

CHILI ZONING BOARD OF APPEALS
December 19, 2023

A meeting of the Chili Zoning Board of Appeals was held on December 19, 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: 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: Board, any issues with the sign?

JAMES WIESNER: No.

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

1. Application of Chad and Melissa Hochreiter, 2759 Chili Avenue, Rochester, New York 14624, owner; for a variance to A) house domesticated animals (chickens) on less than five (5) acres (not permitted). B) Location of housing for livestock 40'-0 from the west property line and 105'-0 from the North property line (min. 200'-0 required) at the property located at 2759 Chili Avenue. R-1-12 District.

Chad and Melissa Hochreiter were present to represent the application.

MS. HOCHREITER: Hello. I'm Melissa Hochreiter.

MR. HOCHREITER: Chad Hockreiter.

ADAM CUMMINGS: Hello.

MS. HOCHREITER: So we first wanted to say we apologize. We were doing a lot of research about chickens when the kids came to us and wanted to own them and we actually must have obviously over like looked and didn't realize we had missed that on your guy's website.

We lived in Chili for over a decade. We love Chili, never had an issue. So we just basically wanted to come and talk to you about being able to keep our chickens.

We do home school our kids. Our kids that came -- became really attached to them obviously because we raised them since they were babies. We have nine. And two of them we didn't realize when we gotten them because they were not sexed -- so once they grew older, they started crowing and that's how we ended up realizing we had two roosters in the mix.

So we don't know what your guy's take is on it, but we basically have -- where we have the coop right now is the best place we decided to put it because where we wanted to initially put it, it puddles with water when it rains a lot in the springtime. So it gets really soft and it's not good for them. So we decided to put it on the side where the cemetery was because it was mostly away from our neighbors.

So we're trying to come here and basically ask that we be able to keep the coop where it is because we did have to actually put -- what it is called -- construction mesh? Is that what it is called? It's like -- it's a hard like --

MR. HOCHREITER: Hardwood cloth.

MS. HOCHREITER: So we had to dig around the coop and the run and dig it down into the ground to keep them safe from any predators. So it would be really difficult to move it somewhere else. But we would also like to be able to put up a privacy fence next year. That way it kind of blocks that from the chickens being able to see anybody and cut down on like the noise. With the roosters -- that is why they're going off, because they see people over in the cemetery visiting plots and they kind of call out to the hens, like "Hey, there is possible danger."

So if there is people standing over there, they're going to crow. But mostly, they don't. I'm home a lot and I didn't hear them going off for more than 15 minutes at a time.

So I didn't understand why somebody had said that. But if we -- we tried to get like these no-crow collars, too, to put around -- basically put it around the base of their neck and it stops their air sacks from filling up too much so where it kind of cuts down on how loud they can crow.

ADAM CUMMINGS: I enjoy the stories and education, but we're not really -- I will guide us towards what our Board is tasked with, not researching chickens and the science on it, per se.

We are a Board that grants appeal reliefs to things you think in our Town Code you don't agree with and you would like relief on them.

So you spoke about your research online. I suspect you didn't go to the Building Department and asked them. You just did it --

MS. HOCHREITER: I didn't even think about it because we knew people that had owned chickens in Chili. They had moved a few years ago and I didn't have a way to have a hold of them. Like I didn't think that there was an issue with owning chickens so I didn't --

ADAM CUMMINGS: There isn't, as long as you meet the five acres. That is one that came up a few years ago, when this Local Law came in. And it's mainly due to the Town, as a whole, coming up and having concerns over noise, smells and other nuisance things that some people think are nuisance or not.

But our Board's job is to look at the piece of property and grant the variance for that.

So the best way I can give that story to you is we don't make it personal. This is all about the land and the variance that is being requested.

So for instance, if we grant a variance, it stays with that piece of property. That parcel, forever.

So if we can't grant you chickens -- I will stick with chickens -- that carries to the next owner and the next owner and next owner. It stays with the property for forever. So there is a lot of gravity for what we're deciding at these Board meetings.

