



**MINUTES OF MEETING
ZONING BOARD OF APPEALS
TOWN OF CHESTER
JUNE 23, 2015**

The meeting was called to order by Chairman Grady at 7:04 p.m.

ATTENDANCE:

Chairperson John Grady, Mary Jane Dower, Arnold Jensen, Bill Oliver, John MacMillen, Walter J. Tennyson (Zoning Administrator), and Jeremy J. Little (Secretary).

NEW BUSINESS:

#420-V – The North Warren Chamber of Commerce is requesting a 5.79 square ft. variance and 3.56 square ft. variance, according to Section 7.04(E)(6) of the Town of Chester Zoning Local Law, in order to construct an illuminated sign to display community events. Property is located at 3-23 Dynamite Hill Road owned by the Town of Chester, identified by Tax Map Parcel #: 87.-1-5, in Zone Classification Moderate Intensity.

Mr. Jensen made a motion to deem Variance Application **#420-V** as complete, refer the application to the Warren County Planning Department, and schedule a public hearing on July 28, 2015. Motion seconded by Mr. Oliver. Motion carried 5-0.

PUBLIC HEARING:

#419-V – David House is requesting an area variance for 33 parking spaces where 90 parking spaces are required, according to Section 7.06 of the Town of Chester Zoning Local Law, in order to construct a Dollar General. Property is located at 6127 State Route 8, identified by Tax Map Parcel #: 87.20-1-11, in Zone Classification Hamlet.

Having been duly advertised, the public hearing for Application **#419-V** was opened by Chairman Grady at 7:09 p.m.

Mr. House was present to represent the application. He stated that the entire size of the Dollar General would be approximately 9,100 sf. and the interior approximately 7,000 sf. As per the Town's Local Law, that would require his proposed business to maintain 90 parking spaces based on the entire size of the store. Chairman Grady pointed out that the nine (9) ft. wide parking spaces do not conform to the ten (10) ft. wide parking spaces as required by Section 7.06 of the Zoning Local Law and asked if the applicant would like to apply for an additional variance. Mr. House respectfully declined.

Chairman Grady mentioned the Warren County Planning Department's concern: "Spill over parking onto Rte. 8 as there does not seem to be adequate provision for delivery vehicles that would effectively block the parking spots on the West side of the building." Mr. House

addressed the concern and explained that the delivery truck would adequately back up alongside the building and up to the loading dock.

Chairman Grady stated there are 11 parking spaces on the side of the building and concluded that there would be at most 3 parking spaces blocked during delivery. Mr. Oliver stated his observation that most of the Dollar General stores he has seen, there has never been a full parking lot.

There were no comments or concerns addressed by any individuals in the audience.

Following discussion, criteria for an Area Variance were reviewed and the findings were as follows:

- 1.) The Board agreed that the benefit cannot be achieved by other means feasible to the applicant;
- 2.) The Board agreed that there would not be an undesirable change in neighborhood character or to nearby properties;
- 3.) The Board agreed that the request is substantial, as the applicant is requesting 33 parking spaces versus the 90 parking spaces required by the Town's Local Law;
- 4.) The Board agreed that the request will not have any adverse physical or environmental effects;
- 5.) The Board agreed that the alleged difficulty is not self-created.

Mr. Jensen made a motion to close the public hearing concerning Variance Application **#419-V** at 7:27 p.m.; motion seconded by Mrs. Dower. Motion carried 5-0.

Chairman Grady made a motion to classify this project (Variance Application **#419-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 Mr. MacMillen. None opposed; motion carried 5-0.

Mr. MacMillen made a motion to approve Variance Application **#419-V**, allowing 33 parking spaces where 90 parking spaces are required; motion seconded by Mr. Oliver. None opposed; motion carried 5-0.

Mr. MacMillen announced that he would recuse himself from the Board for Variance Applications #417-V and #418-V as he has an interest in both projects.

