

TOWN OF CHESTER ZONING BOARD OF APPEALS

MINUTES OF MEETING ~ JULY 27, 2010

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

CORRESPONDENCE: ZBA Minutes of 6/22/10; Planning Board Minutes of 6/21/10; Zoning Administrator's Activity Report for June 2010; Revised RF Plots from AT&T.

MINUTES: On a motion by Mr. Jensen, seconded by Mr. Oliver, the Minutes of the June 22nd meeting were accepted, as presented. Motion carried 3/0.

PUBLIC HEARINGS: Having been duly advertised, Chairman Grady opened the public hearings at 6:00 p.m.

#392-V ~ Robert McCrum proposed garage unable to meet the rear yard setback. Applicant represented by Engineer Bret Winchip. Applicant is owner of two substandard lots, currently joined under one tax parcel number and located at 48 Clarkson Road, a Moderate Intensity Land Use Area. There is currently a dwelling located on the parcel, and applicant wants to erect a 28' x 24' two-bay garage behind the house for storage of his boats. There will be some kind of apron to get into the garage, and a storage area above that ranges from 7' to 0' in height over a 13' span, with a shed roof. There is a very steep bank in the rear, and a 31 foot variance is requested, where 50' is required. The structure will be shielded by a vegetative cover. To move the structure to the other side where there is a very steep driveway would eliminate the maneuverability of any vehicle, and there is a 20 or 25% grade, whereby a lot of dirt would need to be moved. Septic location is also an issue, as it is unknown, but the field has been located. The total combined parcel has approximately 200 feet on the road, between 153-160 feet in depth, and 134 feet width in the rear. None of the adjoining neighbors has an issue with the project, and all of the board members had viewed the site.

Review was done by the board, and the board found, as follows:

1. Benefit cannot be achieved by other means feasible to applicant due to steep drive not allowing placement of garage closet to road. To move it would also cause loss of parking and vehicle maneuverability.
2. No undesirable change would occur in the neighborhood or to nearby properties, with natural screening already being present.
3. The request is substantial, but due to topography, there is no other alternative.
4. There will be no adverse physical or environmental effects, particularly in light of the level nature of the proposed site, being well drained with sandy soil, and the adjoining home location.

5. Alleged difficulty is not self created.

Following discussion, with no comment from any abutters, motion was made by Mr. Jensen, seconded by Mr. Oliver, to approve application #392-V for a 31 foot rear yard setback variance. Motion carried 3/0.

#391-V ~ Independent Towers Holdings, LLC, on behalf of AT&T proposing erection of a Telecommunications Facility on property of Margaret Swinton, 200 Old Schroon Road. Applicant was represented by Mr. Ken Curley of Independent Towers Holdings.

The proposed tower is a 90 foot monopole telecommunications tower having the crown with branching that will blend it into the existing vegetation. The carrier that will be on the tower will be AT&T. There will be an access road that will be used to the existing driveway of Mrs. Swinton, and then cross over the power line easement that they have, then on to the 75' x 75' compound that houses the tower.

An adjoining neighbor, Mr. Chuck McKenna, stated that Independent Towers had contacted him first, along with a few of his neighbors, to determine an ideal location for the placement of the proposed tower. He stated that Mrs. Swinton had signed a contract that stated there would be no vegetation cut within 300 feet of the tower, in any direction. With 115 feet to his property line, he was concerned about any future development of his own property, and he wondered if there could be a better location for the tower. Mr. Curley informed him that the property can only be cleared within the vegetative easement, and it would not affect his property at all. He stated that they had actually had someone mark every tree on the proposed tower site. Once the tower was up, no further cutting could take place. He also confirmed that the tower center would be 115 feet from Mr. McKenna's property. Mr. McKenna is concerned that some of the view of Schroon Lake available from his property would not be available in the event that he chose to further develop what is now a wood lot.

Mr. Curley went on to explain that each tower project site is based on stringent guidelines by the APA as to how much you can clear, and what you can do. Project sites are considered based on visual impact, environmental impact and construction impact. The reason this particular site was chosen was due to how flat the topography was in relation to the rest of the area. He explained that Mr. McKenna's view would also be hindered by the existing power lines.

The proposed site location will line up perfectly with the Schroon Lake tower site, as well as the Horicon site, which will, in the long run, benefit the Town of Chester with improved coverage. The tower will not be totally naked to view, as not all of the vegetation will be removed. The advantages, as shown, are level topography, the location will meet the site line location, and it is the only flat spot that can house the 75' x 75' compound. Basically, it fits the criteria for terrain, RF standards and visibility.

Following extensive discussion regarding the visual impact to the neighbor, Mr. Grady stated that we are dealing with a Utility Company, and some priority must be given with a public service utility. There is no better alternative. Licensed NYS Engineers have

designed the communications facilities to be safe and to be properly constructed. Geo technicians have drilled into the ground and pulled up bedrock in order to build on a safe foundation. Location of the tower is subject to Site Plan Review with the Planning Board. The ZBA is to be concerned with height issues, only. When discussion was ended, motion was made by Mr. Jensen, seconded by Mr. Oliver, to close the public hearings at 7:20 p.m.

Review was then done by the board, and findings are as follows:

1. Benefit cannot be achieved by other means feasible to applicant, as RF plottings substantiate that the height requested is required in order to obtain adequate coverage. There is no basis to doubt the specific engineering facts that have been presented.
2. Undesirable change in character of neighborhood character or to nearby properties: There will be some aesthetic impact to adjoining property owner, but considering the existing power line, it is deemed to be minimal.
3. The request is somewhat substantial, but is necessary to obtain coverage.
4. The request will not have any adverse physical or environmental effects, particularly in light of the level topography which will minimize any ground disturbance.
5. The alleged difficulty is not self-created.

On a motion by Mr. Oliver, approval was then given for a 51 foot variance in order to erect a 90' monopole telecommunications tower on property of Mrs. Swinton. Motion seconded by Mr. Jensen, and carried 3/0.

ADJOURNMENT: On a motion by Mr. Jensen, seconded by Mr. Oliver, the meeting adjourned at 7:30 p.m.

Respectfully submitted,

Patricia M. Smith ~ Secretary