

CHILI ZONING BOARD OF APPEALS
September 26, 2023

A meeting of the Chili Zoning Board of Appeals was held on September 26, 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 signs, Board members?

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

1. Application of Allison Schultz, 33 Jensen Drive, Rochester, New York 14624, owner; for a variance to erect a 10'-0" x 12'-0" front porch to be 49'-0" from the front property line (60'-0" req) at the property located at 33 Jensen Drive in the R-1-12 District.

Allison Schultz was present to represent the application.

MS. SCHULTZ: My name is Allison Schultz and the residence is 33 Jensen Drive. As you said, we just want to put up a 10 by 12 porch deck on the front of the house. That's pretty much it.

ADAM CUMMINGS: Okay. Just to clarify, it's an open porch, no roof on it?

MS. SCHULTZ: No roof. Just stairs going up to the front door.

FRED TROTT: Just a little bit -- is it -- does it come out 10 feet or does it come out 12 feet?

MS. SCHULTZ: It comes out 12 feet and it's 10 feet wide.

FRED TROTT: Oh, okay. That's all. I just didn't understand that looking at the pictures. I have no other questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Philip 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: One condition of approval, you'll have to get a building permit for this. You have already started that process which brought you here, so just continue that with Paul (Wanzenried) in the Building Department.

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 a condition, and Fred Trott seconded the motion. All Board members were in favor of the motion.

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

1. Building permit must be obtained.

The following finding of fact was cited:

1. Requested variance is minor in nature as the front porch location does not obstruct any views of the travelers on the public right-of-way or neighboring properties.

2. Application of Albert Bullwinkle, 24 Clifton Road, Churchville, New York 14428, owner; for a variance to erect an accessory structure (detached garage) to be 1,572 sq. ft.

(1,200 sq. ft. allowed) at the property located at 24 Clifton Road in the RA-1 District.

Albert Bullwinkle was present to represent the application.

MR. BULLWINKLE: I'm Albert Bullwinkle from 24 Clifton Road, Churchville -- or Churchville, New York. And I would like to put this barn up so that I can store things and maybe make a shop in there. That's about it.

ADAM CUMMINGS: A hobby shop?

MR. BULLWINKLE: Maybe a woodworking shop.

ADAM CUMMINGS: And just for clarification for everybody's benefit up here at the Board, this is -- you're looking to put it next to the blacktop tennis court?

MR. BULLWINKLE: Right.

MARK MERRY: So you described it, sir, as a hobby shop. Is this for personal use and not commercial?

MR. BULLWINKLE: Personal.

MARK MERRY: Personal?

MR. BULLWINKLE: Yes.

MARK MERRY: No other questions.

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: There will be one condition of approval on here for a building permit, so continue working on with the Building Department on that 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 a Type II Action with no significant environmental impact, and Mark Merry seconded the motion. The Board all voted yes on the motion.

James Wiesner 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. Motion to adopt with one condition.

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

1. Building permit must be obtained.

The following finding of fact was cited:

1. Requested variance is minor in nature and the size of the structure is appropriate with the large size of the lot.
3. Application of Susan Buckner, 266 Stottle Road, Scottsville, New York 14546, owner; for a variance to erect a fence 8'-0" in height (6'-0" allowed) at the property located at 266 Stottle Road in the PRD District.

Susan Buckner was present to represent the application.

MS. BUCKNER: Susan Buckner, 266 Stottle Road, Scottsville.

The deer are eating my gardens.

ADAM CUMMINGS: And they're clearing a -- well, you don't currently have a fence out there?

MS. BUCKNER: No.

JAMES WIESNER: So this is actually -- looks quite a ways out in your backyard.

MS. BUCKNER: Yes.

JAMES WIESNER: Not in the front of the house. Behind the house. So it is probably barely visible from the road. That's all I got.

ADAM CUMMINGS: I would like to point out I believe the only 8-foot fences I'm aware of in the Town are both at military installations. I believe the Navy and then the Jetview Drive one.

JAMES WIESNER: Isn't FedEx 8-foot, too?

ADAM CUMMINGS: I don't remember if they went to 8 or did we count the barbed wire? I think we did count the barbed wire. So you're right, FedEx is another one. I just wanted to point them out.

This one is not visible from the public road.

FRED TROTT: I just had a question. Is that the -- the yellow highlighted area?

ADAM CUMMINGS: Yes.

