



**MINUTES OF MEETING
ZONING BOARD OF APPEALS
TOWN OF CHESTER
JUNE 24, 2014**

ATTENDANCE:

Chairman Ken Marcheselli, Arnold Jensen, Mary Jane Dower, Bill Oliver, Jeremy Little (Secretary), Walter J. Tennyson (Zoning Administrator). Absent were John Grady and John MacMillen.

Present in audience: Frederick and Karen Griffen, Paul H. Alford, Brett Winchip and Zack Monroe (Winchip Engineering), and Eric and Kristina “Kit” Isachsen (Eric and Eric).

CORRESPONDENCE:

Zoning Administrator and Sanitary Code Enforcement Officer’s Activity Report for May 2014.

MINUTES:

On a motion made by Mr. Jensen, seconded by Mr. Oliver, the Minutes of the Zoning Board of Appeals meeting held on May 27, 2014 were accepted. None opposed; motion carried 4-0.

PUBLIC HEARING:

Having been duly advertised, the public hearing for Application **#410-V** was opened by Chairman Marcheselli at 7:02 p.m.

#410-V - Leo J. Cunniff seeking a fifty-seven ft. (57’) backline variance and a twenty-nine ft. (29’) sideline variance, according to Section 4.03 of the Town of Chester Zoning Local Law in order to meet backline and sideline setback requirements located at 7 Pines Spur on .16 acres, identified by Tax Map Parcel #: 136.7-1-16, in Rural Land Use Area.

Mr. Cunniff stated his proposal consisted of placement of a sixteen by sixteen ft. (16’ x 16’) attached screened porch to the existing dwelling. He explained that the porch would be fifty-seven ft (57’) from the backline and twenty-nine ft. (29’) from the sideline, as stated above.

Mr. Jensen mentioned the letter from the Pines Lakeside Association was received at the previous meeting and all property owners have given approval. In the letter, it stated:

“All surrounding property owners have given approval to the Cunniff’s addition. The Pines Lakeside Association conducts their business using a majority of owners’ approval, and a majority of Association members approve of the aforementioned proposed addition.”

No persons in the audience were present to discuss their concerns or question the variance request.

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

- 1.) The Board agreed that the benefit can not 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 the request is substantial, as the applicant is requesting a 57’ backline variance and 29’ sideline variance.
- 4.) The Board did not believe there would be adverse physical or environmental effects; and,
- 5.) The Board agreed that the alleged difficulty is self-created as the applicant is proposing the construction of a screened-in porch.

Mr. Jensen made a motion to classify this project as a Type II action which does not require further review under SEQRA, declare a negative declaration, approve the 57’ backline variance and 29’ sideline variance for construction of a 16’ x 16’ screened porch, and to close the public hearing at 7:10 p.m. in reference to variance application **#410-V**. Mr. Oliver seconded the motion. Motion carried 4-0.

Having been duly advertised, the public hearing for Application **#411-V** was opened by Chairman Marcheselli at 7:11 p.m.

#411-V - Randy Frasier seeking an eighty-three and a half ft. (83.5’) frontline variance and a thirty-one point four ft. (31.4’) sideline variance, according to Section 4.03 of the Town of Chester Zoning Local Law in order to meet front-line and sideline setback requirements located at the 2 Kohl Road on .47 acres, identified by Tax Map Parcel #: 34.-1-16, in Rural Land Use Area.

Randy Frasier was not present, but was represented by Bret Winchip and Zachary Monroe from Winchip Engineering.

Mr. Monroe began the proposal by stating Mr. Frasier is proposing to build a small two-bedroom dwelling on the property. He explained that based on the configuration of the lot, there are no alternatives to construct a single family dwelling that would stay within the

required setbacks. In addition, Mr. Monroe said that where the dwelling is currently placed on the site plan, it would be the minimum requested variance to be reviewed by the Zoning Board of Appeals.

Mr. Marcheselli questioned Mr. Monroe if the lot was considered as “buildable” prior to the Town of Chester Zoning Ordinance going into effect.

Mr. Tennyson explained to the Board that on October 28, 1997, an area variance was approved by the Zoning Board of Appeals to place a 24' x 40' one-bedroom dwelling on the parcel (#318-V). *However, the approved variance is not transferrable from one property owner to another.* Mr. Tennyson stated that it has no effect on the current variance being requested. **(Please see the Meeting Minutes from July 22, 2014 and November 10, 2014 for emendatory statements by Board Member Grady and Counsel, respectively, on those dates regarding these Minutes and providing corrective information to the statement by the Zoning Administrator shown in italicized type above).**

In the audience as part of the public hearing, Frederick Griffen, owner of property at 36 Kohl Road, expressed his concern about the parcel and handed out pictures to the Board displaying the property stakes and several ditches.

