

ZONING BOARD OF APPEALS ~ TOWN OF CHESTER

MINUTES OF MEETING ~ NOVEMBER 22, 2011

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

CORRESPONDENCE: (Sent last month ~ no meeting: ZBA Minutes of Sept. 27th, 2011; Planning Board Minutes of Sept. 19th, 2011; Zoning Office Activity for Sept. 2011; and letter from Joseph & Margaret Schreck re: Creative Stage Lighting project). Letter from Supervisor Monroe re: sign for Town of Chester; Zoning Office Activity for October 2011; Planning Board Minutes of October 17, 2011.

MINUTES: On a motion by Mr. Jensen, seconded by Mrs. Dower, the Minutes of the Sept. 27th meeting were accepted, as presented. Motion carried 4/0.

OLD BUSINESS: None.

PUBLIC HEARINGS: Having been duly advertised, the public hearings were opened at 6:00 pm. As Mr. Monroe had not arrived yet, the Town of Chester project was tabled.

#404-V ~ Camp of the Pines. Attorney Dan Smith of Smith & Simon, LLC was representing the applicant. Back in 2008, applicant had erected two dwellings on the rear of the property not fronting State Route 9, but off Old Schroon Road, one for the Camp Director, and the other for the Pastor and his family. The property consists of 90+/- acres, and is identified by tax parcel #36.-1-5. On the east side of Route 9 there is located a Religious Convention Center, and on the west side, a campground, two houses and woodlands.

Camp of the Pines, also known as Sonrise, has gone out of business, and the owners now wish to sell the two new houses. In order to do so, they have to subdivide the property upon which they sit. The existing problem is that neither of the houses can meet the front yard required setback of 60 ft. in a Moderate Intensity Area. Being very close to the APA wetland area, they are also subject to Park Agency review.

There is a private road fronting both of the houses, currently known as Pax Lane. Applicant would like to keep that 50 ft. strip in order to access what will be proposed Lot #3, and the rear of Lot #1, the larger portion of the parcel. Proposed Lot #2 fronts on Old Schroon Road, but Lot #3 will not have road frontage. Attorney Smith stated that it would be impossible to sell both of the houses on only one lot.

Discussion ensued regarding reconfiguration of the road, adding a cul-de-sac, or creating a ROW. Attorney Smith said there were a couple of physical reasons that a cul-de-sac would not be feasible due to the locations of the wells, and then the separation distances from the wells to the septic systems.

The end result was suggested that lot #3 would extend to the other side of Pax Lane,

which is the property line. Lot #2 would also extend the same distance, and there would be an easement over Lot # 2 to access Lot #3, with Lot #2 retaining ownership of the easement and also having adequate road frontage on Old Schroon Road. Lot #1 would still have it's access from State Route 9.

On a motion by Mr. Grady, seconded by Mrs. Dower, the public hearing was closed at 6:30 pm. Motion carried 4/0.

Extensive discussion ensued. Mr. Smith then offered to withdraw the variance, if it was acceptable with the board that the map be amended to combine Lot # 3 with that portion of Pax Lane that runs contiguous with it, and to combine Lot # 2 with the portion of Pax Lane that runs contiguous with it, inasmuch as Lot # 3 would have a ROW over Lot #2 to Old Schroon Road. This would provide sufficient front yard setbacks for both dwellings, and by so doing, no variance would be required.

Following the review of the proposal and finding it acceptable, Mr. Jensen then made a motion that upon revisions to the map showing those portions of Pax Lane running contiguous with Lots #2 and #3 to be included with the parcels, and providing a ROW across Lot #2 for Lot #3 to have ingress and egress to Old Schroon Road, no variance would be required and the board would accept the withdrawal of the application. Motion was seconded by Mr. Marcheselli and carried 3/1, with Mr. Grady being opposed.

#403-V ~ Town of Chester proposed sign to exceed required size. Mrs. Dower recused herself from the board, as she has been involved and active in the Main Street Enhancement Committee for the Town of Chester. Mr. Monroe had arrived in the interim, and was present to discuss the project. Public hearing for this project was opened at 6:45 pm.

Chairman Marcheselli gave a little background on this application, as it had been presented at the September meeting, and the board felt, at that time, that no variance would be required, as the sign seemed to fall within the required size and setbacks of the Zoning Local Law. During the month of October, Mr. Monroe sent a memo to the Secretary stating that the current sign measures 36 square feet, excluding the support structure, and the town would now like to request a variance for a sign of 50 square feet, excluding the support structure. The sign ordinance allows 40 square feet, Sect. 7.04-2-c, which the town would be happy to have, in the event that 50 square feet is not acceptable.

Mr. Monroe presented the proposal for the new sign, adding that it might be paid for under the Main Street Revitalization Grant. At any rate, Mr. Monroe explained that the Attorney for the Town thought that perhaps the town would be exempt from a variance, since it operates as a municipality, if the sign was kept at 40 sq. ft. Applicant continued that in addition to the municipal offices that will be listed, there are also those from the private sector who rent space in this building and would need space on the sign. The town wants to stay within the guidelines and determination of the ZBA.

The second issue would be to determine only the sign area, and not include the support structure when measuring the sign, which had been done and accepted by the ZBA at a

previous sign variance decision. Without having the plan redrawn, the town felt that 50 square feet would be adequate for listing of the municipal offices, and would allow for four lines of changeable text for the display of meetings or special events.

Chairman Marcheselli wanted to know if this would preclude the small portable signs that have been planted around the yard. Mr. Monroe stated that it would, and it would also eliminate the sign on the south entrance of the driveway.

Mr. Grady proposed that instead of just 8 spaces being allowed for listing the offices, applicant might want to consider increasing the spaces to 10 to facilitate not just the existing rental offices, but any future rentals. This would also eliminate the need for any portable signage on the site.

Following this discussion, with no comment from the public, on a motion by Mr. Arnold, seconded by Mr. Grady, the public hearing was closed at 7:00 pm. Motion carried 3/0. (Mrs. Dower was recused).

Criteria was reviewed, and the findings were as follow:

1. The benefit cannot be achieved by other apparent means feasible to the applicant;
2. There will be no undesirable change in the neighborhood character or to nearby properties;
3. The request is not substantial, in view of the fact that the second sign on the property will be eliminated along with any portable signs;
4. There will be no adverse physical or environmental effects; and
5. The alleged difficulty is not self-created, and is a definite improvement over the existing condition.

Mr. Grady then made a motion to grant a 10 square foot variance of Sect. 7.04-2-c of the Town of Chester Zoning Local Law for the sign area on application #403-V for allowance of a 50 square foot sign, exclusive of support structure. Motion was seconded by Mr. Jensen and carried 3/0.

The only conditions imposed would be that there be no additional signs placed on the property.

BOARD PRIVILEGE: Brief discussion ensued regarding possible changes for clarification of the sign ordinance, as well as the road frontage issues that have caused multiple residents to have to apply for variances.

Additionally, Mr. Marcheselli stated that there will not be a December meeting of the ZBA.

The Board extended their thanks and appreciation to the Secretary for her many years of service and dedication to the board, as she will be resigning effective December 31, 2012, to take position in another office.

ADJOURNMENT: On a motion by Mr. Jensen, the meeting was adjourned at 7:30 pm.

Respectfully submitted,

Patricia M. Smith ~ Secretary