MS. BUCKNER: Yes.
FRED TROTT: That's your fence?
MS. BUCKNER: Yes.
FRED TROTT: What about this area here (indicating), the front of it?
MS. BUCKNER: Let me see which one you're talking about.
ADAM CUMMINGS: It doesn't close, I think is what he is getting at.
MS. BUCKNER: We're going to put a shorter fence, 5 foot from here to here (indicating).
ADAM CUMMINGS: That's closer to the house.
FRED TROTT: This one (indicating)?
MS. BUCKNER: That will be shorter, too.
FRED TROTT: Okay. Why do you feel you need 8 feet?
MS. BUCKNER: Because the deer are jumping -- they're coming up and eating my gardens and I have a little hobby business and I do garden tours. They ate all my plants this year.
FRED TROTT: You don't think a 6-foot would cover it?
MS. BUCKNER: They can jump a 6-foot standing and just --
FRED TROTT: Mine is probably about 4 feet and they don't jump it.
MS. BUCKNER: We have a herd of deer that come right up on my patio.
FRED TROTT: I have a herd of deer, too. I have tried to get hunters there.
MS. BUCKNER: Yeah me, too.
FRED TROTT: I have a beautiful 12-point buck if anybody is interested.
MS. BUCKNER: This is deer fencing, 6 by 6 at the top and it goes down smaller at the bottom so the other little rodents and fox and chipmunks -- not chipmunks but what do we have? Ground hogs, fox, skunks. All kind of things living under our shed at the moment we have had to deal with. Ground hogs. So it should keep those out, too. Because they all eat the plants, too.
FRED TROTT: But at this point you don't have a fence there at all?
MS. BUCKNER: No.
JAMES WIESNER: It's just this back area here?
ADAM CUMMINGS: The yellow.
MARK MERRY: Yellow line.
ADAM CUMMINGS: Where it closes here (indicating), she will have a shorter fence.
That is one clarification I would like to make.
This fence is going to be these rear portions only, correct?
MS. BUCKNER: Uh-huh.
ADAM CUMMINGS: You're not looking to bring an 8-foot fence up to the house?
MS. BUCKNER: Oh, no.
ADAM CUMMINGS: Just the rear portion beyond the existing wooden wire fence that you have? I don't -- it's shown on the plans.
MS. BUCKNER: Oh, okay.
ADAM CUMMINGS: Off the back of your house you have a wood fence?
MS. BUCKNER: Yeah. For the dogs, yeah.
ADAM CUMMINGS: It's not going to go beyond that?
MS. BUCKNER: No. It's not going to have anything to do with that.
ADAM CUMMINGS: Does that answer your question?
MS. BUCKNER: It will go over -- the part that juts out to the side on the left-hand side, that's around my nursery.
JAMES WIESNER: So it's going to close off in here (indicating)?
ADAM CUMMINGS: It will close off on this side here (indicating), with the shorter fence.
JAMES WIESNER: Okay.
ADAM CUMMINGS: And then close off here to the corner of the house with a shorter fence. But the taller fence won't be --
JAMES WIESNER: I see that now.
ADAM CUMMINGS: -- closer to the house than that wooden wire fence?
MARK MERRY: We're hoping the deer won't figure that out.
ADAM CUMMINGS: Right. Right. Right.
MS. BUCKNER: They come up from the woods in the back.
PHILLIP SUPERNAULT: Would you describe a deer fence? Is it an open --
MS. BUCKNER: Yes. It's an open wire fence that's about 6 by 6 and I think -- on the top and that goes down to about 3 feet from the bottom and then it goes to a 4 by 6 and then a 3 by 6 and a -- a 2 by 6, I think.
PHILLIP SUPERNAULT: When you -- are you talking about like a gap when you're describing these numbers? A grid?
MS. BUCKNER: That's the grid, yeah.
PHILLIP SUPERNAULT: So it's an open -- open grid?
MS. BUCKNER: Yes.

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. The Board unanimously approved the motion.

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

ADAM CUMMINGS: I just want to once again clarify that this is not -- or this is limiting it to that back portion, the rear portion of the house. The only reason I'm clarifying that, as we're discussing this, since it does tie to the land, we don't want to open it up where an 8-foot fence could go all of the way around your entire property.

MS. BUCKNER: Right.

ADAM CUMMINGS: We're just restricting it to this back portion.

FRED TROTT: How are you restricting it to that back portion?

