

CHILI ZONING BOARD OF APPEALS
August 27, 2024

A meeting of the Chili Zoning Board of Appeals was held on August 27, 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, James Wiesner and Chairperson Adam Cummings.

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

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 Paul Berner, 6 Brook Valley Drive, Rochester, New York 14617, applicant\owner; for a variance to A) erect an accessory structure (pavilion 20'-7" x 17'-10") of 367 sq. ft. (192 sq. ft. allowed). B) to allow the setback from principal dwelling to be 3'-4" (8'-0" required) at the property located at 6 Brook Valley Drive. R-1-20 District.

Paul Berner and Vaughn Calvo were present to represent the application.

ADAM CUMMINGS: Just to jog everybody's memory, this was from last month where we had discrepancies with what was published and what he was looking for.

So, sir, if you could just come on up.

So you have elected not to connect the two. We did have that discussion. So that has been cleared up. So once again, the 3 foot, 4-inch -- just for clarity -- even though this map does say 5 feet, 4 inches, we're here because of the overhangs of the house and the pavilion; correct?

MR. CALVO: Yes.

JAMES WIESNER: So the overhang is 2 feet then?

ADAM CUMMINGS: The overhang is 1 foot on one and 1 foot on the other. Correct?

MR. CALVO: Yes.

ADAM CUMMINGS: So the two combined, it reduces it down to the 3 foot, 4-inch.

MR. BERNER: The 3 foot, 4 inches is a space of about 2 feet total.

ADAM CUMMINGS: Right. Which -- if you took the walls, the walls are 5 foot, 4 inches, but the buildings themselves --

MR. BERNER: Yep.

The applicants identified themselves for the record.

ADAM CUMMINGS: Anything else to add on the application from last month?

MR. CALVO: Those were the only two issues.

JAMES WIESNER: I do not have any questions.

MARK MERRY: I do not.

ADAM CUMMINGS: Side Table, anything to add?

The indication was in the negative.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Wiesner 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 all have to get a building permit. You already started that process. That is why we're here. Just continue on with that, working 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 James Wiesner seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: Real quick question. If we posted it last month, do we want to separate these or keep them together?

JAMES WIESNER: I don't see a problem keeping them together.

ADAM CUMMINGS: Same here. So we'll combine them all in one decision. So this is for both the square footage variance and the separation from the principal dwelling structure to this one.

And I ask for a motion to adopt this application with one condition of approval.

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

DECISION: Unanimously approved by a vote of 3 yes with the following condition:

1. Building permit shall be obtained.

The following finding of fact was cited:

1. The accessory structure complements the adjacent pool and provides sufficient separation from the principal structure to avoid introducing unsafe or inaccessible conditions between the buildings.
2. Application of Eric Coyne, 49 Morrison Avenue, Rochester, New York 14623, applicant\owner; for a variance to erect an open porch with a 35'-0" front setback (40'-0" required) at the property located at 49 Morrison Avenue. R-1-6, FPO District.

Eric Coyne was present to represent the application.

ADAM CUMMINGS: Anything else you would like to add?

MR. COYNE: No. No.

ADAM CUMMINGS: Okay. Just to confirm, that's what you're looking to do as handwritten here?

MR. COYNE: Yes.

ADAM CUMMINGS: You have the front steps that were there?

MR. COYNE: Yes. They are still there.

ADAM CUMMINGS: So you're going to add an additional 8 inches to widen the steps and the distance to street will not change?

MR. COYNE: Yep.

ADAM CUMMINGS: Okay. The reason you're here tonight is because it went from being steps to a porch.

MR. COYNE: I guess so. I mean -- it's the same -- basically the same size as what is there now.

ADAM CUMMINGS: But it didn't have a roof on it before, correct? Was it a porch?

MR. COYNE: Oh, there is not going to be any roof. It's literally going to be the same thing.

ADAM CUMMINGS: Oh, all right. It was a misunderstanding.

MR. COYNE: The reason I think is just because the variance -- my house is only 40 feet from the road. So I'm in that like no-build zone no matter what.

ADAM CUMMINGS: Yep. I misread over the porch. I was reading it as open-walled with a roof on it.

MR. COYNE: Oh, yeah, no. Just steps.

The applicant identified himself for the record.

