**MEMBERS PRESENT: ALSO PRESENT:**

Vincent Finizia, Chairman David Gove, Attorney

Gregg Feigelson

Julie Bell

Walter Popailo Alexa Burchianti, Secretary

Dan Doellinger

Bob Favara, Alternate

Tom Atkin, Alternate

The meeting was opened at 7:03 pm by the Chairman Vincent Finizia who led those present in the Pledge of Allegiance.

The December meeting is cancelled. Next Meeting will be January 11, 2018.

Motion made to adopt the Minutes from October 19, 2017. Motion made by Walter. Second by Dan. Motion carried 5-0.

Motion to open Public Hearing:

Motion made by Julie Bell. Second by Tom. Motion carried 5-0

**SANDRA MARCIANO – PUBLIC HEARING**

Let the record reflect that the proper notice was placed in the Times Herald Record and that proper mailings were mailed out.

Zucca letter read into the minutes.



Daniel Yanosh for Sandra Marciano and the property of Chaz Byrne. Sandra Marciano 68 Goosepond Mtn Rd. s/b/l 4-1-11.1 application is for an area variance. Ms. Marciano’s property is currently 3.09 acres and Mr. Byrne property is currently 1.33 acres. Mr. Byrne would like to purchase 1.27 acres from Ms. Marciano bringing his property to 2.6 acres, and would decrease Ms. Marciano’s property to 1.82 acres. Current zone is AR-3. Ultimately making both lots non-conforming. Original sub-division in 1996 zone was AR-1 with 1 acre lot minimum.

Mr. Yanosh states Mr. Byrne would like the additional property for more animals. There will be no new buildings, no new construction. Just land swap of 1.27 acres from one person to another so he can do a little more farming.

Let the record reflect no one spoke for or against the application, with the exception of the Zucca letter that was submitted.

Motion to close the Public Hearing made by Walter Popailo. Seconded by Gregg. Motion carried 5-0.

Counsel for Zoning Board Dave Gove, Application before the board by Sandra Marciano located at 68 Goosepond Mtn Rd, Chester NY also known as section 4 Block 1 Lot 11.1 on the tax map of the Town of Chester NY Located in AR-3 district. For an application for an area variance of section 98 of the Town code to permit a lot size of 1.82 acres whereas the Town code requires a lot size of 3 acres. In making the determination whether to grant or deny this variance the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted is weighed against the detriment health, safety and welfare of the neighborhood or community by said such grant. In making the determination the board shall consider the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created.

Gregg Feigelson: No.

Julie Bell: No.

Walter Popailo: No.

Dan Doellinger: No.

Chairman Finizia: No.

1. Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the area variance.

Gregg Feigelson: No.

Julie Bell: No.

Walter Popailo: No.

Dan Doellinger: No.

Chairman Finizia: No.

1. Whether the requested area variance is substantial.

Gregg Feigelson: Yes.

Julie Bell: Yes.

Walter Popailo: Yes.

Dan Doellinger: Yes.

Chairman Finizia: Yes.

1. Whether the variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Gregg Feigelson: No.

Julie Bell: No.

Walter Popailo: No.

Dan Doellinger: No.

Chairman Finizia: No.

1. Was the alleged difficulty self-created.

Gregg Feigelson: Yes.

Julie Bell: Yes.

Walter Popailo: Yes.

Dan Doellinger: Yes.

Chairman Finizia: Yes.

Variance with conditions upon approval of the Planning Board and no other livable structures.

Poll vote to grant the area variance is as follows:

Gregg Feigelson: Yes.

Julie Bell: Yes.

Walter Popailo: Yes.

Dan Doellinger: Yes.

Chairman Finizia: Yes.

Motion Granted.

**DARIN HECHT – PUBLIC HEARING**

Counsel Rick Golden before the board for applicant Darin Hecht. Applicant is operating a business out of his barn which is very close to his home. Proposing to ask for an interpretation that the business can continue as a home occupation in order for that to occur they would have to connect the barn and the home by way of a breezeway. Also associated, asking for 2 area variances. One is for the number of employees to add one more employee that is permitted for a home occupation. The 2nd was to ask for an area variance of 336 sq ft. to comply with the requirement of the size of the business. Needs to be a certain size of the ground floor of the dwelling.

Motion to open the Public Hearing. Made by Walter. Second made by Dan. Motion carried 5-0.

Let the record reflect that all of the certified mailings have gone out and that the legal notice was posted in the Times Herald Record.

There is no correspondence on this matter. No one from the public spoke for or against the application.

Gregg asked if there any other businesses at this location? And stated Google maps shows a packaging company selling packaging materials.

Darin Hecht stated that they do sell carton sealing dispensers.

Gregg stated according to google map KH Industry sales is also at that address and says it sells packaging materials. Darin stated no one comes to the property at all. Counsel stated had he known that he would’ve put that in the application as well and apologized.

Bob asked how long the business has been operating. Counsel Golden responded with 11 years.

Counsel Golden stated that there is no retail, no foot traffic going in and out of the building.

Chairman Finizia stated the first order of business to come to the conclusion if this is a customary home occupation or not, then can tackle the area variances.

Dave Gove counsel for the Board read the definition of Home Occupation from the code book.

Board discussed where the property lines were and the driveways for the properties were located.