For instance, sheds. A lot of people don't think it is a big deal, but if the code says it has to be 10 feet off the side lot line and somebody wants it 5 feet, we can grant that 5 foot, but that new structure -- if a new structure does come in, any new structure can be 5 feet off that property line, instead of 10 which is what the code requires for whatever reason that might have been why that code went in.

So the same thing goes with these chickens. The restriction went in for the concern -- I will admit it is the roosters -- the biggest thing the people in this Town had issue with is roosters because people started putting them on their property.

I grew up in a different Town, but I grew up with roosters around. But that was farm country so you're used to that. That's how people equate it here. That's why we have the 5-acre minimum. 5-acre lends itself to the agricultural zone, bigger properties, not in the suburb zones that are more tightly packed.

That is why I wanted to explain that part of it. We're looking at the land and the surrounding land. We do take into consideration the personal aspects of it, but we're more of an objective "court," for lack of a better term. I -- so I just wanted to explain that.

MS. HOCKREITER: Yeah. We never had to do this.

ADAM CUMMINGS: Most people haven't. Most people haven't.

So, Side Table, I will go to you first. Anything you would like to add? You can wait until later on if you would like or you can add something now.

I am seeing silence out of them.

So Board questions?

JAMES WIESNER: I guess --for Paul (Wanzenried), I guess what is the origin of the complaint that brought this here? Was it neighbors and the crowing or what was -- obviously there is an Order to Remedy and something initiated that from somewhere in the Town.

PAUL WANZENRIED: Complaint from a neighbor.

JAMES WIESNER: Neighbor? More than one?

PAUL WANZENRIED: Just one brought it to our attention. A complaint from the neighbor that brought it to our attention. Technically somebody -- they were having a service next door, so. That's what brought it on.

ADAM CUMMINGS: Okay.

JAMES WIESNER: Okay.

ADAM CUMMINGS: To clarify, they were having a service at the cemetery to the west, southwest?

PAUL WANZENRIED: That's correct.

ADAM CUMMINGS: All right. Anything else, Jim (Wiesner)?

JAMES WIESNER: No.

FRED TROTT: I don't have a problem with where it is positioned. Actually, I prefer that than in the middle of the yard towards the residential area.

I do have a problem with the roosters. I think that that is one of the main -- I -- we had allowed chickens before, but we have always stated no roosters. I hear that you're trying to stop them from crowing, but -- especially with what is adjacent to you, a cemetery and that's probably at a family's worse time.

MS. HOCHREITER: Yeah. Yeah.

FRED TROTT: To hear something that would -- if they get excited by people and stuff like that and to be interrupting a service like that, that would be -- I can understand where it gets very troublesome.

MS. HOCHREITER: We were honestly worried they were going to be a problem once we realized that they were boys.

FRED TROTT: I know. Chickens are chickens. I grew up on a turkey and poultry farm. You can't -- I understand you can't tell.

MS. HOCKREITER: We attempted to try to put the no-crow collars on to help diminish the noise, but it is still -- they're going to crow.

FRED TROTT: That's the nature of their -- the creature, the beast, whatever.

The only other question I had is to Counsel. We were quick discussing this. It says for -- to house domesticated animals. For the zoning -- we -- we can sit there --

MATTHEW PISTON: Yes, you can limit it to chickens.

FRED TROTT: Thank you. Makes it easier than me trying to spit it out.

ADAM CUMMINGS: Yes. So instead of that whole laundry list of them, we'll stick with your application which is only chickens. Because once again, now you have been exposed to the code, read the code, it lists cattle horses, sheep, ducks, geese, pigs and poultry. Which is just a partial list. It doesn't necessarily limit it.

MS. HOCKREITER: We definitely don't plan on expanding to any other farm animals. Or any more chickens. We just -- we're going to have the ones that we have and --

FRED TROTT: So I guess my next question would be, would you be open to finding a home for the roosters?

MS. HOCHREITER: We -- we have been talking about it because we knew that that was going to be a huge possibility, was that you guys ask us to get rid of them. There is a couple of people that we know that we were thinking about asking. There was a lady that we had bought actually three of them from and she lives out more towards Brockport and she has other chickens. That's what she does. So we were going to ask her if she would take them back.

FRED TROTT: Okay. Thank you.

