

ZONING BOARD OF APPEALS ~ TOWN OF CHESTER

MINUTES OF MEETING ~ MARCH 22, 2011

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

MINUTES: On a motion by Mr. Grady, seconded by Mr. Oliver, the Minutes of the February 22nd, 2011 meeting were accepted, as presented.

CORRESPONDENCE: ZBA Minutes of February 22nd meeting; Planning Board Minutes of February 28th; and Zoning Office Activity for February 2011.

#398-V ~ John & JoAnne Nick. Continuation from February of the public hearing on this project was opened at 6:00 p.m. Applicants were present. Proposed project is the erection of a garage, to be located at 53 East Shore Drive, tax parcel #69.18-1-17, a Moderate Intensity Land Use Area. Applicant is requesting an 18 foot variance for a front yard setback of 42 feet instead of the required 60 feet, according to Section 4.03 of the Town of Chester Local Zoning Law.

Applicants had resubmitted their revised plot plan prior to the meeting, which showed removal of the cottage, addition of the dwelling, moving of the shed, and proposed location of the garage. Applicant explained that they needed to remain at least 15 feet from the existing mound (septic leach field) that is located at the front of the parcel, 50 feet from the shoreline, and the proposed garage would be located 18 feet from the sideline, where 15 foot minimum is required, in order not to block the neighbor's view of the lake. He also explained that the location that he had chosen would leave a prime piece of the property vacant for other activities, and would allow him access through the garage doors at the angle he had chosen and also allow for a shorter driveway, which would be cost effective for him, and which he hoped to have blacktopped at a later date.

The board questioned the feasibility of moving the garage further toward the lake, still within or close to the required shoreline setback, and, drawing an imaginary line on the map, indicated that it would not interfere with the neighbor's view based on where *his* dwelling was located. An extensive discussion took place, with the entire board involved, as well as the applicant. Applicant did not want to have to remove a large number of trees, and some of the board members questioned how it would appear, aesthetically, as proposed. Chairman Marcheselli wanted to know the exact distances and setbacks that would be involved in moving the building, and told the applicant that he could reconfigure and return next month, or, they could take a vote based on the material before them. Applicant wanted a vote., and the public hearing was closed on this project.

Following discussion, the board reviewed and unanimously agreed upon the criteria summary. The findings were as follows:

1. The board agreed that the benefit to the applicant could be achieved by other means feasible, in moving the structure closer to the lake, within or close to the required setback, and also closer to the sideline, thereby reducing or eliminating the need for a variance.

2. The board did not feel that there would be any undesirable change in the neighborhood character, or to nearby properties, as the neighbors all had garages, and they were also constructed nearer to the road.

3. The board felt that the request was substantial at a request of 18 feet out of the required 60 feet.

4. The board did not feel that the project would have any adverse physical or environmental effects.

5. The board believes the alleged difficulty to be self created by virtue of the project itself, and the amount of the variance requested.

Following review, Chairman Marcheselli requested a motion from the board, at which time Mrs. Dower, seconded by Mr. MacMillen, made a motion to approve application #398-V for John & JoAnne Nick for an 18 foot front yard setback, in order to construct a garage at 53 East Shore Drive. Motion carried 3/2, with Chairman Marcheselli and Mr. Grady being opposed.

#400-V ~ Roberto & Alexis Sanchez. Applicant wishes to construct a 30' x 40' single family dwelling on a pre-existing, substandard lot, located on the corner of Kingsley Lane and Clarkson Road Extension. The parcel is identified by tax number 86.15-1-22, and is located in a Moderate Intensity Land Use Area. Dwelling cannot meet the required front yard setbacks of both roads, as required by Section 4.03 of the Town of Chester Zoning Local Law.

At this point, Mr. MacMillen recused himself from the board, as he was representing the applicant, and Mr. Oliver filled his seat for review of this project.

The public hearing for this project began at 6:45 p.m. Due to the fact that the notices were late in going out, Chairman Marcheselli explained that the project would be continued at the April meeting, but in the interest of the people present, the public hearing would be opened for their comments and input.