Gregg stated he feels the scale here is a little out of proportion for what he would consider a home occupation. This is a wholesale distributorship, when he thinks of wholesale distributorship he thinks of industrial parks and warehouses. This is a large operation. His warehouse is bigger than the ground floor of his house. The scale for him in his opinion that this is out of scale. Out of scope.

Dan stated in some senses he agrees with Gregg and in others he doesn’t. Believes that an internet based distributor could be considered a home business however this seems to be on a much larger scale than what would be your traditional home business. However, the size of the business is based on the size of the pre-existing barn that he is using, and an approval or denial is not going to change the fact that the barn is already built there. If he was coming to the board looking to build a 1950sq ft. warehouse on his property he doesn’t think he would be ok with it. He is more inclined to be ok with it because he is using an existing structure that’s already there and has been there for over 100 years. And that maybe governed the size of the business because of the size of the building.

Walter stated he feels a little bit of both what Gregg and Dan stated.

Chairman took a poll vote to on the interpretation if this is considered home occupation:

Gregg Feigelson: No.

Julie Bell: Yes.

Walter Popailo: Yes.

Dan Doellinger: Yes.

Chairman Finizia: Yes.

Counsel for Zoning Board Dave Gove, Application before the board by Darin Hecht located at 1046 Lakes Rd, Monroe NY also known as section 18 Block 1 Lot 52 on the tax map of the Town of Chester NY Located in SR-2 district. For an application for an interpretation of the Town Code having a beauty supply business use of his property is a permissible home occupation as defined under the Town Code and as such is permitted in the SR-2 district.

With the condition that the breezeway is constructed to connect the house to the barn.

Motion made to move for a finding that this constitutes as a home occupation under the code.

Motion made by Walter. Second by Dan.

Gregg Feigelson: No.

Julie Bell: Yes.

Walter Popailo: Yes.

Dan Doellinger: Yes.

Chairman Finizia: Yes.

Motion Carried 4-1. Gregg Feigelson opposed.

Counsel for Zoning Board Dave Gove, Application before the board by Darin Hecht located at 1046 Lakes Rd, Monroe NY also known as section 18 Block 1 Lot 52 on the tax map of the Town of Chester NY Located in SR-2 district. For an seeking an area variance in regards to his beauty supply business at said residence where he seeks an area variance to permit him to employ a second non-residential employee where the Town Code states said activity shall not have more than ONE non-resident employee. In making the determination whether to grant or deny this variance the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted is weighed against the detriment health, safety and welfare of the neighborhood or community by said such grant. In making the determination the board shall consider the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created.

Gregg Feigelson: No.

Julie Bell: Yes.

Walter Popailo: Yes.

Dan Doellinger: No.

Chairman Finizia: Yes.

2. Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the area variance.

Gregg Feigelson: Yes.

Julie Bell: Yes.

Walter Popailo: Yes.

Dan Doellinger: No.

Chairman Finizia: No.

3. Whether the requested area variance is substantial.

Gregg Feigelson: Yes.

Julie Bell: Yes.

Walter Popailo: Yes.

Dan Doellinger: No.

Chairman Finizia: Yes.

4. Whether the variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Gregg Feigelson: No.

Julie Bell: No.

Walter Popailo: No.

Dan Doellinger: No.

Chairman Finizia: No.

5. Was the alleged difficulty self-created.

Gregg Feigelson: Yes.

Julie Bell: Yes.

Walter Popailo: Yes.

Dan Doellinger: Yes.

Chairman Finizia: Yes.

Motion made by Chairman Finizia. Second by Walter. Motion carried 4-1. Gregg Feigelson Opposed.

Counsel Golden explained to Julie Bell how the square footage computes.

Counsel for Zoning Board Dave Gove, Application before the board by Darin Hecht located at 1046 Lakes Rd, Monroe NY also known as section 18 Block 1 Lot 52 on the tax map of the Town of Chester NY Located in SR-2 district. For an seeking an area variance in regards to his beauty supply business at said residence where he is seeking a 336sq. ft. area variance because the Town Code restricts such use of the business to not occupy more than one half of the ground floor area. Applicant exceeds said requirement by 336sq. ft. In making the determination whether to grant or deny this variance the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted is weighed against the detriment health, safety and welfare of the neighborhood or community by said such grant. In making the determination the board shall consider the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created.

Gregg Feigelson: No.

Julie Bell: No.

Walter Popailo: No.

Dan Doellinger: No.

Chairman Finizia: No.

2. Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the area variance.

Gregg Feigelson: Yes.

Julie Bell: Yes.

Walter Popailo: No.

Dan Doellinger: Yes.

Chairman Finizia: No.

3. Whether the requested area variance is substantial.

Gregg Feigelson: Yes.

Julie Bell: Yes.

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Chairman Finizia: Yes.

4. Whether the variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Gregg Feigelson: No.

Julie Bell: No.

Walter Popailo: No.

Dan Doellinger: No.

Chairman Finizia: No.

5. Was the alleged difficulty self-created.

Gregg Feigelson: Yes.

Julie Bell: Yes.

Walter Popailo: Yes.

Dan Doellinger: Yes.

Chairman Finizia: Yes.

Motion made to grant the variance as requested. Made by Chairman Finizia. Second by Julie. Motion carried 4-1. Gregg Feigelson opposed.

Motion close the public hearing. Motion made by Julie. Second by Dan. Motion carried 5-0.





Respectfully Submitted,

Alexa Burchianti

ZBA Secretary