All set? So just to point out to everybody, no one else in the public except for your group, but -- but that is the map. To describe it, there is your house (indicating). It's a schematic. You have your driveway, your house (indicating).

You do have 1.2 acres and your coop is located over here (indicating), correct?

MS. HOCHREITER: Uh-huh.

ADAM CUMMINGS: That's the cemetery. And then that is the neighbors. So once again, that's 1.2 acres. There is the coop, the shed and the run (indicating). That's in your packets.

Phil (Supernault), questions?

PHILLIP SUPERNAULT: Can that shed be located anywhere else?

MR. HOCHREITER: Well, when I brought it there, because -- I brought it there on a flatbed tow truck and it probably didn't rain for a couple weeks. And I drove the tow truck back in there and I started sinking. I said this is probably as far back I can go. Just because the grade of slope my property is on, the further -- you know, you get back there, the wetter it gets. I was already starting to, you know, seep into the ground a little bit over there. And I was like, you know, I don't want to get the tow truck stuck or anything like that. So that's as far as back as I felt comfortable driving.

MS. HOCHREITER: We have sandy soil. We have sandy soil. So like on top of it when it does get wet for any reason, it's just -- you just sink. Like he can't mow the back for quite some time, until it is really dried up for three or four weeks after our spring rains that we get. So we just -- that's why we decided not to put it down there.

And we really honestly didn't think about the poor people that were having services in the cemetery. I was just more worried, I guess, thinking my neighbors are all over here. So that is why we placed it where we did.

MR. HOCHREITER: My initial plan was to put it, you know, a little bit more towards the garage, but --

MS. HOCHREITER: Back into the backyard, but we couldn't even get it there. We had to fill in ruts. He was literally sinking.

PHILLIP SUPERNAULT: So you feel you're limited to putting it there? There is nowhere else that it would be less obtrusive and less of a problem in terms of complaints and stuff like that?

MS. HOCHREITER: I think that -- the noise complaint with the roosters, if we do -- like if you guys want us to get rid of the roosters, we'll obviously find homes for them. The hens are quiet. That is one of the other reasons why we said we wanted to put up a privacy fence, so that way -- it also blocked them from being able to see the chickens and them bothering -- the chickens are to themselves.

MR. HOCHREITER: I noticed a lot of times me and my daughter will go out and sit with -- with the chickens and I noticed when people walk by and everything, the roosters --

MS. HOCHREITER: They go off.

MR. HOCHREITER: They're kind of like dogs. They --

MS. HOCHREITER: It's like they are barking at them.

MR. HOCHREITER: They crow and they come back. It's weird. Every time they see me or my daughter or her, they make little noises and they're -- you know. But that's --

MS. HOCHREITER: We're familiar. So, you know. We -- like we figured if we did put up a privacy fence, that it would be better off for -- not only the cemetery, but at night, people coming by. Even in front. So we were thinking about putting a privacy fence across the front so it blocks the front of the coop and down the side -- sorry -- down the side.

ADAM CUMMINGS: Once again, to go back to the story I was getting at there, we're approving whether or not you can house chickens here or no. It is not the construction of your coop and the run. So you may follow what you want to do, but the next person coming in doesn't have to adhere to that.

MR. HOCHREITER: Right.

ADAM CUMMINGS: They're just allowed to have chickens and roosters if we approved it. So I just wanted to make sure that that point is made. That you're doing things that can be perceived as the right things, but that's not what we're looking at here. Code doesn't require certain enclosures.

It doesn't require the privacy fence. That is part of what we weigh into this, as well. It is not just what is being said here.

PHILLIP SUPERNAULT: If the variance were permitted, can we also stipulate numbers?

ADAM CUMMINGS: That was going to be one of my questions to the Side Table. We have done that in the past with other Counsel. And I was going to ask that the -- same with right now, if -- in this case, there -- there is seven hens. If three hens pass away, then they're down to four.

Can we get it so they're stuck with a certain number instead of replacing it back to that number? So we would rather just -- what we have done in the past is per acre. So -- not to say we -- we listed it per acre, but we evaluated how big the parcels were to how many it -- we felt that it could accommodate.