PAUL WANZENRIED: It's roughly 35, 40 feet off the pole barn that is to the left, off the rear of that.

ADAM CUMMINGS: Okay. As a reference landmark?

PAUL WANZENRIED: That's what you're trying to do, right?

ADAM CUMMINGS: That's what I'm trying to do, yes.

MS. BUCKNER: Yeah.

PAUL WANZENRIED: I would say it's probably 50 feet off the back of the house on -- that would be the south side of the -- the south.

ADAM CUMMINGS: South --

PAUL WANZENRIED: South leg.

ADAM CUMMINGS: -- east. Yeah.

PAUL WANZENRIED: The 8-foot would start 50 feet off the rear of the house and the southern side and --

ADAM CUMMINGS: Well, you call it 20 feet -- 20.

PAUL WANZENRIED: Off the metal clad building.

ADAM CUMMINGS: How about if we just reference it off the same building?

PAUL WANZENRIED: Oh. Then give me a minute, sir.

MS. BUCKNER: I do have one question. If in the future we would like to make it go all of the way to the back of the property and over to the other side but never more forward, would that be okay?

ADAM CUMMINGS: Yeah. That's what we're getting here. You would be permitted to go further to the back, but not towards the front.

MS. BUCKNER: Okay.

PHILLIP SUPERNAULT: If -- question. If a -- if this owner or subsequent owner wanted to replace this fence with an 8-foot vinyl fence or a --

ADAM CUMMINGS: We're not here for construction. Just height.

FRED TROTT: So yes.

PHILLIP SUPERNAULT: So it -- any 8-foot fence could replace this?

ADAM CUMMINGS: Yes.

FRED TROTT: A stockade fence, yes.

PAUL WANZENRIED: No barbed wire, Phil (Supernault).

ADAM CUMMINGS: Barbed wire is the only thing we don't allow.

PHILLIP SUPERNAULT: Thank you.

ADAM CUMMINGS: Except for special cases, like Fred (Trott)'s house. Ha, ha. Just kidding. He doesn't have it.

PAUL WANZENRIED: 30 feet off the rear of the house.

ADAM CUMMINGS: Perfect. Thank you. So we'll go with that dimension of 30 feet off the house on that northern section.

And you said it was 50 off the southern?

PAUL WANZENRIED: 50 off the southern. 30 off the northern leg.

ADAM CUMMINGS: 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 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 don't have any conditions -- well, I guess those would be conditions of approval. So it is 50 feet from the house on the northern side -- northern edge of the fencing. Or sorry. Southern edge of the fencing. And 30 feet from the northern edge of the house.

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

DECISION: Unanimously denied by a vote of 5 no with the following findings of fact having been cited:

1. Requested variance is major in nature and justification of the taller fence was not adequately given. It is not on an industrial site, but a residential lot.
2. Additionally, a large portion of the new fence would still remain 6 feet in height; thus, negating the need for 8 feet fencing on the requested sides.

ADAM CUMMINGS: I guess this goes to the attorney. If there is a substantial change in the future, she could come back for a revised one.

And I would say documented evidence of the deer eating with your fence would be a good case to bring. Or if the code changes to allow 8-foot fences in certain districts.

MS. BUCKNER: So no fence?

ADAM CUMMINGS: You can have a fence. Just not 8 feet tall. You could have the deer fence up to 6 feet tall. Just not 8 feet tall.

MS. BUCKNER: Okay.

ADAM CUMMINGS: So you're still permitted to have a fence anywhere on your property, 4 feet in the back, 6 feet in the back and -- and as far back as you would like to go. But you're limited in height to just 6 feet.

MS. BUCKNER: Okay.

ADAM CUMMINGS: Thank you.

4. Application of James Seymour, 40 Everett Drive, Rochester, New York 14624, owner; for a variance to erect an accessory structure (shed) 240 sq. ft. (20'-0" x 12'-0"), (192 sq. ft. allowed) at the property located at 40 Everett Drive in the R-1-20 District.

James Seymour was present to represent the application.

MR. SEYMOUR: Good afternoon -- or good evening. I'm James Seymour. I live at 40 Everett Drive.

ADAM CUMMINGS: Anything else to add?

MR. SEYMOUR: I need to replace the shed I have. It is slowly sinking into the ground and it's about 40 years old, so it needs to be replaced.

