

ZONING BOARD OF APPEALS ~ TOWN OF CHESTER

MINUTES OF MEETING ~ APRIL 26, 2011

ATTENDANCE: Arnold Jensen, Bill Oliver, John Grady, Mary Jane Dower, John MacMillen, and Secretary, Pat Smith. Also in attendance was Zoning Administrator, Walt Tennyson. Absent was Ken Marcheselli.

CORRESPONDENCE: ZBA Minutes of March 22, 2011; copy of Notice of Continuation of Public Hearing; and Zoning Office Activity Report for March, 2011.

MINUTES: On a motion by Mrs. Dower, seconded by Mr. Jensen, the Minutes of the March 22nd, 2011 meeting were accepted, as presented. Motion carried 4/0.

PUBLIC HEARING: Mrs. Dower asked to be excused from chairing the meeting, in the absence of Mr. Marcheselli, as she was not feeling well. Mr. Grady assumed the chair.

Meeting was called to order at 6:00 p.m. Public hearing was opened for continuation of application #400-V ~ Roberto and Alexis Sanchez. Mr. MacMillen was recused from the meeting, as he represented the applicant in this matter. Applicant owns property which fronts both Clarkson Road as well as Kingsley Lane, and is seeking relief from two roadside (front yard) setbacks of 60 feet each, in order to construct a single family dwelling on a substandard lot, located in a Moderate Intensity Land Use Area, and identified as tax parcel #86.15-1-22.

Mr. MacMillen presented the project, distributing a map to the board that outlined the 20 foot contours of the area and location of all of the neighboring wells, none of which were within 100 feet of the proposed septic area. The proposed location of the dwelling had been staked out for the board members to view the site. Mr. MacMillen stated that he had been asked at the previous meeting why the dwelling could not be located in a more easterly direction, toward the Sliva property, and he noted that the ledges and boulders that were located on that side of the parcel were very much in evidence following the snow melt, making it impossible to build there. He added that the applicant had been granted a variance in 1985, but no project had ever been undertaken, and the zoning has changed since that time, requiring different setbacks.

Mr. MacMillen recapped the events of the last meeting for those in attendance who were not present in March. He reiterated that tree cutting on the lot would be kept to a bare minimum, and that the driveway would be constructed from Kingsley Lane, and not from Clarkson Road. Mr. MacMillen stated that there would be no objection to any wording regarding driveway location to be incorporated into the approval, if it were given.

Doug Murray was in attendance, worrying about the proposed septic replacement area on the Sanchez property being too close to his property, which is located across Clarkson Road. Mr. MacMillen stated that there are 96 feet from the corner of the Sanchez property to Mr. Murray's well, and the actual distance from any replacement

area on the Sanchez property to his well is 120 feet. Additionally, the Murray property is located 20 feet uphill from the Sanchez property, and therefore there is no risk from his well ever being contaminated from the Sanchez septic field. Well to septic setback is, according to NYS Dept. of Health Sanitary Code, 100 feet, and that, on level ground. Mr. Tennyson concurred that this was correct. Both Mr. MacMillen and Mr. Tennyson explained that any septic system would have to be engineered, at any rate, and a septic system was not being proposed at this time. Mr. Murray also wanted the size of the house to be decreased, in proportion to the lot, and have it more in keeping with the one acre requirement. The proposed project is for a two-story, 30' x 40' dwelling, which is the overall footprint, and includes overhang, deck and porch. Acting Chairman Grady explained that the parcel was a pre-existing building lot, and pre-dates the current zoning, so the size of the lot is not a consideration at this time.

Mrs. Sue Sliva felt that the proposed dwelling location was the obvious choice for that particular lot, as she is the neighbor to the east. She would also like to see the tree cutting kept to a minimum for screening purposes.

Mr. Murray felt that the construction of the house would have an adverse effect on the neighborhood. Mr. MacMillen explained that during Mr. Murray's hearing for a variance for his lot, there was mention of minimal tree cutting, and his lot had been clear cut. Additionally, Mr. MacMillen stated that there were houses all up and down the streets in the neighborhood at least as close or closer to the road than the one being proposed for Mr. Sanchez, and a lot of those parcels had also been clear cut.

Comments from the board included the fact that everyone in that development bought their lots knowing that all of the others were there, as well, and this applicant has paid taxes on a residential lot for over 26 years. The proposed dwelling size actually conforms to many of the smaller houses located in the neighborhood.

At this point, Chairman Grady read a letter that had been received from Carol A. Wade, a resident of the area, who was opposed to the granting of the variance. Letter on file in the Sanchez folder.

Following this discussion, motion was made by Mr. Oliver, seconded by Mrs. Dower, to close the public hearing at 6:40 p.m.

The board then reviewed the criteria for an area variance, and found, as follows:

1. That benefit cannot be achieved by other means feasible to the applicant, in consideration of the formation of and the geology of the parcel, without reducing the size of the home itself, which is not excessively large, as proposed;
2. No undesirable change will be produced in the neighborhood character or to nearby properties, as this site is clearly located in a residential area, with many other homes closer to, or as close to the road as the proposed project;
3. That the request is substantial, but required in order to proceed with the project, and not deny the applicant reasonable use of his land as a pre-existing lot;

4. There will not be any adverse physical or environmental effects;
5. And, problem is not self-created.

Following discussion, Mr. Jensen then made a motion to approve application #400-V for two front yard variances, from Kingsley Lane at 27 feet 5 inches, and from Clarkson Road at 36 feet 7 inches instead of the required 60 foot setback, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to construct a 30' x 40' two story single family dwelling with related on site water and wastewater disposal systems, with the condition that the driveway be constructed from Kingsley Lane Extension, and that tree cutting on the lot be limited as reasonably required for the construction area of the dwelling, septic area and the driveway. Motion was seconded by Mr. Oliver, and carried 4/0.

BOARD PRIVILEGE: Chairman Grady initiated a discussion on Roberts Rules, and challenged the board to think about the fact that when a motion was made on a project, that discussion be opened to the board before a second to the motion, so that all sides could be heard prior to a final decision being made.

ADJOURNMENT: On a motion by Mr. Jensen, seconded Mr. Oliver, the meeting adjourned at 7:30 p.m.

Respectfully submitted,

Patricia M. Smith ~ Secretary