MATTHEW PISTON: I -- I think the short answer is you can limit the number of chickens in the variance.

ADAM CUMMINGS: Yep.

MATTHEW PISTON: I'm not sure I understand the point about seven chickens minus four plus two.

ADAM CUMMINGS: What we're getting at was there was previous discussions what happens if we -- we pick our number -- in this case, there is seven existing. But usually we don't have that instance.

So the conversation I had in the past was if we approved five and they had five and three passed away, they're allowed to go back and get two more chickens to always have five?

MATTHEW PISTON: Correct.

PHILLIP SUPERNAULT: So we're building a maximum.

ADAM CUMMINGS: Right. Okay. Any other questions?

PHILLIP SUPERNAULT: No.

ADAM CUMMINGS: Side Table?

PAUL WANZENRIED: See that picture on the -- behind the Chairman there? It shows your garage. Right?

MR. HOCHREITER: Yep.

PAUL WANZENRIED: Rear of the garage. If you were to draw a line from the back of that garage over to the cemetery, how far off is your chicken area?

MR. HOCHREITER: I want to say probably if it was right at the garage, it looks like maybe roughly about 100 feet.

MS. HOCHREITER: Close to 100 feet.

MR. HOCHREITER: Because it was 100 feet from the coop down the -- to the road, up to Chili Avenue. There was 104, 105 feet. I forgot the exact measurement, but I ended up measuring it out.

PAUL WANZENRIED: So if you were to -- if you were to move that shed back to be parallel with the back of the garage, and -- in an east/west line, how -- how many feet would you be pushing back? Do you understand what I'm saying?

MS. HOCHREITER: Probably like 50 --

ADAM CUMMINGS: So you were here, Paul (Wanzenried)?

PAUL WANZENRIED: If you put your hand on the back of his garage.

ADAM CUMMINGS: Yep.

PAUL WANZENRIED: Now, come straight west. West. That's kind of northwest, but that's okay.

There you go. Straight west. I want to know from that curb -- where that cursor is, where is the back of your chicken coop?

ADAM CUMMINGS: In this area right there (indicating).

MS. HOCHREITER: The back of the chicken coop is actually pretty aligned with the back of the garage.

PAUL WANZENRIED: There is the answer I'm looking for. Okay.

ADAM CUMMINGS: Because that's -- to -- to correlate, we don't have the garage depicted on this one, but what you're showing here is the shed coop is right here (indicating)?

MS. HOCHREITER: Yes.

ADAM CUMMINGS: The run is here (indicating)?

MS. HOCHREITER: The coop -- the back of the coop is actually -- it aligns with like pretty much the back of the garage. So it would be up more.

ADAM CUMMINGS: Okay. So it would be right here (indicating). If you had drawn this line --

MS. HOCHREITER: Is that back or is that the -- the gravel that we have sitting back there?

ADAM CUMMINGS: I can't tell.

MS. HOCHREITER: I can't tell.

ADAM CUMMINGS: So we'll say it is right from here (indicating). I almost feel like that is the gravel that is back there.

MR. HOCHREITER: That might be it.

ADAM CUMMINGS: Then it goes from there up to here (indicating) about 26 feet. Correct?

MS. HOCHREITER: Uh-huh.

ADAM CUMMINGS: 14 and 12 is what your dimensions show there?

MS. HOCHREITER: Yes.

ADAM CUMMINGS: Is that what you were getting at, Paul (Wanzenried)?

PAUL WANZENRIED: Uh-huh.

PHILLIP SUPERNAULT: Sort of a tertiary question. Does the -- when looking at the picture of the run, I guess this is it. The canvas and -- does that comply with Town Code, that structure?

PAUL WANZENRIED: I don't have a code for chicken coops, Phil (Supernault).

PHILLIP SUPERNAULT: I mean I'm talking about the -- I'm not saying chicken coop. Does that structure comply? It's not -- so the -- I guess the building is 12 by 18. So I'm assuming that was permitted and that's all good? Or do we know that?

PAUL WANZENRIED: I don't have --

ADAM CUMMINGS: It's too small to require a permit.

PHILLIP SUPERNAULT: It is?

PAUL WANZENRIED: Yeah.

