

CHILI ZONING BOARD OF APPEALS  
June 25, 2024

A meeting of the Chili Zoning Board of Appeals was held on June 25, 2024 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: Board members, any issues with the signs?

The Board indicated they had no problems the notification signs.

ADAM CUMMINGS: I will point out and as it shows up on the screen, at the applicant's request, Application Number 4 at 6 Brook Valley Drive has been tabled until a future meeting.

1. Application of Sean Walsh and Suzanne M. Vandivert, 62 Red Bud Road, Rochester, New York 14624, applicant\owner; for a variance to A) house livestock (chickens) on .56 acres (min. 5 acres required). B) Setbacks (livestock housing) of 34.00 North, 105.2 East, 64.00 South, and 123 West (200 ft. required) at the property located at 62 Red Bud Road. R-1-15 District.

Sean Walsh and Suzanne Vandivert were present to represent the application.

MR. WALSH: Hello. I'm Sean Walsh from 62 Red Bud Road.

MS. VANDIVERT: Hello. I'm Suzanne Vandivert, also from 62 Red Bud Road.

MR. WALSH: We saw the last video so we'll try to be clean and concise. We're requesting six hens at the most. We want three at a time. And we know we shouldn't have roosters, so no roosters.

They will be kept cooped up, so not free range. And then with a -- with respect to our neighbors, we have one to the left and one to the right.

So to our left, her name is Carol. She expressed that she's totally okay with hens. So from where the coop would be to her property, there is the garage blocking her view. So she wouldn't even be able to see them.

And then to our other neighbor -- if you scrolled up, there is that privacy fence right there. And past that fence, there is also a creek with around 200 feet. So they definitely wouldn't be able to see them or smell them.

Let's see. And then our back neighbor, there is a tree line. That is like 500 feet or something.

MS. VANDIVERT: Way back.

MR. WALSH: Neighbors. No roosters. Hens. Not free range. Limit six.

We'll definitely handle the noise and sanitation. Hens are quieter than roosters, which according to the last videoed meeting was the main complaint for chickens -- was the rooster.

For why we would like hens: Enriching. Adorable. Self-sufficient. And then we plan on sharing eggs with all of our friends.

Any questions?

ADAM CUMMINGS: I do. The pen. Where exactly are you looking to place the pen?

MS. VANDIVERT: If you go back up. Right there. Right against that privacy fence (indicating).

ADAM CUMMINGS: Right there (indicating)?

MS. VANDIVERT: Yes. A little further away but right in that section that is rectangular in nature. It is blocked from all sides of our neighbors and any disturbances.

MR. WALSH: There is a tree there.

MS. VANDIVERT: There is a tree right there, too.

ADAM CUMMINGS: That is your air-conditioning unit?

MS. VANDIVERT: Yep.

FRED TROTT: How many feet from your house to the coop will that be?

MS. VANDIVERT: About 8 feet.

PAUL WANZENRIED: Survey.

ADAM CUMMINGS: The survey has it on it?

PAUL WANZENRIED: Yep.

ADAM CUMMINGS: There we go. I knew I seen it somewhere.

PAUL WANZENRIED: Is there another one?

ADAM CUMMINGS: This one.

PAUL WANZENRIED: That's a nice one there.

ADAM CUMMINGS: Good handwriting. Very nice handwriting. There is your dimensions.

MR. WALSH: Used to seeing those as a land surveyor.

FRED TROTT: 34 feet from the side setback?

MS. VANDIVERT: Just enough so they can walk around the back.

ADAM CUMMINGS: So once again, our variances today -- typically, it's five acres to have chickens is what the code says and the 200-foot separation. None of that is possible with this parcel. That is why they're here tonight.

FRED TROTT: Do you have anything in writing from your neighbors?

MS. VANDIVERT: Nothing in writing. We were only able to talk to Carol on the garage side about it and she said that she had no issues with hens. She just asked we don't have roosters and we didn't want roosters anyway.

MR. WALSH: Her son has chickens.

MS. VANDIVERT: The family.

MR. WALSH: The other neighbor is always working so we can never reach him.

