



**MINUTES OF MEETING  
ZONING BOARD OF APPEALS ~ TOWN OF CHESTER  
SEPTEMBER 24, 2013**

**ATTENDANCE:**

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

**MINUTES:**

On a motion made by Mrs. Dower, seconded by Mr. Jensen, the Minutes of the Zoning Board of Appeals meeting held on July 23, 2013 were accepted. Motion carried 4-0.

**CORRESPONDENCE:** None.

**PUBLIC HEARING:**

In the absence of Mr. Marcheselli, Mrs. Dower asked to be excused as Chairperson for the meeting as she was not feeling well. Mr. Grady assumed the Chair.

Having been duly advertised, acting Chairman Grady opened the Public Hearing at 7:04 p.m.

**#408-V ~ Anthony and Donna Affatigato** - Mr. Robert Simon, attorney from Smith and Simon, LLC, was in attendance to represent the applicant. The applicant owns property at 226 Del Culver Road, in a Rural Land Use Area, identified by Tax Map Parcel #16.-1-60. Furthermore, Mr. and Mrs. Affatigato are seeking relief for one sideline setback of twenty-nine and a half (29.5) feet.

Mr. Simon explained the applicant's request is to place a thirty by thirty-six (30' x 36') ft. garage on the parcel. Moreover, he stated that there is an existing house on the property, which is covered by a great deal of dense forest and the land is extremely wet with a high water table. He further went on to explain that the nearest home is seven hundred (700) yards from the sideline of the property. Mr. Simon said that the project is consistent with the neighborhood and would not be exposed to the road.

In response, Mr. Grady addressed his concern pertaining to the deeds of ownership being in two (2) names. Mr. Simon said he is in the process of getting the authorization form signed by Mr. and Mrs. Affatigato. Furthermore, Mr. Simon explained that he is currently in the process of changing the deed so that Mr. Affatigato is the only owner of the parcel, excluding his wife.

Mr. Grady expressed his concern of the right-of-way to the rear property shown on the map provided. Mr. Simon stated, "The right-of-way ceased to exist at the moment that all the property was conveyed to Anthony and Donna Affatigato as a single ownership and under the *Doctrine of Merger*, the right-of-way ceases to exist." Moreover, according to Mr. Simon, the right-of-way shown in the deed does not exist.

Mr. Oliver questioned Mr. Simon as to why the right-of-way is not drawn on the maps created by Van Dusen and Steves Land Surveyors. In reply, Mr. Simon reiterated the fact that the right-of-way is non-existent.

Regarding the size of the garage, Mr. Oliver asked if the dimensions of the structure could be altered to a smaller size and Mr. Simon said that he would take that into consideration and relay that on to his client; however, Mr. Grady said that he does not feel it is a concern of the Board.

Mr. Jensen stated that by viewing the map of the property, he can clearly see various alternatives that would not include such a large variance. Mr. Simon explained that when viewing the parcel from the front, the area west of the dwelling is wet and would be impossible for a structure to be placed there. Mr. Jensen said in his opinion, there are reasonable alternatives: some trees could be cut to make room for the structure by placing the garage in front of the house or on the opposite side of the driveway where the proposed garage is currently positioned on the survey, which would reduce the size of the variance.

Mrs. Dower asked if the storage container in front of the garage, which is shown on the map, could be removed and shifted eight (8) feet towards the driveway, allowing for a lesser area variance to be approved. Mr. Simon said he would ask Mr. Affatigato if he would be agreeable to shift the structure over eight (8) feet or more, which would reduce the request of the variance.

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 with various alternatives as aforementioned which would include moving the garage to the east<sup>1</sup> eight (8) feet;
- 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 a twenty-nine and a half (29.5) ft. sideline variance, which would be reduced if he agreed to move the garage eight (8) feet to the east<sup>1</sup>.
- 4.) The board did not believe there would be adverse physical or environmental effects; and,
- 5.) The board agreed that the alleged difficulty is not self created.

Mr. Grady asked Mr. Tennyson if he had any comments regarding this application. Mr. Tennyson stated that if the variance request could be reduced it would be ideal.

Mr. Grady suggested to the Board to adjourn and to table this matter to the next Zoning Board of Appeals meeting held in October. Mrs. Dower made a motion to adjourn Variance Application #408-V until next month; seconded by Mr. Jensen.

Mr. Oliver further affirmed that the Authorization Form is necessary for this variance application to be approved and should be completed by the next Board meeting. Mr. Simon replied that he would make an attempt to obtain the signatures for the Form so that it will be available by the next meeting.

Mr. Grady adjourned the public hearing for application #408-V at 7:46 p.m.

---

<sup>1</sup> When standing on the parcel next to the proposed garage, facing Dell Culver Road.

OLD BUSINESS: None.

PUBLIC PRIVILEGE: None.

BOARD PRIVILEGE:

**\*\*A DISCUSSION ENSUED CONCERNING COMPLETION OF APPLICATIONS AND WHO DETERMINES THAT THE APPLICATION IS COMPLETE AND READY FOR REVIEW BY THE BOARD. IN ADDITION, IT IS STILL UNCLEAR AS TO WHEN A PUBLIC HEARING SHOULD BE SCHEDULED, WHICH NEEDS TO BE DISCUSSED FURTHER AMONG THE BOARD MEMBERS.\*\***

ADJOURNMENT:

Mr. Jensen made a motion to adjourn the meeting at 7:58 p.m.; seconded by Mr. Oliver. Motion carried 4-0.

Respectfully submitted,

Jeremy J. Little

Secretary

Zoning Board of Appeals