JAMES WIESNER: It has 8 feet on the side.

FRED TROTT: The little overhang thing is what they -- they usually have those -- it is kind of for moving the hen house.

MS. HOCHREITER: No. So like the shed is actually where they sleep. That's the coop. Where they lay their eggs. But the run --

FRED TROTT: Little dome thing.

MS. HOCHREITER: That's the run.

PHILLIP SUPERNAULT: The tarped area --

MS. HOCHREITER: That tarp isn't there anymore. It is -- we actually got a clear -- we -- we were looking around and we got a clear piece that we actually butted up to the structure so it looks cleaner now.

MR. HOCHREITER: That was just temporary. I just wanted to keep them dry and everything so I figured that was the easiest way, to put the tarp over the top of it.

ADAM CUMMINGS: So in terms of the lot parameters, you have to be 200 feet from that north property line and west property line. You're 40 feet off the west. I did bring up the Google street view so you can kind of see that there. So that's what the Board's discussion was. Your entire lot looks like it is 50 feet and 128 feet because it's a -- it's an irregular shape. You only have 178 total width. So it is actually not possible to be compliant.

Is that an accurate statement, Paul (Wanzenried)?

PAUL WANZENRIED: Yes.

ADAM CUMMINGS: And then likewise, your depth, you're at 384 feet and a quarter on one side. But it's not all yours because that's only 239 feet. And then on your west property line, it's 275 feet. When you take into account the front setback from Chili Ave. to this, even pushing this to the back of the property, you would still not be compliant with the 200 feet.

Is that understood by everybody? So in other words, it's not possible to meet it. That is why we're here. Then we're trying to minimize our variance request, as well. So once again, 105 feet on one. 40 feet on the other. 105 is obviously a minimization compared to 40 feet.

MR. HOCHREITER: Yeah.

ADAM CUMMINGS: That would just be a long hike from your house to get to it if it was further back and was 40 feet, 40 feet.

And I just have to pose the question --

PAUL WANZENRIED: You wouldn't comply in an east/west direction. You could make it comply in a north/south.

ADAM CUMMINGS: I'm not sure he can even do a north/south with the neighboring property taking up 145 feet of it.

PAUL WANZENRIED: No. It would make it work.

ADAM CUMMINGS: And the house being in the way.

PAUL WANZENRIED: Rotate it.

ADAM CUMMINGS: The other thing I was going to pose the question because we have to ask, if you were able to get five acres, then you would be compliant. You don't have that ability to get five acres?

MR. HOCHREITER: Nope.

ADAM CUMMINGS: Just putting that on the record.

MR. HOCHREITER: Yep.

ADAM CUMMINGS: So once again, if everybody wanted to look, there is a coop there. That's where it is located. So this is not an existing one.

And that says it's for sale. Is that boat still for sale?

MR. HOCHREITER: Yeah. Looking to buy a boat?

MS. HOCHREITER: We had a couple people interested in it.

JAMES WIESNER: Are you interested?

ADAM CUMMINGS: I'm not interested.

PAUL WANZENRIED: Can you move it?

MR. HOCHREITER: Yes. I was going to move it probably this weekend.

PAUL WANZENRIED: Great. Thank you.

MR. HOCHREITER: Not a problem.

MS. HOCHREITER: It's in my way. Can barely see when I get out of the driveway.

ADAM CUMMINGS: That is what I was getting at. When you come down the street, it is definitely an obstruction.

MS. HOCHREITER: I said something to him.

ADAM CUMMINGS: I understand you're trying to sell it and it's temporary. I don't know how long it was there.

MR. HOCHREITER: It was probably up there for a couple months.
ADAM CUMMINGS: This is October 2023. But it is just a hazard on the right-of-way when it's an obstruction. Especially with an intersection over on this side.
And it would really just be your neighbor and yourself coming on to that, but it's just something we would want to make sure --
MR. HOCHREITER: Yeah.
ADAM CUMMINGS: And then once again, that coop is located -- now that I see that, that -- I'm guessing that is somewhere in that area.
MS. HOCHREITER: It's hidden by the tree. Yep. A little bit further back.
ADAM CUMMINGS: Yeah. Probably under this tree canopy?
MS. HOCHREITER: Like in between, yep.
ADAM CUMMINGS: All right. So I will go ahead -- unless there are any other Board questions, I'll open up the Public Hearing.