JAMES WIESNER: So you basically just had three steps and a landing by the looks?

MR. COYNE: Yes. Yep.

JAMES WIESNER: I don't have anything else.

ADAM CUMMINGS: Side Table, anything to add? Other than me confusing it?

PAUL WANZENRIED: Just a building permit.

JARED HIRT: We expect that. (Laughter). It's all good.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Wiesner 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: Paul (Wanzenried), you want a building permit for this; correct?

PAUL WANZENRIED: Yes.

ADAM CUMMINGS: So building permit for this, just continue on with that --

MR. COYNE: I actually just emailed it today.

PAUL WANZENRIED: Yes. Moment -- they're -- somewhere around 5:30.
MR. COYNE: Yep.
PAUL WANZENRIED: We're good.
ADAM CUMMINGS: 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 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.

DECISION: Unanimously approved by a vote of 3 yes with the following condition:

1. Building permit shall be obtained.

The following finding of fact was cited:

1. The porch addition is an expansion of an existing concrete front step and the variance is minor as it is only five feet closer to the road and less than 15% of the total required setback distance.
3. Application of William Shafer, 15 Evergreen Drive, Rochester, New York 14624, applicant\owner; for a variance to erect a fence 6 ft. In height in the front set back (4 ft. allowed) at the property located at 15 Evergreen Drive. R-1-15 District.

William Shafer was present to represent the application.

ADAM CUMMINGS: So you're looking to do -- let me just see about rotating that. You're looking to put that kind of a vinyl fence on with the decorative top?
MR. SHAFER: Removing the -- removing the large hedge that is -- got very hard -- hard to maintain.
ADAM CUMMINGS: So what you have got -- whoops, went too far. So what you have got currently is that (indicating), correct?
MR. SHAFER: Right. Correct.
ADAM CUMMINGS: Okay. Jim (Wiesner), any questions?
JAMES WIESNER: So the fence that is currently there, is that your fence? Or has it not been built yet? I don't think it has been built.
MR. SHAFER: There is no fence there at this time. The hedge is right there. It's a 50-foot long, about -- about 10 to 11 feet high. Very difficult to maintain at my age.
JAMES WIESNER: So this fence is just in the same area as the shrubs?
MR. SHAFER: Correct. Not as long.
JAMES WIESNER: Going back to the back corner of your property?
MR. SHAFER: Right. To the -- the back side of the house to probably 24 -- 24 feet beyond the garage.
ADAM CUMMINGS: So right here (indicating), this is where you're looking to put it?
MR. SHAFER: Yes. Correct.
ADAM CUMMINGS: So once again, if you have got -- in the backyard, you have the wood fence?
MR. SHAFER: Right. It would be probably in the middle of the garage to the -- to the -- where the red is.
JAMES WIESNER: So you're replacing the wood fence, as well?
MR. SHAFER: No. The wood fence is gone. It has already been replaced by my neighbor on the backside with a white vinyl fence.
ADAM CUMMINGS: I got you.
JAMES WIESNER: That's 6 feet long.
ADAM CUMMINGS: 6 feet high, 24 feet long?
MR. SHAFER: Correct.
JAMES WIESNER: 24 feet long?
ADAM CUMMINGS: Yep. So what he is coming for is because he wants it in front of the house to be 6 feet tall instead of 4 feet tall.
And once again, this red line is where you currently have that 10 or 11-foot tall hedge?
MR. SHAFER: Correct.
ADAM CUMMINGS: Okay.
MARK MERRY: How long are the individual panels of the fence?
MR. SHAFER: 7 -- 7 feet.
ADAM CUMMINGS: It shows 8 feet on the marked-up sheet.
MR. SHAFER: Okay. I'm looking at the post.
ADAM CUMMINGS: Going from post to post.
MR. SHAFER: So it would probably be a total -- total of 48 feet.
ADAM CUMMINGS: So you're not doing 24 feet. You're doing --

MR. SHAFER: 24 feet beyond our garage. So a total of 48 feet.

ADAM CUMMINGS: You would be 6 feet either -- you would be 6 feet either way on this one. But he is looking to do the 24 feet at 6 feet here instead of stepping it down.