#417-V – Leroy H. Layton is requesting a 3 ft. shoreline setback variance and a 6 ft. height variance, according to Section 4.03 and Section 9.01 of the Town of Chester Zoning Local Law, in order to vertically expand the pre-existing single family dwelling on existing

footprint within the shoreline setback. Property is located at 61 Marina Road, identified by Tax Map Parcel #: 86.13-1-2, in Zone Classification Moderate Intensity.

Having been duly advertised, the public hearing for Application **#417-V** was opened by Chairman Grady at 7:33 p.m.

Mr. Layton spoke on behalf of the proposal. He mentioned he has numerous guests that visit his home at Marina Road and is the main reason why he is applying for the variance requests. His dwelling is currently the oldest home on Marina Road and stated he would like to keep the character of the house. Three neighboring property owners submitted letters of support regarding the variance requests and Mr. Layton also explained that if the proposal were to be approved, the height of his dwelling would still remain lower than the height of the three neighboring homes. He stated the well and septic have been improved and maintained.

Mr. Layton enlightened the Board his purpose of the variance requests is mainly to maintain the historical early Adirondack design of his dwelling, as opposed to re-building. He mentioned that there would be no impacts on the environment as there would be no cutting of trees or removal of shrubs.

There were no comments or concerns addressed by any individuals in the audience.

Mrs. Dower made a motion to close the public hearing concerning Variance Application **#417-V** at 7:41 p.m.; motion seconded by Mr. Jensen. Motion carried 4-0.

Chairman Grady made a motion to classify this project (Variance Application **#417-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 Mr. Oliver. None opposed; motion carried 4-0.

Following discussion, criteria for an Area Variance were reviewed and the findings were as follows:

- 1.) The Board agreed that the benefit cannot be achieved by other means feasible to the applicant;
- 2.) The Board agreed that there would not be an undesirable change in neighborhood character or to nearby properties;
- 3.) The Board agreed that the request is not substantial;
- 4.) The Board agreed that the request will not have any adverse physical or environmental effects;
- 5.) The Board agreed that the alleged difficulty is not self-created.

Mr. Oliver made a motion to approve Variance Application **#417-V**, requesting a 3 ft. shoreline setback variance and a 6 ft. height variance; motion seconded by Mr. Jensen. Motion carried 4-0.

#418-V – Timothy and Colleen Yates are requesting a 17 ft. shoreline setback variance, 2 ft. sideline setback variance, and a 14 ft. height variance, according to Section 4.03 and Section 9.01 of the Town of Chester Zoning Local Law, in order to vertically expand the pre-existing single family dwelling on existing footprint within the shoreline setback. Property is located at 93 Blythewood Island Road, identified by Tax Map Parcel #: 86.5-1-11.5, in Zone Classification Moderate Intensity.

Having been duly advertised, the public hearing for Application **#418-V** was opened by Chairman Grady at 7:44 p.m.

Mike Rice from MacMillen Construction presented the proposal. Mr. Rice displayed photographs of the current cabin, design of the proposed structure, and also a conceptual drawing of a residence that would require no variance, since it would be moved back and outside of the 50' shoreline setback. The conceptual drawing was just to show that a structure could be built on the lot without requiring a variance(s). Mr. Rice also briefly discussed the Criteria for an Area Variance.

In the audience, Carol Monroe was concerned about the number of bedrooms and bathrooms because she believed the leach field for the proposed dwelling might possibly affect property of the Stone Lodge, LLC, which she currently co-owns with other family members. Mrs. Monroe further explained her concern that since the Stone Lodge used as a year-round tourist accommodation, she wanted to avoid the possibility of her patrons stepping into leakage of effluent from the leach field in their yard, which adjoins the Yates' property. Mr. Rice stated that the number of bedrooms will not increase and is based on the approved septic that currently exists on the property.

Chairman Grady stated there have been numerous letters received concerning the proposed variances and particularly the "office" room with a full bathroom. He further explained the Board has the authority to apply conditions to allow for only three bedrooms and that the room identified as an office remain as such.

