



**MINUTES OF MEETING  
ZONING BOARD OF APPEALS  
TOWN OF CHESTER  
MAY 27, 2014**

**ATTENDANCE:**

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

**BOARD PRIVILEGE:**

Mr. Marcheselli began by stating he had a phone conversation with Mike Hill from Miller, Mannix, Schachner, & Hafner, LLC (Town Counsel) regarding the procedure for reviewing and approving Variance Applications that come before the Board. He explained to the Board that Mr. Hill believed that the new procedure (not yet approved by the ZBA) would be advantageous to the Board.

Mr. Marcheselli reminded the Board of the procedure for reviewing variance applications in previous meetings. During those meetings, the application was reviewed, a public hearing was scheduled for that same night, and the application was either approved or disapproved. As stated by Mr. Marcheselli, this new procedure would involve variance applications having at least two meetings instead of only one. The first meeting would allow the Board to deem the variance application as complete and give the Board members the opportunity to request any additional information that they determine is pertinent to the application. After the application is deemed as complete, the Board members would make a motion to schedule a public hearing for the following month.

Mr. Marcheselli mentioned that on the current variance application, the applicant must submit the application twenty (20) days in advance to a Zoning Board of Appeals meeting. Mr. Jensen stated that if the time frame were to change, it should be at least ten (10) days. Mr. Marcheselli mentioned that most of the surrounding Towns perform in this manner by having at least two meetings for a variance application. Furthermore, he also stated that the Town of Chester Planning Board usually holds at least

two meetings per application that comes before the Board, which allows them to schedule a public hearing for the following month.

Mr. Grady believed that the manner in which the Board has received applications in the past should still remain in effect. According to Mr. Grady, the receipt of the application twenty (20) days prior to a Board meeting allowed the Secretary of the Board to determine if the application was complete and to request additional information if necessary. A public hearing would then be scheduled for the meeting of that month. Mr. Marcheselli stated a motion could be made that an application is complete pending the receipt of certain requested information.

Mr. Grady disagreed with Mr. Marcheselli and explained that there is no reason at all the application can not be deemed as complete by the Secretary of the ZBA and then have a public hearing scheduled. Mr. MacMillen agreed with Mr. Grady's statement and believed that the Secretary and the Zoning Administrator could run down a check-list of requirements and if something was missing, it could be requested. On the other hand, Mr. MacMillen stated that if the new procedure was accepted by the Board, it would be beneficial to the Board, but not necessarily advantageous to the applicant or contractor.

As per his discussion with Mike Hill, Mr. Marcheselli said, "If an application is incomplete, it can not be reviewed by the public prior to the meeting. As a result, we leave ourselves open to criticism and lawsuits." Chairman Marcheselli proposed to the Board his thought on having Mike Hill attend the meeting next month to discuss the importance of changing the procedure and SEQR requirements.

Chairman Marcheselli made a motion to change the procedure of reviewing variance applications to the following: (1) Submission date of applications changed from twenty (20) to ten (10) days; (2) Hold a meeting to review the application and ensure its completeness; and, (3) Once application is complete, schedule a public hearing for the following month. Mr. Jensen seconded the motion. Mr. Grady opposed. Motion carried 4-1.

**NEW BUSINESS:**

**#410-V - Leo J. Cunniff:** 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, for construction of a 16' x 16' screened porch, located at 7 Pines Spur, identified by Tax Map Parcel #: 136.7-1-16, in Rural Land Use Area.

Chairman Marcheselli mentioned that Page 8 of 11 of the Variance Application (Re: Area Variance Criteria) was incomplete and had not been filled in.

Mr. Grady made a motion that upon receipt of Page 8 of the Variance Application **#410-V**, the application is accepted as complete and a public hearing is to be scheduled for next month in June; Mr. MacMillen seconded the motion. None opposed; motion carried 5-0.

After the motion was made, Mr. Cunniff was provided a blank Area Variance Criteria sheet, which he completed and filled out during the meeting. The completed page was submitted to the Secretary of the Board.

**#411-V - Randy Frasier:** Randy Frasier seeking an eighty-three and a half ft. (83.5') front-line variance and a thirty-one point four ft. (31.4') side-line variance, according to Section 4.03 of the Town of Chester Zoning Local Law in order to meet frontline and sideline setback requirements located at the corner of Olmstedville and Kohl Rd. (911 Address: 2 Kohl Rd.), identified by Tax Map Parcel #: 34.-1-16, in Rural Land Use Area.

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

Mr. Marcheselli began by stating that in the Variance Application submitted by Mr. Frasier, the proposed use of the property is a twenty-eight by twenty-eight ft. (28' x 28') Single Family Dwelling with an eight by twenty-eight ft. (8' x 28') porch.

Mr. Marcheselli enlightened the Board members that a Zoning Certificate for a Single Family Dwelling had been issued on April 21, 2014. In reply, Mr. Monroe said that it was

issued in mistake and has been put on hold in the Zoning Office because this project requires two variance requests.

After a visit to the property, Mr. Grady mentioned that the lot had been cleared and asked if the clearance took place prior or after the issuance of the Zoning Certificate. Mr. Monroe stated that it had taken place after the Zoning Certificate was issued and that at the time of the sale of the property, the lot was approximately 1.60 acres. After the sale took place, the acreage of the property had dropped and was finalized at .47 acres.

Mr. Winchip said that it was a pre-existing non-conforming (grandfathered) lot before the Zoning Ordinance had taken into effect in the Town of Chester.

Mr. Marcheselli stated that in 1997 there was an area variance for construction of a single family dwelling that was approved by the Board. However, he noted it has "no bearing on the property as it exists today."

Mr. MacMillen asked Mr. Monroe if an Agent Authorization Form was provided with the application. Mr. Monroe stated that the Form will be provided to the Secretary for this application.

Mr. Grady said that he would be interested in seeing a map reference to the survey and survey information to be included on the Site Plan for the variance. Furthermore, he believed that an attachment or an addendum to the application would be sufficient. Mr. Monroe replied by saying he will provide the requested information and contact Jim Nestor who surveyed the property. In conclusion, the survey, along with the survey map reference on the Site Plan will be included after Mr. Monroe contacts Jim Nestor.

Mr. Jensen asked Mr. Winchip and Mr. Monroe if the location of the building could be properly staked so that it would be more helpful to the Board members to gather a general idea of where the dwelling will be placed. Mr. Winchip and Mr. Monroe agreed that they would stake out the location of the dwelling as per the Board's request. Mr. Jensen also asked if the dimensions of the dwelling with the porch could be added to the site plan as well.

Mr. MacMillen made a motion that the Variance Application #411-V is complete pending the receipt of the Agent Authorization Form, the Survey, and the necessary survey map references on the Site Plan and to schedule a public hearing for next month in June; Mr. Grady seconded the motion. None opposed; motion carried 5-0.

**MINUTES:**

On a motion made by Mr. Jensen, seconded by Mr. Oliver, the Minutes of the Zoning Board of Appeals meeting held on November 26, 2013 were accepted. None opposed; motion carried 5-0.

**CORRESPONDENCE:**

Zoning Administrator and Sanitary Code Enforcement Officer's Activity Report for April 2014.

**OLD BUSINESS:**

**PUBLIC PRIVILEGE:** None.

**ADJOURNMENT:**

Mr. MacMillen made a motion to adjourn the meeting at 8:30 p.m.; seconded by Mr. Grady. Motion carried 5-0.

Respectfully submitted,

Jeremy J. Little

Secretary

Zoning Board of Appeals