And you're not going any further than the 24 feet? You're not --

MR. SHAFER: Correct. I'm probably 90 feet to 100 feet from the road.

JAMES WIESNER: So it's half the fence?

ADAM CUMMINGS: Half the new fence because he is going from the back of the garage, to the front of the garage. And then he is going past the garage that same distance. But he is not going the entire length of the property --

MR. SHAFER: Correct.

ADAM CUMMINGS: -- all of the way to Evergreen Drive or the right-of-way. You're just going that far.

JAMES WIESNER: How long have those shrubs been there?

MR. SHAFER: Oh, boy. I have been there for about 28 years.

JAMES WIESNER: No one has filed any complaints about the shrubs?

MR. SHAFER: No. I kept them pretty well neat and trimmed and that, but as time goes on, it gets very difficult.

MARK MERRY: Well, you know, I'm sitting on this Board for several years. I don't ever recall a fence in the front yard 6 foot high ever being approved. So I'm just trying to think out loud now, is there -- is there -- would you give any consideration -- would you give a consideration to shortening that length that goes past the garage?

MR. SHAFER: No. Because it --

MARK MERRY: Rather than it just being denied? So if you were to shorten it a panel -- we're -- we usually try to lessen the variance for consideration of granting the variance rather than just saying well, we have never approved a 6-foot fence in the front yard.

MR. SHAFER: I would have to probably go that route. Again, I'm just trying to block off the opposite side neighbors.

ADAM CUMMINGS: And -- and that's where -- to confirm your dimensions here, this is where your driveway extends (indicating).

MR. SHAFER: That's where my driveway extends.

ADAM CUMMINGS: So you don't really park the vehicles here. You would park it along this park (indicating)?

MR. SHAFER: My vehicle would be -- well, I'm parked in front of the garage.

ADAM CUMMINGS: Okay.

MR. SHAFER: And then just extended for an additional car there.

ADAM CUMMINGS: Got you.

MR. SHAFER: Then there is a cement walkway on the side of the garage and then the hedge goes along that.

ADAM CUMMINGS: And the hedge goes this far right now? Or does the hedge go further over here (indicating) --

MR. SHAFER: The hedge goes about --

ADAM CUMMINGS: -- to there now?

MR. SHAFER: Yes.

ADAM CUMMINGS: Side Table, I have a question real quick. He is not -- or he is asking for height going up. If we grant it as a height of 6 feet fence in front of his house, can we limit it to just this 24 feet? Or is he allowed to go all of the way to the right-of-way line?

JARED HIRT: You can limit it.

ADAM CUMMINGS: That one thing we would want to impose, just as you applied, is only 24 feet. Meaning if we approve it to be higher, it doesn't give you approval to extend it further towards --

MR. SHAFER: Oh, no. I would not do that. That would cost me an arm and a leg.

ADAM CUMMINGS: I don't think Mark (Merry) is -- since you have been on the Board, I don't think we have approved any -- but before that --

MARK MERRY: That's what I'm --

ADAM CUMMINGS: The only one I can think of -- Jim (Wiesner), I think you and I were on the Board -- we had the one on Chili -- well, it's not on Chili Ave., but that's where his front yard was. There was a 6-foot fence off of one of those.

JAMES WIESNER: I remember the National Guard.

ADAM CUMMINGS: Yep. National Guard.

JAMES WIESNER: And FedEx.

ADAM CUMMINGS: Yep. And then we had -- we had one at Bellaqua just because their backyards front Scottsville Chili Road.

MARK MERRY: I remember that one. That was -- there are unique situations.

ADAM CUMMINGS: Correct.

MARK MERRY: All three of those are above and beyond what we're looking at.

ADAM CUMMINGS: Agreed. Agreed.

So on this one --

JAMES WIESNER: I guess what do you want to block out?

MR. SHAFER: My neighbor's yard. He doesn't take care of it very much. The fence -- the hedge at this time has got a half-dead apple tree that he doesn't maintain. And he runs over the apples constantly with his tractor and I have a major problem with bees around that hedge and into my driveway. And every time I have to go trim it, I have to wait until colder weather or

take a chance with the bees.

Now, I am going to -- I got his approval to pay to have that apple tree cut down once the fence is put up due to the fact that the apple -- the other half falls, it would fall on the fence. So I would have to pay for it --

JAMES WIESNER: 4 foot high would not give you enough screening? Is that what you're saying?