ADAM CUMMINGS: Okay.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JACKIE MUNDELL-BOSLEY, 76 Bright Oaks Drive

MS. MUNDELL-BOSLEY: I'm actually Lot 87, which backs up to them so I am also a neighbor. Recently -- I bought the house in like January of '22. We just finished clearing out a tree right across the creek from them and hung up hammocks where we like to hang out and chill. It's right across the creek from there. I'm kind of worried about chicken noises. I know they say they're quiet. I looked up what kind of chickens are quiet. It's not really a guarantee that you will have quiet chickens. You don't know until you get them.

There is also six children under the age of five within the four houses there. I don't know if it will bring like predators in our area that we don't see right now.

So those would be my concerns.

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: I think you said you're planning on keeping these in the coop and the run, not having free range?

MS. VANDIVERT: Yes.

ADAM CUMMINGS: No roosters.

I think those are the normal main points we have there.

Anything else from the Board?

FRED TROTT: Do we discuss the amount of -- that they can have? Now, have you looked into it? How much can you purchase?

MS. VANDIVERT: We were thinking only six as enough for like -- if there was like three dead, there would still be enough for a three company. We're thinking six, but we can go lower.

FRED TROTT: My question is can you purchase lower? Somebody once told me there is a limit that you -- there is a minimum you can purchase.

MS. VANDIVERT: I don't know that. I haven't gotten that far because I wanted approval from the Board first before going further towards purchasing them.

ADAM CUMMINGS: With the Board, do you feel six as they're asking -- it is a condition we can consider on there. Since it's half an acre, plus or minus.

Is that what you're thinking, is --

FRED TROTT: I can't confirm it, but I thought somebody had told me that the minimum amount of chickens you can buy is six.

ADAM CUMMINGS: Okay. I --

FRED TROTT: Of the chicks.

ADAM CUMMINGS: Gotchu.

JAMES WIESNER: You go to Tractor Supply. They're running around the tub in there. I don't know if there is a limit, minimum.

FRED TROTT: Somebody told me that one time. I can't confirm it.

ADAM CUMMINGS: Do we want to put a max on this?

FRED TROTT: I would definitely say a max.

ADAM CUMMINGS: We have done that in the past. For any that we have considered.

Any ideas on a number for that? Six?

FRED TROTT: Six.

ADAM CUMMINGS: Four? I think we did -- at one point in time we did five on -- five per acre. But then by math, you make it 2 1/2 and I don't know what you do with the half.

So six is what Fred (Trott) has on the table. Any issues from the Board if that is a condition?

JAMES WIESNER: No.

ADAM CUMMINGS: All right. So six hens maximum. We haven't voted yet. We're just placing conditions.

One nice thing to point out, the neighbor with the concerns, she is kiddy-corner. This map shows it nice. This would actually be the furthest point away from hers. Unless it was on the other side of the fence, but that would put it closer to the Lot 91.

MS. VANDIVERT: It would also be on a hill right there, too.

MR. WALSH: Lot 91 is Carol, who said --

MS. VANDIVERT: Who already said she is okay with it.

FRED TROTT: What's her address again?

MS. MUNDELL-BOSLEY: 76 Bright Oaks Drive.

ADAM CUMMINGS: You're looking at the aerial photo, so that would be across the -- kiddy-corner point.

PAUL WANZENRIED: You probably want to make it a condition that that coop has got to be where it has got to be.

ADAM CUMMINGS: That's all we're granting here. I'm not sure how they would --

PAUL WANZENREID: Let me rephrase that then.

You should express to the applicant that that coop can't move around the yard.

ADAM CUMMINGS: Right.

MS. VANDIVERT: That's fine.

PAUL WANZENRIED: So where you're giving it tonight is where it stays.

ADAM CUMMINGS: Right. That is a good point. Because the variance is so strict with the 34 feet, 64 feet and 123 feet all with the directions. We're placing it right in that spot.

PAUL WANZENRIED: And because I have a connection with a farmer, he has said that six is State -- Mr. Trott is correct.

ADAM CUMMINGS: That is due to New York State Ag & Markets?

PAUL WANZENRIED: I believe so.

JAMES WIESNER: Didn't hear it.

ADAM CUMMINGS: New York State Ag & Markets has a limit, the minimum you can have for chickens is six, according to Ag & Markets.

PAUL WANZENRIED: Well, you have to purchase six.

ADAM CUMMINGS: Sorry. That was bad wording.

They don't care about the acreage you're putting it on. But if you're going to purchase them from like a farm supply store -- okay. All right.

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

MARK MERRY: Adam (Cummings), how do you want to take these? Split these out?

