, there is a limited access to that property next to Mr. Gay's property. However, Mr. Perna has multiple access points from other areas that he can access that property.
ADAM CUMMINGS: Right.
MARK MERRY: I'll leave it there and let Jim (Wiesner) go.
JAMES WIESNER: How long have you had the chickens there?
MR. GAY: For a few months. Probably four or five months.
JAMES WIESNER: So this variance is just catching up --
MR. GAY: Long story short, as I explained to Paul (Wanzenried), my daughter's ex-boyfriend who lives down in Greece, he called and said I have chickens. I didn't know we weren't supposed to. Didn't know I had to ask to have chickens there. That is who complained. There is no neighbors driving by complaining. They're not by the road. It's a 22-year-old little kid that just -- is being a child.
JAMES WIESNER: How many chickens do you have right now?
MR. GAY: I have six right now.
JAMES WIESNER: Do you plan on having any more?
MR. GAY: I don't know. I wanted to wait -- I don't want a farm, but I wanted to wait to see -- if I was allowed to have more -- not that we need many more. All we do is eat the eggs and enjoy the chickens and teach my kids the way of life. But other than that, I didn't see any harm in it.
JAMES WIESNER: We have limited the quantity before.
ADAM CUMMINGS: Correct. We have limited quantities. We denied applications. We denied roosters.
MR. GAY: I don't want a rooster.
ADAM CUMMINGS: The Town prohibits roosters.
JAMES WIESNER: The unique thing, it's a very deep lot.
ADAM CUMMINGS: Very deep lot and nearby 490, so noise -- background noise is a little bit different than a nice, clean subdivision. But it is still less than an acre. We'll call it one acre. It is pretty close, compared to five acres.
PHIL SUPERNAULT: The code speaks to domesticated animals.
So a domesticated animal could be a horse?
ADAM CUMMINGS: Yes.
PHIL SUPERNAULT: So there could be a horse or horses there --
ADAM CUMMINGS: Uh-huh.
PHIL SUPERNAULT: -- in the future?

FRED TROTT: They would have to fit in that pen.
PHIL SUPERNAULT: They would have to?
ADAM CUMMINGS: Yes. So then you get into the Humane Society. But yes, this is not specific to chickens unless Matthew (Piston) disagrees with that, but our code reads as domesticated farm animals. That doesn't get into sheltering requirements.
JAMES WIESNER: What did we do with the one that was on -- that had the little goats? I thought we said only goats.
ADAM CUMMINGS: We did limit that to goats. And we limited the quantity.
FRED TROTT: We limited the quantity and type of goats, too.
ADAM CUMMINGS: Himalayan mountain goats.
PHILIP SUPERNAULT: If we're talking about the coop or shelter, it doesn't have to be any shelter. So I'm thinking again in the future if somebody wants -- what do they call those domesticated -- those miniature horses or pigs or -- you know, they're popular now --
ADAM CUMMINGS: They would be allowed to have a structure 10 feet off the side lot line.
PHIL SUPERNAULT: Or no structure. If they wanted --
ADAM CUMMINGS: If we granted it tonight, they would be allowed a structure.
PHIL SUPERNAULT: What if say somebody wanted miniature horses and didn't want a structure at all?
MATTHEW PISTON: Guys, I think you can say chickens.
ADAM CUMMINGS: Perfect. We'll limit it to the application calling for chickens.
Perfect.
JAMES WIESNER: Six chickens, no roosters.
ADAM CUMMINGS: I'm getting a dinosaur in mine.
MARK MERRY: Your neighbors will love you.
MR. GAY: How many chickens would I be allowed to have?
ADAM CUMMINGS: We'll discuss that tonight, too.
MR. GAY: Back to other animals -- not that I'm looking to go get cows or pigs or horses or anything.
What if I wanted a little miniature billy goat in the future? Is that what you guys would approve for domesticated animals?
ADAM CUMMINGS: We were just talking about limiting to it chickens so if you wanted to add a billy goat, you would come back in another time.
MR. GAY: I'm not going to. Just asking.
ADAM CUMMINGS: We would likely go that route, because then at that time they would have some time duration -- if we approved it tonight, time duration of neighbors and impacts and complaints if there were any.
We are going to limit it to chickens. We're clear on the dimensions where he is looking to put it. And now you want to talk about the number. He has six right now. We're at an acre. So five acres -- I don't think we even call out a number, do we, for the five acres?
PAUL WANZENRIED: No.
ADAM CUMMINGS: Call it at five acres, allows 20 of them.
PAUL WANZENRIED: I think you limited to the property -- the rear land property there on Beaver Road Extension. If memory serves me correctly. They had a coop, too.
ADAM CUMMINGS: Correct.
PAUL WANZENRIED: And you limited that. I want to say it was under 12.
ADAM CUMMINGS: I believe it was either 10 or 12 and I don't remember the acreage on it, but it was something close to an acre.
PAUL WANZENRIED: They are 1 or 1.1 over there.
ADAM CUMMINGS: Right.
FRED TROTT: No more than ten. No more than ten. I'm good. No more than ten chickens. No roosters.
ADAM CUMMINGS: I don't think we have to write that because it's in the code there is no roosters. Correct?
PAUL WANZENRIED: I do not recall.
ADAM CUMMINGS: So we'll say no roosters even if redundant.
You don't want roosters anyway?
MR. GAY: No.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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: We got that condition of approval -- or those conditions. No more than ten chickens --

PAUL WANZENRIED: Adam (Cummings), one moment.

There was a pause in the proceedings.

MATTHEW PISTON: The way the variance is currently written or requested is for housing structure for animals 10 feet from any lot line.

ADAM CUMMINGS: Oh, I see. We want it 10 feet from the side lot line, the west side lot line.

MATTHEW PISTON: Correct.

ADAM CUMMINGS: So we'll just make sure that is what is in the minutes. That is what the application shows. That is where the structure currently resides.

Good catch.

Just to clarify why we said that. Because if your structure went down, you still own it. You could still put a new structure 10 feet from any of the lot lines.

MR. GAY: Okay.

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

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

DECISION: Approved by a vote of 3 to 2 (Phil Supernault, Adam Cummings) with the following conditions:

1. No more than 10 chickens permitted.
2. No roosters allowed.
3. Only chickens are permitted.

Adam Cummings made a motion to accept and adopt the 6/27/23 Zoning Board of Appeals meeting minutes, and Mark Merry seconded the motion. All Board members were in favor of the motion.

The meeting was adjourned at 7:23 p.m.