



**MINUTES OF MEETING
ZONING BOARD OF APPEALS
TOWN OF CHESTER
AUGUST 28, 2018**

The meeting was called to order by Mary Jane Dower at 7:03PM.

ATTENDANCE:

Mary Jane Dower, Arnold Jensen, John MacMillan, Bill Oliver and Christine Hayes.

PUBLIC HEARING:

Mary Jane Dower continued public hearing from June 26, 2018 at 7:04PM.

#443-V: Loon Lake Heights Homeowner's Association are requesting variances for the replacement of four (4) docks that will extend 53 ft. offshore where 40 ft. is required , according to section 7.03 (B) (4) of the Town of Chester Zoning Local Law. Property is located at 59 Kingsley Lane Ext., identified by Tax Map Parcel #: 86.14-1-1, in Zone Classification Moderate Intensity.

Tony Ovchinikoff, speaking on their behalf, stated that in the last meeting one of the issues was water depth. We had depth measurements taken this last Sunday. The northern most dock which is closest to the cove and depths were taken in increments of 5 ft., 8ft., 10 ft., and 13ft., 15ft. and 20ft. from high water mark. At 5 ft. there is 10 inches of water, at 8ft. there is 1ft 3 inches of water, at 10ft. 1ft 6 inches of water, at 13 ft. there is 1ft. 7 inches of water, at 15ft. there is 1 ft. 9 inches of water and at 20ft. there is 1 ft 11 inches of water. This is the deepest one of them all. The next dock towards the south is 6 inches of water at 5 ft., at 8ft. there is 11 inches of water, 10ft. is 1ft. 2inches of water, at 13 ft. is 1ft. 5 inches, 15 ft. is 1 ft. 7 inches of water and 20 ft. is 1ft. 11 inches of water. Then they get even shallower. The 3rd dock is at 3inches of water at 5ft., at 8ft is 4 inches of water, at 10 ft. is 4 inches of water, 13 ft is 7 inches of water, at 15 ft. is 8 inches of water and at 20 ft. it is 1 ft 5 inches of water. Then the southern- most dock is 7 inches of water at 5 ft., at 8ft. there is 9 inches of water, at 10 ft. there is 9 inches of water, at 13 ft. there is 9 inches of water, 15ft is at 11 inches of water and at 20 ft there is 1 ft. 2 inches of water.

Tony Ovchinikoff continued to state that two of the boats, the closest ones to shore, are actually sitting on the sand. Photos were taken but were not able to be printed for the meeting. Tony Ovchinikoff presented the sheet with the depths listed to add to the record, stating that the docks have not changed, they are still at 53'. The neighbors do not seem to have an issue with this application. The Look Lake Club and Art Spiers, both submitted a letter with no objections, which are the neighbors across the cove and next door. There is no effect on the lake or change to the navigation. This proposal will allow the HOA to continue to have 2 boats that are in very shallow water.

Mary Jane Dower stated we received 3 letters on this matter. One from Art Spiers and one from O'Brien President, Loon Lake Club), (third letter: the name was not mentioned). All had no objections.

Arnold Jensen stated that you are asking us to approve what is already there and there are no concerned neighbors, but the major concern of the board is that there were no prior approvals and the docks still went in. He agrees that as is there are no major concerns.

John MacMillan stated he agrees with Arnold that his concern was the docks were put in with no prior approvals. But they owned up to it even though someone else long ago made the mistake. Everyone agrees on the issue and feels the same way. He agrees that no one could dock a boat in 6 inches of water.

John MacMillan and Arnold Jensen agree that it is in a cove where it will not affect traffic on the lake or anything else.

Arnold Jensen stated this will not set precedence on the lake. John MacMillan wanted to make sure that with this approval that no more docks are going to just appear like the last time.

Tony Ovchinikoff stated that they are just trying to make it right and get the approval needed.

John Figurski spoke on their behalf and stated they plan on replacing 2 wooden docks next season and have applied for the permits.

Mary Jane Dower asked that they talk to Jeremy before doing anything to ensure proper permits are in place.

John MacMillan stated he has no issue with the way this is proposed.

Bill Oliver stated that his concern, to fellow board members is the precedent this will set. Everyone on Loon Lake and Friends Lake will come in and want the same thing.