MR. SHAFER: Correct.

ADAM CUMMINGS: Um, Paul (Wanzenried), do we define hedges as living fences? I know we ran into that once years ago and this one doesn't have a variance for the existing hedge, correct?

PAUL WANZENRIED: No.

ADAM CUMMINGS: Okay. We had that one time where a living fence was allowed, but you had to maintain it at 6 feet. This one pre-existing, nonconforming without a variance.

Okay. Any other questions?

MARK MERRY: So then you would make it a condition --

SANDRA HEWLETT: I can't hear you, Mark.

I can't hear him.

ADAM CUMMINGS: Mark (Merry) said that the length of this new fence would be limited to 24 feet. It could go no longer towards the front of the property towards Evergreen Drive. It would be in accordance with what is applied for tonight. Yes.

MARK MERRY: No. Do we have an actual rendering of what is proposed to be --

ADAM CUMMINGS: Yes. I went pass that. That is what he is looking to put in.

MARK MERRY: Have we ever made that a condition --

ADAM CUMMINGS: No.

MARK MERRY: -- for approval for a fence?

ADAM CUMMINGS: No. Not for materials of construction.

JAMES WIESNER: So the panels are probably 4 feet high and the decorative balusters are --

MR. SHAFER: The panels are gray and the rest of the building trim is white. And the top caps would be lighted.

JAMES WIESNER: So it is kind of like 4 feet?

ADAM CUMMINGS: Yeah. It might be a little taller than it. But yeah, it's closer to 4 feet. It's not -- so visibility is not -- it's not limiting visibility up to 6 feet.

MARK MERRY: Okay. Thank you, Adam (Cummings). No other questions.

ADAM CUMMINGS: Thank you for having the picture. So once again, I guess I didn't say it. This is not an existing fence?

MR. SHAFER: Correct.

ADAM CUMMINGS: And this is what you're proposing?

MR. SHAFER: Correct.

ADAM CUMMINGS: I will list as a condition of approval that the length of this is limited to the 24 feet.

MARK MERRY: In the -- in the exact location of where that --

ADAM CUMMINGS: Yep. Limited to the length and location as applied for.

MR. SHAFER: 24 feet beyond the house, though; right?

ADAM CUMMINGS: Right.

MR. SHAFER: To the road?

ADAM CUMMINGS: Yeah. Once again, we have nothing to say -- from the front of your house back, you can go 6 feet. You -- you don't need us for that.

MR. SHAFER: Thank you.

PAUL WANZENRIED: Typical panel is 8 feet. It is three panels.

ADAM CUMMINGS: Right. Yep. He has that drawn on here, the 8 feet.

All right. So once again, that one condition of approval is that the length is limited to the length and location -- or the dimensions are limited to the length and location per the application which you have submitted here tonight and that is the 24 feet from the front of the house towards Evergreen Drive. And once again, we're hearing 6 feet in height. So you can't go higher than 6 feet if we grant it.

MR. SHAFER: Right.

ADAM CUMMINGS: If we do not grant it at 6 feet, you're still allowed a fence, but only up to 4 feet.

MR. SHAFER: 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 Mark Merry seconded the motion. The Board all voted yes on the motion.

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

DECISION: Unanimously approved by a vote of 3 yes with the following condition:

1. Length of fence and location restricted to only the dimensions and location

listed per the application.

The following findings of fact were cited:

1. The variance request does not change the character of the area as there is an existing vegetative fence that is much larger and provides similar screening.
2. The fence location does not restrict any viewing areas of the public right-of-way and does not introduce any safety concerns.

ADAM CUMMINGS: Now -- hmm. You weren't here last month.
Can we act on the minutes? Because he has to recuse himself from last month because he wasn't here?

JARED HIRT: Nope.

ADAM CUMMINGS: So we'll have to wait for these minutes until next month because we don't have a quorum of those that were present last month.

JARED HIRT: That would be best practice.

ADAM CUMMINGS: I couldn't get Phil (Supernault) enough time to get in here. So we will not do any action on that. We'll hold off until next month.

The next meeting is on September 24th.

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

The meeting ended at 7:26 p.m.