ADAM CUMMINGS: Well, if we don't grant A, then B doesn't matter.

But we can do separate decisions. I just want to point out if we deny housing livestock, then there is no reason to move on to B for setbacks.

Does that make sense?

MARK MERRY: Makes sense to me.

JAMES WIESNER: They're all kind of intertwined really.

ADAM CUMMINGS: I would rather keep them together in this case.

MARK MERRY: Okay.

ADAM CUMMINGS: Good question.

So we will keep these combined in the decision. For SEQR purposes we always do them combined. So I would like to ask for A motion to adopt with one condition of approval.

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: Denied by a vote of 3 no to 2 yes (Fred Trott, Adam Cummings) with the following finding of fact having been cited:

1. This property is located in a densely populated suburban area and the extremely small lot size makes the request significant due to increased exposure of nearby receptors that would be adversely impacted by the presence of nuisance noise, odors, and predator attraction.
2. Application of David Jones and Laurissa Coombs, 4 Jamie Lynn Drive, Churchville, New York 14428, applicant\owner; for a variance to erect an accessory structure (detached garage 12'-0" x 24'-0") with a proposed south side setback of 5'-0" (10'-0" required) and rear setback of 5'-0" (40'-0" required) at the property located at 4 Jamie Lynn Drive. R-1-20 District.

David Jones was present to represent the application.

MR. JONES: Good evening. David Jones, 4 Jamie Lynn Drive.

ADAM CUMMINGS: So that is the area you're looking to put it in the back there?

MR. JONES: Yep.

ADAM CUMMINGS: Nice depiction of the trees there. That is on the east side of the street there.

Anything else to add, sir?

MR. JONES: No. You can see here it is kind of in -- wet in the middle there. There is a dry spot.

There is another issue I have that is unrelated to the Town of Chili, but I'm going to address that separately. It is with the HOA. Because of the way it is worded, you have to put a detached garage and I need it as a shed. But right now I called the Association and they said, "Let me talk to the Homeowners' Association and see what we can do. Just go to the meeting and kind of go from there."

ADAM CUMMINGS: Okay. Yeah. Just to be clear, we're just looking at the area variances here. Anything with the HOA has nothing to do with us in the Town of Chili.

MR. JONES: It's a big fiasco, but it is what it is.

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: One condition of approval would be that you would have to get a building permit.

MR. JONES: Yep.

ADAM CUMMINGS: You have already started that process. We'll just put that condition on there. It is at 5 feet, so no need for a State variance, because that is at 3 feet.

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: Motion to adopt with one condition?

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.

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

1. Building permit shall be obtained.

The following findings of fact were cited:

1. Location of accessory structure will not hinder any viewsheds from public right-of-ways or neighboring properties.
2. The possible locations for this structure are limited due to site constraints.
3. Application of Phil and Jaime Schott, 4473 Buffalo Road, North Chili, New York 14514, Applicant\owner; for a variance to erect an accessory structure (detached garage 16'-0" x 32'-0") with a proposed rear setback of 26'-0" (40'-0" required) at the property located at 4473 Buffalo Road. R-1-15 District.

Phil Scott was present to represent the application.

ADAM CUMMINGS: So that is your accessory structure location?

MR. SCOTT: Yes.

ADAM CUMMINGS: Anything to add?

MR. SCHOTT: No. That is pretty much what it shows there, what I want to do.

ADAM CUMMINGS: Okay. And just -- you got an X through the shed that is over here.

MR. SCHOTT: Yes. That was there when I purchased the property and I moved that actually back to sort of next to where -- where the one I want to put up now is. That was too close to the lot line.

ADAM CUMMINGS: Will that remain?

MR. SCHOTT: No. Once the new one is done, that one is gone.

JAMES WIESNER: This house currently has a garage?

MR. SCHOTT: Yes. There is a garage next to the house. Yes.

JAMES WIESNER: Just a small -- that short, small end of that house then?

MR. SCHOTT: Yes.

JAMES WIESNER: That's all I got.

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 will be a building permit, so continue on with that process.

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: Motion to adopt with one condition?

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 shall be obtained.

The following findings of fact were cited:

1. The existing primary residential building is older and only has a single bay garage that cannot be easily expanded.
2. The location of the new accessory structure will not encroach or hinder any viewsheds of neighboring properties.
4. Application of Paul Berner, 6 Brook Valley Drive, Rochester, New York 14617, Applicant/owner; for a variance to A) erect an accessory structure (pavilion 18'-7" x 16'-0") of 298 sq. ft. (192 sq. ft. allowed). B) South side setback of 5'-4" (8'-0" required) at the property located at 6 Brook Valley Drive. R-1-20 District.