John MacMillan stated that each one is based on its own merits, so each variance is different and decided as such.

Arnold Jensen agree especially considering it's in a cove and none of the neighbors' care. When the neighbors disagree, it is a whole different story.

John MacMillan stated we have had variances where the addition of one more dock extends over property lines and that is unacceptable.

Jim McDermott stated they are just trying to comply with the request of the town and become compliant. We want to be good citizens and do what is right.

Arnold Jensen stated that in other areas of the lake this may not be appropriate but has no issue with this.

Arnold Jensen made motion to close public hearing at 7:15PM. Seconded by John MacMillan. All in favor. 5/0.

Bill Oliver made motion to “classify this project (Application #443-V) as a Type II action which does not require further review under SEQRA and to declare a negative declaration due to the project having no significant impact on the environment”.

Seconded by Arnold Jensen. All in favor. 5/0.

Area Variance Criteria-

1. Can benefit be achieved by other means? No, due to water depths.
2. Is it a detriment to nearby properties or an undesirable change in neighborhood? No.
3. Is the request substantial? Yes.
4. Physical or environmental effects to neighborhood? No.
5. Is difficulty self-created? Yes.

Arnold Jensen made motion to approve variance application #443-V. Seconded by John MacMillan. 4 in favor, 1 objection Bill Oliver.

#445-V: Taylor Kimbrell is requesting a 7ft. frontline setback variance, according to Section 4.03 of the Town of Chester Local Zoning Law, in order to place a ground mount solar PV system. The property is located at 11 Mill St., identified as Tax Map Parcel # 104.10-1-13, in Zone Classification Hamlet. Kathryn Costello from Apex Solar Power will be acting as Agent and representing the property owner.

Taylor Kimbrell stated he no longer needs a variance as they have been able to meet all setback requirements as the site plan shows accurate measurements which were not the same as presented to board last meeting. He withdraws his application. He thanked the board for their time. The board thanked him for coming in. It was measured with a 300 ft tape. Christina Hayes wanted to confirm that the measurements taken satisfy the zoning office. Jeremy Little confirmed.

#446-V: Pottersville Fire District are requesting area variances, according to Section 7.04(E)(1) and Section 7.04(E)(6) of the Town of Chester Zoning Local Law, in order to erect an internally illuminated sign. Property is located at 20 Valley Farm Rd., identified by Tax Map Parcel #: 52.8-1-18, in Zone Classification Hamlet.

Richard Bump spoke on behalf of the Fire Company. He is their fire commissioner. He referred to photos of the old existing sign and the new sign would just replace it. The new sign is slightly larger than the original but on same footprint. They used same frame and inserted new sign in. They like to post things that affect the public like road closures. The sign is already up. The old sign was already lit up.

Arnold Jensen stated he has no issues with this but was surprised he didn't know he needed a variance ahead of time. Richard Bump stated he was told he did not need one. He said it is a fine line because it is a municipality. But, to do it right they decided he needed one so here he is.

Mary Jane Dower stated we received a letter from the Warren County Planning Board and it stated this project will not have any significant county wide impact and staff notes that the sign seems to be in the Town of Chester right of way. Staff suggests this be confirmed with the Town as to the right of way.

Richard Bump requested a copy of the letter to keep in their files.

John MacMillan stated he has no problem with this at all. He feels it should be written in such a way that it must comply with the Town of Chester Zoning Local Law.

Arnold Jensen made motion to close public hearing at 7:26PM. Seconded by John MacMillan. All in favor. 5/0.

Bill Oliver made motion to “classify this project (Application #443-V) as a Type II action which does not require further review under SEQRA and to declare a negative declaration due to the project having no significant impact on the environment”.
Seconded by John MacMillan. All in favor. 5/0.

Area Variance Criteria-

1. Can benefit be achieved by other means? No.
2. Is it a detriment to nearby properties or an undesirable change in neighborhood? No.
3. Is the request substantial? No.
4. Physical or environmental effects to neighborhood? No.
5. Is difficulty self-created? Yes.

John Macmillan made motion to approve variance #446-V. Seconded by Arnold Jensen. All in favor. 5/0.