Mr. Griffen stated that the primary reason why Mr. Laushe, the previous owner, decided to sell the parcel was because it was a landlocked parcel. He explained that Mr. Frasier placed a culvert on his property. Mr. Griffen was concerned about the placement of the well and how far it would be from Mr. Griffen’s septic system. Mr. Monroe told Mr. Griffen that the distance from the well to Mr. Frasier’s back lot is an estimated 160 ft. In addition, Mr. and Mrs. Griffen were concerned that if their septic system fails, the wastes would run downhill towards Mr. Frasier’s well and possibly contaminate the water to his proposed dwelling.

Paul Alford, owner of property at 621 Olmstedville Road, enlightened the Board of his concern as to where the dwelling is situated on the Site Plan. From his viewpoint, the back corner of the dwelling would be “right at the edge of the ditch that runs parallel to Kohl Road where runoff occurs from spring thaw and rain storms.” Mr. Alford also questioned Mr. Monroe about the distance from Mr. Frasier’s septic tank to his well. Mr. Monroe replied, “The septic tank is 85’ from the well and the field more than 110’.”

A DISCUSSION ENSUED BETWEEN THE BOARD MEMBERS, MR. AND MRS. GRIFFEN, AND MR. ALFORD CONCERNING PLACEMENT OF CULVERTS, PROPERTY STAKES THAT SHOULD BE PROPERLY MARKED, AND INTERPRETATION OF THE SURVEY MAP OF JERRY AND LINDA LAUSHE DATED SEPTEMBER 13, 1988.

Mr. Marcheselli asked Mrs. Griffen if she was opposed to the dwelling/property stakes being close to the ditch and she affirmed that she was not in agreement.

Mrs. Griffen questioned Mr. Monroe and the Board whether the dwelling could be shifted down towards Olmstedville Road so that it would not be positioned so close to the bank/ditch. In reply, Mr. Monroe stated that another variance would need to be requested for the frontline of the property towards Olmstedville Road. As a result, the application

would consist of three (3) variance requests if that option were to be considered. He also reiterated to the Board and the audience that the building stakes are where the two ft. (2') overhang ends and not the actual physical corners of the dwelling.

Mr. Oliver suggested that Jason Monroe, Town of Chester Highway Superintendent, visit the parcel and make a determination about the culvert and the ditch. The Board members all agreed to visit the site again to gather a better perspective of the variance request.

Chairman Marcheselli proposed to the Board: (1) Continue this application to next month's meeting in July; (2) the Board members separately review the variance request in further depth and consideration with regard to questions or concerns they might want to raise at the next meeting; (3) the Board members will meet with Bret Winchip and/or Zachary Monroe at the location of the site with no discussion of the variance request of any kind.

Mr. Marcheselli made a motion to adjourn the public hearing at 8:21 p.m. and to continue review of Variance Application #411-V until next month on July 22, 2014 and make arrangements to meet with Winchip Engineering to review and visit the site without Board discussion; seconded by Mr. Oliver. Motion carried 4-0.

NEW BUSINESS:

#412-V – Jason Bradley seeking a twelve ft. (12') sideline variance, according to Section 4.03 of the Town of Chester Zoning Local Law in order to meet sideline setback requirements located at 1 Pine Street, identified by Tax Map Parcel #: 104.10-3-2, in Moderate Intensity Land Use Area.

Jason Bradley was not present at the meeting, but was represented by Mr. Eric Isachsen from Eric and Eric Construction.

Mr. Isachsen began by stating that the proposal is to construct a deck with stairs, which will be placed to the easterly side of the existing structure on Mr. Bradley's lot, as marked on the provided Site Plan.

Mr. Jensen questioned Mr. Isachsen of the proposed use of the building. In reply, Mr. Isachsen stated that the second floor will be for living purposes and will be occupied by Mr. Bradley's father.

Mr. Jensen made a motion to deem application #412-V as complete and a public hearing to be scheduled for next month's meeting on July 22, 2014; motion seconded by Mr. Oliver. Motion carried 4-0.

BOARD PRIVILEGE: None.

OLD BUSINESS: None.

ADJOURNMENT:

Mr. Jensen made a motion to adjourn the meeting at 8:32 p.m.; seconded by Mr. Oliver.
Motion carried 4-0.

Respectfully submitted,

Jeremy J. Little

Secretary

Zoning Board of Appeals