

EAST ROCHESTER ZONING BOARD MINUTES

PLACE: 317 Main Street, East Rochester Village Offices

DATE: April 19, 2016

TIME: 7:00pm

PRESENT:

Frank Barbero, Chairman

Eric Schoenhardt, Member

Brian Pyfrom, Member

Margot Gilhart, Member

Devin Vosburgh, Member

Jason Steel, Alternate Member

NOT PRESENT:

Gary Smith, Parrone Engineering

John Belt, Alternate Member

Dan Bryson, Village Attorney

David Smith, Building Inspector

Jennifer Raymond, Recording Secretary

Frank Barbero called the meeting to order at 7:00pm.

Jason Steel participated as a voting alternate member.

1st Item on the Agenda:

101 Ontario Street, parcel #139.79-1-1 North Eastern Pool and Spa. Owner Paul Habeck presented seeking a Commercial Area Variance to use a portion of the front yard for storage and to install a 6 foot high black vinyl chain link fence with black privacy slats in the required front yard (Ontario Street side) of this corner lot with less than the required 40 foot setback from a street. Fencing is not decorative and exceeds the 36 inch maximum height requirement.

Mr. Habeck explained that he needs the space in the front yard by Ontario Street for a storage and display area for one-piece drop-in fiber glass pools. Mr. Habeck said he will be removing the pile of dirt that has been in this location for years. Frank Barbero asked if the dirt storage pile will be removed from the site entirely. Mr. Habeck said there is no other place on his site to have a dirt pile, so he is looking for an off-site location to utilize.

Mr. Barbero asked if the applicant had any plans to install security lighting in the storage area. Mr. Habeck said that the fence's main function is for security; he had not thought about adding lighting but would take another look to determine if it may be required. Devin Vosburgh suggested installing motion sensor lighting for that area to deter trespassers.

David Smith asked what the hours of operation are for the business and Mr. Habeck explained the different hours for summer and winter season.

Margot Gilhart asked the applicant what the one-piece pools are made of. Mr. Habeck explained that they are fiber-glass; since they are installed into the ground and that they are made of material that will not contaminate well water etc.).

David Smith explained the variances that the applicant is specifically applying for: to install front yard fencing that is non-decorative, exceeds the maximum height allowance by Town Code and to utilize a front yard area for storage.

Eric Schoenhardt confirmed that this business is located within a zoned 'Industrial District'. Mr. Schoenhardt said that in his opinion, the front yard fencing proposed and the use of a portion of the front yard for storage would not affect aesthetics of this neighborhood located in an Industrial District.

Dan Bryson reminded the Board that the Planning Board had voted and approved the architectural review of the fencing at the April 12, 2016 meeting. Mr. Barbero read a portion of the Planning Board minutes from the April meeting to the Zoning Board, "The Planning Board made a motion to approve the plans as presented with the suggestion that the first 25 feet to be green space without any trees and to approve the west side proposed improvements shown on the submitted site plan as presented.

The Planning Board also made a motion to give a positive recommendation to the Zoning Board for the variances to allow storage within the front yard of this commercial property and to install non-decorative fencing that exceeds the 36 inch maximum height allowance." Mr. Bryson explained that the Planning Board's reason for not wanting the proposed trees in the front yard by the storage area was due to line-of-sight issues. Mr. Habeck said that the Planning Board had suggested installing a berm instead and keeping the front area as just green space rather than installing plantings (to avoid line-of-sight issues and to keep people from parking in restricted areas).

Dan Bryson explained to the Board the five factors to take into consideration with an Area Variance determination (as detailed on the variance application): 1) Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the area variance, 2) Whether the benefit sought by the applicant can be achieved by any practical alternatives, other than an area variance, 3) Whether the requested area variance is substantial in relation to the zoning requirement, 4) Whether the posed area variance will have an adverse effect or impact on the physical, environmental and/or "quality-of-life" conditions in the neighborhood or district, and 5) Is the need for the variance self-created or was it caused

by factors outside the control of the applicant. Mr. Bryson stated that even if the variance is self-created, that in and of itself does not constitute rejection of the request.

Mr. Schoenhardt stated that an argument could be made that the variance requested is not self-created due to the need to have the pools available on site for storage and display for the survival of his business to keep up with his competition.

Mr. Smith reminded the Board that an Area Variance stays with the property, not the current owner. If North Eastern Pool and Spa were to leave, a future business could utilize the variance.

Mr. Schoenhardt commented that the variances proposed do not negatively impact the property or the neighborhood; it is Industrial rather than residential. Mr. Smith commented that it faces a rail road track.

Eric Schoenhardt made a motion to approve the Commercial Area Variances to install six foot high black vinyl chain link fencing and to have storage of one-piece fiber-glass pools within the front yard (Ontario Street side) as presented based on the fact that they do not adversely affect the neighborhood, not self-created and the Planning Board has made a positive recommendation.

Jason Steel seconded the motion.

Voting was 7-0, all in favor.

New Business:

Jason Steel told the Board that he and his family will be moving out of East Rochester in June and that next month's meeting (if there are applications to review) would be his last meeting.

Jennifer Raymond reminded the Board that it is time to think about signing up for training programs for credit hours.

Brian Pyfrom made a motion to approve the March 15, 2016 meeting minutes.

Eric Schoenhardt seconded the motion.

Voting was 7-0, all in favor.

Devin Vosburgh made a motion to adjourn.

Margot Gilhart seconded the motion.

Voting was 7-0, all in favor.

The meeting was adjourned at 7:21 pm.

Respectfully submitted,

Jennifer Raymond
Recording Secretary