

**ZONING BOARD OF APPEALS ~ TOWN OF CHESTER**

**MINUTES OF MEETING ~ JULY 26, 2011**

ATTENDANCE: Mary Jane Dower, Bill Oliver, John Grady, Ken Marcheselli, Arnold Jensen, and Secretary, Pat Smith. Absent was John MacMillen.

MINUTES: On a motion by Mrs. Dower, seconded by Mr. Jensen, the Minutes of the April 26, 2011 meeting were accepted, as presented. Motion carried 5/0.

CORRESPONDENCE: Letter from Jim Henson re: application #401-V; Zoning Board Minutes of April 26<sup>th</sup>; Planning Board Minutes of April 18<sup>th</sup> and May 16<sup>th</sup>; and Zoning Office Activity Reports for April, May and June, 2011.

PUBLIC HEARING: Having been duly advertised, the Public Hearing was opened at 6:10 p.m. by Chairman Marcheselli.

#401-V ~ John Grady seeking relief from required front and rear yard setback in order to construct a reasonably sized dwelling in a Low Intensity Land Use Area.

Mr. Grady recused himself, stating that he was the sole owner of the subject parcel, as well as the applicant, and, as a member of the Zoning Board of Appeals expected no preferential treatment, but to be treated as any other applicant.

Mr. Grady explained that the subject parcel was purchased by him in 2004, and was one of twenty lots that had been approved in the Talerico subdivision in 1992. The property is located on the Pottersville-Olmstedville Road, and is identified by tax parcel #35.-1-24.1.

Mr. Grady's intention is to sell the lot, but in order to do so, wants it to be determined as buildable, in order to assure a reasonable use of the land. Being located in a Low Intensity Land Use Area, and due to the 2005 change in the Zoning Local Law with regard to setback distances, the requirement is 60 ft. from the front lot line, and 75 ft. from the rear lot line. The property, although 2.93+/- acres, is only 150 ft. in width. Considering the required setbacks, this would leave only a 15 foot building area, which is not a reasonable solution. In order to determine the required variances, a future home was approximated in size at 30' x 40' with a possible attached 24' x 20' garage to be located on the front side. This would require a 20 ft. front yard variance and a 25 ft. rear variance.

A letter from neighbor Jim Henson was read by Chairman Marcheselli. Mr. Henson has no aversion to the rear setback issue, but did not feel that a dwelling should be placed closer to the road. Mr. Grady explained that it is about 83 feet to the center of the road from the proposed dwelling location. Since the property is lower than the road, there is a natural berm and sufficient vegetation already in existence to mitigate visibility from the road. There is also a natural grade for the driveway, and the location of same is marked.

Chairman Marcheselli stated that he felt the berm, vegetation, and designated driveway should remain as marked. Mr. Grady concurred.

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

1. Benefit cannot be achieved by other means reasonable to the applicant;
2. There will be no undesirable change to the neighborhood character, or to other nearby properties;
3. The request is substantial at 33%, but is in line with other properties in the area;
4. The request will not have any adverse physical or environmental effects; and
5. The difficulty is due to a change in the Zoning Local Law, and is not self-created.

The board therefore finds for approval of a 20 ft. front yard setback, and a 25 ft. rear setback, according to Sect. 4.03 of the Town of Chester Zoning Local Law, in order to construct a dwelling on Tax Parcel #35.-1-24.1, located on the Pottersville-Olmstedville Road, a Low Intensity Land Use Area. Conditions apply that the existing berm and vegetation shall not be disturbed, but shall remain along the road side of the property, and the driveway shall be constructed as indicated. Motion for same was introduced by Mr. Jensen, seconded by Mrs. Dower, and carried 4/0.

BOARD PRIVILEGE: Chairman Marcheselli had some questions regarding approvals on the two recently reviewed Cell Tower applications that had been reviewed and approved by the board, after visiting the APA website. Minutes concerning those projects were reviewed to everyone's satisfaction.

ADJOURNMENT: On a motion by Mr. Oliver, seconded by Mrs. Dower, the meeting adjourned at 7:05 p.m.

Respectfully submitted,

Patricia M. Smith ~ Secretary