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: There was no public comment on that one.
We want to go back to limiting the number?
FRED TROTT: Yeah. I agree. I was trying to figure out exactly -- I think seven -- because they have seven hens now.
ADAM CUMMINGS: They have seven hens and two roosters now. Correct.
FRED TROTT: I would -- I personally would like to see the two roosters -- we haven't let them -- granted a variance --
ADAM CUMMINGS: I was actually going to say one condition is that roosters are prohibited. Any issues from the Board on that?
So one has come up several times. We have had people that have had roosters due to -- like you're saying -- noise that comes in. We just have prohibited that stance on it.
Now moving on to -- if you want to put a condition to limit it or leave it as their -- well, we want to limit it either way to seven hens, but do we want to leave it at seven hens? You want a lower number, a bigger number?
MR. HOCHREITER: Can we do like the City of Rochester? They allow 30 in 240 square feet.
ADAM CUMMINGS: You can go farm on your front yard, too. But you can go live in the city you if you want to do that.
MS. HOCHREITER: No thank you. No thank you.
FRED TROTT: I kind of think -- I'm trying to think back to a couple other ones we had. I think it was -- I thought it was seven. It might have been one with nine, but we had a bigger parcel.
ADAM CUMMINGS: Yeah. I didn't look them up to check on that.
FRED TROTT: I'm going off of memory and that's -- I'm old.
JAMES WIESNER: You know, ones that we have put a limit on have been on the fringes of agricultural property. So --
ADAM CUMMINGS: Not in the R-1-12 zone along Chili Ave.
JAMES WIESNER: So -- correct us, Paul (Wanzenried).
PAUL WANZENRIED: I believe the Board granted a variance on the Ireland property which is at the end of Beaver Road Extension and he had 1.7 acres. That was the interesting property that had two houses on it --
ADAM CUMMINGS: Yes.
PAUL WANZENRIED: -- if you remember.
That currently is -- to the rear is agricultural property, but it is zoned PRD and it is scheduled to be houses. There is a subdivision map filed.
ADAM CUMMINGS: If it develops, right.
JAMES WIESNER: So you're saying the property to the north is -- isn't considered agricultural?
PAUL WANZENRIED: Correct. That's all R-1-12, I think, or 1-15. I believe.
ADAM CUMMINGS: On the Beaver Road Extension?
PAUL WANZENRIED: The Beaver Road Extension is R-1-15. But that Archer Road piece is R -- either R-1-12 or R-1-15.
FRED TROTT: Then there was one on --
JAMES WIESNER: That was rezoned? Because --
PAUL WANZENRIED: Beaver Road Extension was rezoned. The Ireland house on Archer Road. Right where Beaver Road Ts into it. It's that house right there.
FRED TROTT: What are we restricted to?
PAUL WANZENRIED: The number of -- he had a rather large coop. I remember that. Because there was a third structure on there. Two houses and then there was almost like a third house that they were using as the coop. But I don't think you got up over eight.
FRED TROTT: Okay. And I think the one on Paul Road, was that another chicken one?

Paul Road by the expressway there? I think that was seven.

PAUL WANZENRIED: Oh, Mr. Gay.

Yes. He was just in --

FRED TROTT: Couple months ago.

PAUL WANZENRIED: 1075 -- across from Ford's, correct. He was at -- told him no roosters and I don't think he had any more --

FRED TROTT: He didn't have roosters.

PAUL WANZENRIED: Eight or nine. And he had an acre, too. He also was an acre property.

JAMES WIESNER: There were ducks on Archer Road, too.

ADAM CUMMINGS: I remember the ducks.

JAMES WIESNER: It was ducks.

ADAM CUMMINGS: Okay. Here we're talking about 1.2 acres.

FRED TROTT: So I think in my opinion seven seems appropriate.

ADAM CUMMINGS: Okay. Seven hens. So a maximum of seven hens you're saying?

FRED TROTT: My opinion.

ADAM CUMMINGS: Okay.

