

**ZONING BOARD OF APPEALS  
TOWN OF CHESTER  
1786 Kings Highway  
Chester, New York 10918  
February 27, 2014**

Members Present: Attorney David Aikman, Esq., Chairman Dimitrios Lambros, Gregg Feigelson, Konrad Mayer, Ernie Damiani, Walter Popailo and Julie Bell

Absent: Vinnie Finizia

The next ZBA meeting will be held on Thursday, March 20, 2014 at 7:00 PM

**JAMES THEODOREU – 33 & 47 DEER TRAIL – WORK SESSION TO VOTE**

This is a meeting to vote on a variance for Mr. Theodoreu. Attorney Ostrer is representing him. Attorney Ostrer stated that Mr. Theodoreu's request was for the 280A variance or an interpretation that he did not need one which would then permit him to go to the Planning Board for a two lot subdivision.

Chairman Lambros made a motion at 7:12 PM which was seconded by Ernie Damiani to go into Board/Attorney meeting. Motion carried in favor.

Chairman Lambros and the Board returned to the meeting at 8:30 PM.

Attorney Aikman asked Mr. Ostrer if there was a legal easement over this road for the property owners.

Attorney Ostrer replied that there was. He stated that it was established that each of the lots that came out of the parent parcel and one lot to the rear are planned lots and they own a strip out to Pine Hill Road. There is a declaration with cross easements that allows each of the property owners to travel on portions of the fifteen feet. Each of the owners has the right to travel over each other's strip. There is a paved roadway. The road maintenance agreement provides that they share in the cost and maintenance of the road to the extent of the footage they actually use. Each of the homes do benefit from actual ownership of fifteen feet out to Pine Hill Road.

Ernie Damiani asked Attorney Ostrer if there was a recorded easement declaration to which Attorney Ostrer replied yes. He stated the right of way is recorded at Lieber 3474, page 330. There is also one recorded at Lieber 3620 which would be subsequent to the original one. It speaks to the original parent parcel. The declaration declares the easement. The declaration represents the twenty eight (28) acres.

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Ernie Damiani asked which four (4) lots are using the fifteen foot strip. Attorney Ostrer stated that there are actually five (5) lots. The one lot exits onto Pine Hill Road and the rest onto Deer Trail. The easement is not limited. The parent parcel of lot three (3) has an easement. They would be satisfied if the Board decided that they did not need a 280A variance. They were told by the Planning Board that they had to go to Zoning Board for the variance.

The Board and Attorney Ostrer discussed the easement further.

Chairman Lambros asked the Board members if they had any more questions.

Ernie Damiani asked Attorney Aikman if the benefit of the easement goes with lot three (3) to which Attorney Aikman replied yes, that is the purpose of an easement. He agrees with Attorney Ostrer stating it flows with the land. Attorney Aikman also thinks that the safeguard for Mr. Damiani's concern is the rules about subdividing. That issue will be dealt with at the Planning Board.

Attorney Ostrer stated that the Board can restrict the variance to one additional lot if they would like.

Chairman Lambros made a motion which was seconded by Ernie Damiani to grant an appeal under New York State Town Law Section 280A, to allow for a two lot subdivision with one lot lacking frontage on a public road pending Planning Board approval.

Ernie Damiani would like the variance to state that the Board has determined that the sub divided parcel has the benefit of the easement.

Chairman Lambros stated that the Board should also add that the easement accesses from the frontage on Deer Trail.

The Board voted unanimously that this would not cause a detriment to the neighborhood.

The Board voted unanimously that this applicant could achieve his goals via a reasonable alternative.

The Board voted unanimously that the variance was not substantial.

The Board voted unanimously that this would not have an adverse impact on the neighborhood.

The Board voted 3-2 that this was a self-created difficulty with Mayer and Lambros voting that it was not.

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The Board voted 3-2 in favor of the 280A variance. Feigelson and Bell were opposed.

**This variance was granted.**

**WALTON LAKE COUNTRY CLUB – 44 HEATON ROAD**

Chairman Lambros made a motion which was seconded by Ernie Damiani to vote that this applicant move forward to a Public Hearing. Motion was carried in favor. They have been scheduled for March 20, 2014 at 7:00 PM.

A motion was made by Ernie Damiani and seconded by Greg Feigelson to close this meeting at 9:15 PM. Motion carried.

Respectfully Submitted  
Dorothy Wierzbicki