#447-V: Vincent O’Connor is requesting a 43.1 ft. backline setback variance and 8ft. left side sideline setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to construct an addition to an existing single-family dwelling. Property is located at 4 Kingsley Court, identified by Tax Map Parcel #: 86.14-1-9, in Zone Classification Moderate Intensity.

Brett Winchip spoke on behalf of Vincent O’Connor. He referred to a map he brought along. The existing camp has a small utility room on the back and it’s in poor condition. They would like to replace it and it is currently 7.5 ft and they would like to make it 9 ft. Also, this is a 3-bedroom house with one bathroom and they would like to add an additional bathroom. The lot is small, and no other options are available. Everything is very tight to the back of the lot. The neighboring houses are quite a distance away. This renovation would unlikely be visible. They are just trying to make it a bit more usable.

Jeremy Little confirmed we had not received any letters back after the public notice.

Arnold Jensen agrees that you can’t do anything different after looking at the property today.

Brett Winchip also stated they want the overhangs to be consistent with the others.

Mary Jane Dower asked if it was as close to the back as possible? Brett Winchip confirmed yes it was.

Brett Winchip had to have it surveyed because without it he could not tell where anything was.

John MacMillan stated if the neighbors do not have a problem it should be ok. Arnold Jensen also restated that it is hardly visible.

Arnold Jensen made motion to close public hearing at 7:34PM. Seconded by Bill Oliver. All in favor. 5/0.

Area Variance Criteria-

1. Can benefit be achieved by other means? No.
2. Is it a detriment to nearby properties or an undesirable change in neighborhood? No.
3. Is the request substantial? Yes. Percentage wise. Otherwise no.
4. Physical or environmental effects to neighborhood? No.
5. Is difficulty self-created? Yes.

Bill Oliver made motion to “classify this project (Application #443-V) as a Type II action which does not require further review under SEQRA and to declare a negative declaration due to the project having no significant impact on the environment”.
Seconded by Arnold Jensen. All in favor. 5/0.

John MacMillan made motion to approve variance application # 447-V. Seconded by Christine Smith. All in favor. 5/0.

CORRESPONDENCE: Zoning Administrator and Sanitary Code Enforcement Officer’s Activity Report for July 2018; Letter from Loon Lake Club, A condominium dated August 2, 2018 re: #443-V; Letter from Arthur and Jill Spiere dated July 31, 2018 re: #443-V.

NEW BUSINESS: See above.

OLD BUSINESS: See above.

MINUTES: Mary Jane Dower stated the minutes should not be on website until they have been approved. Arnold Jensen stated we never approve minutes until the next meeting. The board feels they should be approved first but town board meetings are the same. We have 2 weeks to finish minutes and any amendments made will be noted.

Christine Smith asked why the agenda has 4 hearings but only 2 in the meeting minutes for last meeting. This is because 2 were new business.

Christine Hayes asked how the applications are deemed complete before going to a public hearing.

Arnold Jensen stated there was talk of changing that and it was tried for 2 months and went back to old way. She does this for 3 towns, so each is a little different.

Arnold Jensen made motion to approve minutes from July 24, 2018 meeting. Seconded by Bill Oliver. 4 in favor, 1 abstain-Christine Hayes as she was not present at the July meeting.

PUBLIC PRIVILEGE: Mrs. DuRose wanted to say to clarify last month’s minutes when speaking of elected officials and how positions are filled in the Town of Chester. It is her

understanding that elected officials such as The Town Supervisor, Town Clerk or Judge they are allowed under state law to choose whom they want to fill the positions underneath them. She did not want it to seem she was not happy with who had been chosen. It is not up to anyone on the Town Board to say they can't. But Park and Rec the announcement goes out and advertising is extensive. The top 4 were chosen and Craig Leggett and herself did the interviewing. Craig and herself brought their top 4 choices to the board. That is how they selected the position. When the highway superintendent wants someone, they present it to the town board.

BOARD PRIVILEGE: None

ADJOURNMENT: Arnold Jensen made motion to close meeting at 7:43PM. Seconded by John MacMillan. All in favor. 5-0.

Respectfully submitted,
Brandi Bessette
Secretary
Zoning Board of Appeals

Minutes revised at the November 2018 regular meeting by current ZBA members as Brandi Bessette is no longer ZBA Secretary and not present at the October 2018 meeting.