Mr. MacMillen explained that applicant had been granted a variance in 1985 for setback distances from the center of both roads in order to construct a dwelling, but no action had ever been taken, and zoning has changed since then. Chairman Marcheselli explained that he could not find any markings, other than a blaze on a tree to indicate the property lines, and the location of a proposed dwelling. Mr. MacMillen explained that there were iron pipes in place, but there was also a lot of snow present. He

expected that he would be able to have stakes and/or flags in place before the April meeting.

Mr. MacMillen explained that the site plan indicated both distances from the roads, that had been granted in the 1985 variance, and also distances from the lot lines, which would be applicable under current zoning. He added that there would be no wells located within 100 feet of the proposed septic system. There was also a septic replacement field located on the site plan. Mr. MacMillen explained that the measurement from the Murray's well (located across Clarkson Road to the south), to the Sanchez property corner was approximately 96 feet, within a foot or two. The proposed septic replacement field was obviously some distance from that corner. This area would only be used in the event that any system installed with the house failed, and a replacement area was needed, which could be utilized in the future, but hopefully, not for a long time. Mr. MacMillen also pointed out that a survey done by James Hutchins of the Murray property indicates that the Murray well is located at a 20 foot grade above the proposed Sanchez wastewater replacement area, which would preclude it from ever being contaminated from the Sanchez lot.

Applicant proposes a 30' x 40' two story, three bedroom dwelling. There is also an alternate septic system proposed, such as a Norweco System, although it does not need to be designed or presented at this time. He explained that a Norweco system eliminates the distance between wells and septic, septic and lake, etc. It is basically like a municipal water treatment plant, only on a smaller scale. Theoretically one would be able to drink the water that comes out of it, although that probably would not happen.

Attorney Rob Simon, of Smith & Simon, LLC, was in attendance as representative for Douglas Murray. He felt that the board did not possess adequate data in order to indicate that the project was a viable plan. He stated that there were no topography lines indicated on the site plan, no test holes shown on the property, not enough information on the neighboring properties, etc., or whether the locations indicated on the site plan could actually support construction of a dwelling and related water and wastewater treatment systems. He added that, based on the information that he had at hand, he was not even sure of what objections he might raise, given more data. Mr. MacMillen explained that test pits are only required on subdivisions, and, he added, the wells and septic must still meet DOH and Town of Chester specifications and requirements, and the septic system must be designed and inspected by an engineer. Chairman Marcheselli explained that he would like to see the locations of neighboring wells, although he did not feel that it was of this particular boards' concern. Mr. Grady felt that it was.

Relocation of the house to the east on the lot would minimize the variance needed, but it would end up on a pile of rocks located on a ledge, which would not be a feasible construction alternative, according to Mr. MacMillen. He was also concerned about pushing it closer to the Sliva property, which it borders. He explained that the topography is hilly throughout the neighborhood, and there are culverts and drainage ditches everywhere. He also indicated that the map that he had provided showed other dwellings on the street that are also very close to the road, so it would not be out of character for the neighborhood.

Extensive discussion ensued, and board requested that Mr. MacMillen provide information on the neighboring properties, within 500 feet, plans for tree cutting, driveway location, topographic information, etc. Mr. Marcheselli also wants justification as to why the dwelling cannot be located further to the east side of the property.

Mrs. Sliva was concerned over the setbacks, the driveway location, and any tree cutting, which Mr. MacMillen explained to her. He added that a minimum amount of tree cutting would occur, and the proposed area for a septic replacement area would not be cut at all, only at such time that it might be needed in the future. He assured her that the driveway would be located off Kingsley Lane, and not off Clarkson.

Chairman Marcheselli read an email letter from a neighbor, Carol Wade, who was opposed to the project, stating that Loon Lake Woods was becoming too citified.

Following discussion, Chairman Marcheselli announced that this public hearing would be continued at the April 26th meeting at 6:00 p.m. Mr. Marcheselli then made a motion to notify the adjoiners of the April continuation. Motion was seconded by Mr. Grady, and carried 5/0.

ADJOURNMENT: On a motion by Mrs. Dower, seconded by Mr. Jensen, the meeting adjourned at 8:05 p.m.

Respectfully,

Patricia M. Smith ~ Secretary