JAMES WIESNER: I don't know. It's a lot, but that's my opinion.

ADAM CUMMINGS: You want to limit it down lower or just leave it and see where it -- or ask the applicant if you would like to reduce it down from seven to a lower number?

MS. HOCHREITER: We were hoping to keep our seven hens at least. That is what we were hoping out of all this, we could actually keep the coop in general and keep the hens.

ADAM CUMMINGS: Well, the coop we're not talking about tonight. You can keep the coop. It's about the chickens. We don't have a say on that, as we discussed. It doesn't require a permit. But this is speaking about the chickens. That's just what I'm offering up. If you want to reduce it down from seven to four, that's up to you. Or you can move forward with the seven and then it depends on what our decision is tonight if -- once again, if we vote no, you get none. If we vote yes, right now it is seven hens and no roosters.

MR. HOCHREITER: Yes. I -- I would like to keep, you know, the seven hens, you know.

MS. HOCHREITER: We have all gotten close to them and we have spent a lot of money to make sure that they were housed correctly and things like that. That would it be quite a huge coop for -- for four hens.

ADAM CUMMINGS: No. I understand that. I'm just pointing it out once again, part of our decision is if you nice, good chicken caretakers leave, the next person may not be as good --

MR. HOCHREITER: Yeah.

ADAM CUMMINGS: -- and that decision the Town is stuck with. So I just wanted to offer that up, up to you if you wanted to reduce it down.

MR. HOCHREITER: Now, you guys like -- you do the variance or whatnot and then you guys can't pull it back?

ADAM CUMMINGS: That was the next thing I was going to tell you.

MR. HOCHREITER: Not for five or ten years?

ADAM CUMMINGS: No. I believe -- unless it's after one year, if it is substantially different, you could come back and reapply again. But I'm not sure how would you ever be significantly different asking for seven hens one year and seven hens the next year.

So no, that -- unless we go for a rehearing, I don't see any other way.

Correct, Counsel? They can't come back and reapply next year?

MATTHEW PISTON: I think what the applicant was asking was whether or not you could put a timetable on the variance.

ADAM CUMMINGS: Oh, I got you.

MATTHEW PISTON: So you make it the variance is only for five years.

ADAM CUMMINGS: No. It stays with the land forever.

MR. HOCHREITER: I didn't know if there was some way you guys could take it back.

ADAM CUMMINGS: No. No. That's the -- the tricky part. This one is different because they're living animals. Normally ours are fences and sheds and signs and area variances and things like that.

But in terms of this, this is the code requirement. Once again, the chickens could pass away and it's 25 years from now. 25 years from now if we approved it, those seven hens are still -- so if we get giant Madagascar hens that come from Madagascar that are 6 feet tall, they're allowed to be there.

MR. HOCHREITER: That's a good idea. (Laughter.)

ADAM CUMMINGS: I don't know if those exist. I was just telling a hypothetical for 25 years from now when the dinosaurs come back.

PAUL WANZENRIED: You want to limit it, right, to chickens, though?

ADAM CUMMINGS: We are limiting it to chickens.

PAUL WANZENRIED: You just don't have want them to have ostriches.

ADAM CUMMINGS: True. Or apacas.

MATTHEW PISTON: Emus.

MR. HOCHREITER: How do you guys feel about donkeys? (Laughter.)

ADAM CUMMINGS: There might be more complaints coming from the cemetery.

MS. HOCKREITER: A lot more.

ADAM CUMMINGS: So once again, if you would entertain that one for reducing it down, it sounds like one Board member likes it to be a lower number.

JAMES WIESNER: Obviously, there are two more Board members here that could express their opinion.

ADAM CUMMINGS: Three? I count two.

Any thoughts, gentlemen? Fred (Trott), I think, is good with it.

Phil (Supernault)?

PHILLIP SUPERNAULT: I would like to see no more than seven.

ADAM CUMMINGS: No more than seven. So you're good with seven.

PHILLIP SUPERNAULT: I would be happy with a reduction also, but definitely no more than seven given the density of the area. The population.

ADAM CUMMINGS: I'm a symmetric guy, so it's an odd number to me.