And I need the extra space because my wife said I can't keep my toys in the house anymore, so I have to find a new home for them.

ADAM CUMMINGS: So once again, that -- that -- I will call it the 8 by 10 shed that's back close to the property line --

MR. SEYMOUR: That will come down.

ADAM CUMMINGS: -- that will come down?

MR. SEYMOUR: Yes.

ADAM CUMMINGS: So we don't have to worry about that one with its proximity to the rear lot line and this one meets it in terms of setbacks. You're just here for square footage.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

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

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

ADAM CUMMINGS: This one you will have to get a building permit. So continue to work with Paul (Wanzenried) on that.

And thank you for the good explanation what you're planning on doing with 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 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: 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 and the size of the structure is appropriate with the large size of the lot.
2. Additionally, the new structure is replacing an older, pre-existing, non-conforming structure that was located too close to the side and rear lot lines. The new structure will be placed in a location avoiding the need for additional variances and minimizing the amount of variances on the property.

5. Application of Daryl Krumsieg, 487 Stony Point Road, Spencerport, New York 14559; Noel Cormany, 12 Creekview Drive, Rochester, New York 14624, owner; for a variance to erect an addition to be 8'-0" from the north property line (10'-0" req) at the property. located at 12 Creekview Drive in the R-1-15 District.

ADAM CUMMINGS: Phil (Supernault), due to a family relationship on this one, I will ask you to recuse yourself to the Side Table.

Noel Cormany and Daryl Krumsieg were present to represent the application.

MR. CORMANY: Good evening. Noel Cormany. 12 Creekview Drive 14624. And I'm Daryl Krumsieg at 487 Stony Point Road, Spencerport, New York. I'm here as the architect representing Noel (Cormany) and his wife Elizabeth. And they are seeking relief from a side setback from 8 feet -- from 10 feet to 8 feet such that they're able to build a proposed addition to the back of their home. And we're here seeking that request.

JAMES WIESNER: I really feel looking at the area you put a lot of effort into minimizing the variance and it is probably one of the smallest variances that I have ever seen, so that's all I got.

FRED TROTT: Just briefly, the reason for the -- the 2 feet over? Why? You couldn't fix that?

MR. KRUMSIEG: Um, well, we looked at a lot of different options. One thing that we were trying to do was keep the roof as simple as possible. So rather than having a jog in the roof. Also, if we did shift it, it does do some things relative to the way that the bathroom is getting added onto and how that works. So we felt it was worth it to see if it would be a plausible request by the Board before, you know -- before we did anything else.

FRED TROTT: Okay. No other questions.

ADAM CUMMINGS: It is an irregularly shaped lot. So due to the property line not being parallel to the house, it's not the whole structure as -- asking for the variance. Just that one corner of the addition.

Is that accurate?

MR. KRUMSIEG: Correct.

ADAM CUMMINGS: It looks like the majority of it is the overhang?

MR. KRUMSIEG: Yep. The actual vertical element, it's overhang roof that extends beyond the 10 foot.

ADAM CUMMINGS: It's a silly question, but you must have an overhang; correct?

MR. KRUMSIEG: We did. We did consider that, too. We felt like it was the best option to continue the appearance of the home. It was in keeping with what exists.

ADAM CUMMINGS: Okay. Thank you.

JAMES WIESNER: I would like to see the Building Department measure that one. The lot line.

ADAM CUMMINGS: That -- we'll make him get a survey.

One condition of approval will be the need for a building permit, but you already started that and got that denial which brought you here.

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. The Board approved the motion by a vote of 4 yes with 1 abstention (Philip Supernault).

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 James Wiesner seconded the motion. The Board approved the motion by a vote of 4 yes with 1 abstention (Philip Supernault).

James Wiesner made a motion to approve the application with one condition, and Fred Trott seconded the motion. The Board approved the motion by a vote of 4 yes with 1 abstention (Philip Supernault).

DECISION: Approved by a vote of 4 yes with 1 abstention (Philip Supernault) and the following finding of fact:

1. Building permit must be obtained.

The following finding of fact was cited:

1. Requested variance is minor in nature as only a tiny corner of the soffit overhang of the addition encroaches on the setback required.

Philip Supernault made a motion to accept and adopt the 8/22/23 Zoning Board of Appeals

meeting minutes, and Fred Trott seconded the motion. All Board members were in favor of the motion.

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

The meeting was adjourned at 7:26 p.m.