ADAM CUMMINGS: As I said at the beginning, Application 4 was tabled at the applicant's request.

5. Application of Doug and Jeanne Kern, 44 Gilead Hill Road, North Chili, New York 14514, applicant/owner; for a variance to erect an accessory structure (shed 10'-0" x 12'-0") 240 sq. ft. (192 sq. ft. allowed) at the property located at 44 Gilead Hill Road. R-1-15 District.

Doug and Jeanne Kern were present to represent the application.

ADAM CUMMINGS: I will clear up one thing. The 240 square feet comes about because they have an existing 10 by 12 structure. So the code requires it to be reported as an aggregate or additive.

PAUL WANZENRIED: Cumulative.

ADAM CUMMINGS: That's a better term for it.

PAUL WANZENRIED: Yes.

ADAM CUMMINGS: So the two 10 by 12 structures each having 120 square feet get added together.

There is the existing 10 by 12 shed and here is the new one, correct?

MS. KERN: Yes.

ADAM CUMMINGS: So one is a diamond-shaped in the center part of the property and then the other one is a square shape in the northeast corner, 50 feet off the east property line. And I can't really read that dimension, but it's 12 feet, 15 feet. Somewhere around there. Off the north property line.

SANDRA HEWLETT: Can you spell your names for the record?

MS. KERN: Jeanne, J-E-A-N-N-E; Kern, K-E-R-N. 44 Gilead Hill Road.

MR. KERN: Douglas Kern, K-E-R-N. 44 Gilead Hill Road, North Chili 14514.

ADAM CUMMINGS: Anything else to add?

MS. KERN: Not really.

FRED TROTT: The existing one is staying, correct?

ADAM CUMMINGS: Yes.

FRED TROTT: Okay.

ADAM CUMMINGS: If it was going, they wouldn't have to come here.

MR. KERN: Right.

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.

JAMES WIESNER: Assume a building permit is not required because it's based on the individual --

ADAM CUMMINGS: Correct. Is that accurate, Paul (Wanzenried)? We don't need to condition it because it's a 120-square-foot building?

PAUL WANZENRIED: But I do believe they need a building permit. 120 is at the cusp.

ADAM CUMMINGS: Okay.

JAMES WIESNER: So it --

ADAM CUMMINGS: I think you're right. 112.

PAUL WANZENRIED: If you want to get technical, I think it's a goofy number like 119 square feet, so.

ADAM CUMMINGS: No. Mine is 112. I think you're right. I think it is 119.

JAMES WIESNER: I don't know how they came up with that prime number.

ADAM CUMMINGS: I don't know.

MARK MERRY: Had to be an engineer.

ADAM CUMMINGS: Yeah.

FRED TROTT: So the existing one, that had to be --

ADAM CUMMINGS: Permit?

FRED TROTT: -- approved? Because -- because it had a front yard?

ADAM CUMMINGS: Um --

PAUL WANZENRIED: It's not in the front yard.

ADAM CUMMINGS: It's not in the front yard. It's a weird angle. It is not in front of the front plane of the house.

FRED TROTT: There you go. Okay.

ADAM CUMMINGS: Correct.

PAUL WANZENRIED: Right. And it is far enough back. It is out of the front setback regardless of the secondary front -- or primary front. Excuse me.

Yeah. It's right. 120. You don't have to -- you're good.

ADAM CUMMINGS: Okay. So no condition of approval on there for that.

Mark Merry made a motion to approve the application with no conditions, and Philip Supernault seconded the motion.

ADAM CUMMINGS: Motion to adopt?

Oh, wait. I didn't do SEQR. Did I? I don't think so.

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: Now back to that motion and second. We already had the motion and second for this application. You want to keep those? Or you want to redo it?

I will ask for a motion to adopt the application.

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. The proposed variance is minor in nature and is located far enough away from the existing structure that neither is noticeable to neighboring properties.

Philip Supernault made a motion to accept and adopt the 5/28/24 Zoning Board of Appeals meeting minutes, and Fred Trott seconded the motion. The vote on the motion was 4 yes with 1 abstention (Mark Merry).

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.