Chairman Grady also referred to a map titled "Proposed Revision to Septic System: Blythewood Island" prepared by Richard Harrison, P.E. in April 1983. Fred Monroe, who owns property at 117 Blythewood Island, explained his involvement with the creation of the Blythewood Island subdivision. During the subdivision process, Mr. Monroe stated that a situation he and the engineer encountered were placement of septic systems that were required to be 100 ft. from the Lake. He stated that there were two well locations for the subdivision—one North on the Island and one West on the Island. Mr. Monroe further explained that the number of bedrooms of the proposed dwelling is critical to surrounding properties as well.

Barbara Sweeney, who owns property at 120 Blythewood Island Road, was concerned that the office could potentially turn into a bedroom. In response, Mr. Tennyson, Town Zoning

Administrator, stated that a complaint would need to be submitted and once received, he would investigate the possible violation, if one existed.

There was discussion regarding the alternative structure that would not require a variance versus the proposed structure.

Chairman Grady read a portion of the ***APA Project & Permit No. 83-123*** for the subdivision: “The rental cabins to be converted shall not be expanded in terms of the number of existing bedrooms. In no event shall any expansion violate the Moderate Intensity Use building setback requirement of 50 feet from the mean high water mark of Loon Lake or further an existing non-compliance with that setback.” Mr. Rice mentioned that the proposed design has been submitted to the Adirondack Park Agency and received their approval.

Mrs. Koppen addressed her concerns of the proposal. She was concerned of the adverse effect on the neighborhood in that the Sound end of the Island consists primarily of cottages. There was a discussion regarding dwellings on the Island—a mixture of cottages and two-story dwellings.

Mr. Oliver questioned Mr. Yates the outcome if the variance requests were to be denied. Mr. Yates stated that if denied, the conceptual drawing of the dwelling that would require no variance (*Secretary Note: not submitted as part of the variance application #418-V*) would be submitted to the Zoning Office for a Zoning Certificate.

Mrs. Monroe questioned if there was any guarantee that the septic system and leach field would not overflow as to negatively affect the experience of those staying at the Stone Lodge. Mr. Yates stated that the dwelling would only be used for family and guests—not as a rental. Chairman Grady asked the Yates if there would be any concern if the Board imposed a condition that the use remain an office and not as an additional bedroom. The Yates concurred and stated that the dwelling would only contain three bedrooms.

Chairman Grady asked for clarification regarding the increase in structure height on the existing footprint, within the shoreline setback. Further, Mr. Grady believed that it was an “increase in the non-conforming pre-existing use, which is prohibited in the approval by the APA during the time of the subdivision.” Mr. MacMillen stated that the drawing and plans have been submitted to the APA and said, “As far as they are concerned, they are OK with it, and now it comes to the Town.” It was discussed that the APA has not yet given approval for the variance requests and that if approved by the Zoning Board of Appeals, the APA has the right to reverse the ZBA’s decision.

There was short discussion regarding the removal of the trees on the shoreline shortly after Mr. Yates acquired ownership of the property. The Zoning Administrator made an agreement with the property owner that new trees would be planted and shoreline repair would take place after the dwelling is constructed.

Mr. Rice read the letter in opposition written by Janet Haberstock, who owns property at 94 Blythewood Island Road. The letter signed by a number of property owners and members of the Blythewood Island Association was also read by Mr. Rice. In the letter, it stated the

proposed structure would “obstruct the views of neighboring cottages...” and Chairman Grady stated his opinion that each property has their own lakefront view. Further, Mrs. Koppen read her letter in opposition to the proposal and granting of the variance requests.

There was further discussion about the variance request for the increase of the structure’s height. Mr. MacMillen stated, “We asked for it in case they would like to raise the grade of the foundation a little bit... up in the air, to allow better drainage.” Discussion ensued if the proposed height variance could be reduced to a request that would be satisfactory to the applicant, public, and the Board. Mr. Rice stated that the peak of the proposed dwelling would be 8 ft. higher than the highest point of the existing dwelling.