All right. So we'll leave it at seven hens.

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: SEQR is done. That covers both -- I guess I didn't talk about that much. But there are two variance requests here.

One is to allow the chickens where none are allowed and the other is those setbacks we were just discussing, the 40 feet and 105 feet. I think we talked enough about the location where it is, why it can't be pushed further to the southeast due to the sandy soils, the draining, the terrain. So we'll leave that one alone.

So one condition of approval is that roosters are prohibited. So they're off.

And condition number 2 is the maximum of seven hens. I will write chicken hens because I don't know if hens are a different type of poultry.

I have a motion to accept -- we'll do Application 1A first which is the allowance of chickens on less than five acres.

JAMES WIESNER: Aren't they kind of tied together?

ADAM CUMMINGS: They are? You want to do them both?

JAMES WIESNER: You could vote on the chickens, but I don't think there is a way --

ADAM CUMMINGS: Well, if you ever voted down no, we could never get -- you're right. So we'll do them together.

PAUL WANZENRIED: I want that chicken coop dimensioned.

ADAM CUMMINGS: Okay. What -- we have it dimensioned.

PAUL WANZENRIED: I know it's dimensioned for the variance, but I want it made mention in the conditions.

ADAM CUMMINGS: I'm not understanding. We're just granting a variance for it to be 40 feet from the west property and 105 feet from the north property.

PAUL WANZENRIED: Okay.

ADAM CUMMINGS: Are you asking for it to be changed from that?

PAUL WANZENRIED: No. I just want that -- I didn't hear that language.

ADAM CUMMINGS: Got you. No. I just read -- we didn't revise those from the original agenda read, so we're leaving them the way they are.

PAUL WANZENRIED: Okay.

ADAM CUMMINGS: I thought you were asking for us to dimension the buildings because the canopies changed and the runs have changed. But I wasn't going to have us do that type of thing.

PAUL WANZENRIED: If they change the coop to something that is over 119 square feet.

ADAM CUMMINGS: Right. Then it goes to you for a building permit.

PAUL WANZENRIED: Then you're coming back to the Building Department.

ADAM CUMMINGS: But as long as it's not closer than 40 feet to the west property line and not closer than 105 feet from the north property line, you don't have to be here. Just speaking if you moved the chicken coop. Don't put it closer to Chili Ave. and don't put it closer to the cemetery. In simpler terms.

All right. So I think I'm still asking for a motion to approve both these applications with those two conditions of approval.

Fred Trott made a motion to approve the application with proposed conditions, and Phillip Supernault seconded the motion. The motion died by a vote of 3 no to 1 yes (Fred Trott).

DECISION: Denied by a vote of 3 no to 1 yes (Fred Trott) with the following findings of fact having been cited:

1. The variance is significant as the amount of acreage is 1/5th of the required amount and the surrounding area is densely residential for the past several decades.
2. Additionally, the setback requests were both significant when comparing 40 ft. vs 200 ft. required.

ADAM CUMMINGS: No. So this was denied tonight. So no chickens. I'm sorry.

MR. HOCHREITER: Okay. Now is there a time period or anything like that -- you know,

because it's not going to be like they're going to go, you know?

ADAM CUMMINGS: I leave that to Code Enforcement.

PAUL WANZENRIED: Thanks.

ADAM CUMMINGS: So continue to work with Paul (Wanzenried) on that one.

PAUL WANZENRIED: I just ask what a reasonable time frame is.

ADAM CUMMINGS: I wasn't going to put that on a condition of approval, but I guess we could discuss that tonight.

What would be a reasonable time frame? I mean -- usually these things don't exist before you come in here, so we avoid that awkward moment where you're asking for forgiveness for something you did prior to notification.

PAUL WANZENRIED: Think about it overnight and give me a call in the morning.

MR. HOCHREITER: Appreciate it.

PAUL WANZENRIED: Not a problem.

ADAM CUMMINGS: Thank you.

Phillip Supernault made a motion to accept and adopt the 11/28/23 Zoning Board of Appeals meeting minutes, and James Wiesner seconded the motion. All Board members were in favor of the motion.

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

The meeting was adjourned at 7:42 p.m.