Chairman Grady made a motion that the Board take a short recess for seven (7) minutes at 9:13 p.m. and resume the public hearing at 9:20 p.m.; motion seconded by Mr. Oliver. Motion carried 4-0.

The public hearing was resumed at 9:27 p.m. by Chairman Grady.

Mr. Monroe stated no concerns for the sideline variance request, as he co-owns the Stone Lodge LLC. Mr. Monroe also requested that there be a condition imposed for the limit of 3 bedrooms.

Chairman Grady and the Board discussed reducing the height variance from 14 ft. to 6 ½ ft. The 6 ½ ft. height variance would not include the allowed 2 ft. height increase.

Mrs. Dower made a motion to close the public hearing concerning Variance Application **#418-V** at 9:37 p.m.; motion seconded by Mr. Jensen. Motion carried 4-0.

Mrs. Dower made a motion to classify this project (Variance Application **#418-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 Mr. Oliver. None opposed; motion carried 4-0.

Following discussion, criteria for an Area Variance were reviewed and the findings were as follows:

- 1.) The Board agreed that the benefit can be achieved by other means feasible to the applicant. The Board believed the height variance request could be reduced from 16 ft. to 8.5 ft. (including the 2 ft. allowed height increase). The Board did not believe the 2 ft. sideline variance request could be reduced;
- 2.) The Board agreed that there would not be an undesirable change in neighborhood character or to nearby properties. The Board concurred that the proposal would enhance and have a positive effect on the neighborhood;
- 3.) The Board agreed that the request is not substantial;
- 4.) The Board agreed that the request will not have any adverse physical or environmental effects;

- 5.) The Board agreed that the alleged difficulty is self-created.

Mr. Jensen made a motion to approve **Variance Application #418-V** for an amended application for a 2 ft. sideline setback variance, 8.5 ft. height variance including the 2 ft. height increase which is allowed, and the 17 ft. shoreline setback variance, with the condition that the use is to be limited to three (3) bedrooms maximum as per plans presented. Chairman Grady seconded the motion; motion carried 4-0.

OLD BUSINESS:

The Board re-visited the Variance Application **#415-V** and discussed the Area Variance Criteria for the proposal, which was not covered at the previous meeting on May 26th:

- 1.) The Board agreed that the benefit cannot be achieved by other means feasible to the applicant;
- 2.) The Board agreed that there would not be an undesirable change in neighborhood character or to nearby properties;
- 3.) The Board agreed that the request is not substantial;
- 4.) The Board agreed that the request will not have any adverse physical or environmental effects;
- 5.) The Board agreed that the alleged difficulty is not self-created.

BOARD PRIVILEGE:

Chairman Grady discussed with the Board procedure for deeming applications complete and recommended it be changed. From the Town Board meeting on June 09, 2015, Resolution #84 authorized change of Planning and Zoning Board's practice that the Zoning Administrator and Assistant deem applications complete for County review purposes.

Chairman Grady made a motion that the ZBA Board change the procedure of reviewing variance applications to the following: (1) Submission date of applications be changed from ten (10) days back to twenty (20) days; (2) The ZBA Board rely on the Zoning Administrator and/or the Zoning Assistant to review the applications to ensure their completeness; and (3) Once applications are determined to be complete, ZBA Board Secretary schedule a public hearing for the following month. Motion seconded by Mrs. Dower. Motion carried 5-0.

CORRESPONDENCE:

Zoning Administrator & Sanitary Code Enforcement Officer's Activity Report for May 2015.

MINUTES:

On a motion made by Mrs. Dower, seconded by Mr. MacMillen, the Minutes of the Zoning Board of Appeals meeting held on May 26, 2015 were accepted. None opposed; motion carried 5-0.

ADJOURNMENT:

Mr. Oliver made a motion to adjourn the meeting at 10.04 p.m.; seconded by Mrs. Dower. None opposed. Motion carried 5-0.

Respectfully submitted,

Jeremy J. Little
Secretary
Zoning Board of Appeals