

ZONING BOARD OF APPEALS
TOWN OF CHESTER
1786 Kings Hwy
Chester, New York 10918
April 16, 2015

Members present: Dimitrios Lambros, Chairman, Gregg Feigelson, Julie Bell, Walt Popailo, Bob Garstak and David Aikman, ZBA attorney.

The next ZBA meeting will be held on May 21, 2015.

Chairman Lambros led those present in the Pledge of Allegiance.

SHANE FERRARO 219 BULL MILL ROAD – PUBLIC HEARING

First item on the agenda is a Public Hearing for applicant Shane Ferraro for a side yard variance. Chairman Lambros made a motion to open the public hearing, seconded by Gregg Feigelson. The audience was invited to speak pros or cons for the project.

Tim Ryan, Architect for the applicant indicated that he did receive approval from the County for the project.

Chairman Lambros stated the Board did receive a County reply of mandatory review of the local planning action as per New York State General Municipal Law 239-1, m, & n. The reason for the County review is that anything within 500 feet of property owned by New York State for recreational purposes must be sent for review by the County. In this case it was Goosepond Mountain State Park. Chairman Lambros read from the following letter:

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County Reply – Mandatory Review of Local Planning Action
as per NYS General Municipal Law §239-l, m, &n

Local Referring Board: Town of Chester ZBA

Applicant: Shane and Nicole Ferraro

Project Name: Ferraro

Proposed Action: Area Variance for addition to existing residence, reducing single side yard from required 30 feet width to 24.25 feet width

Reason for County Review: Within 500 feet of property owned by New York State for recreational purposes (Goosepond Mountain State Park)

Date of Full Statement: March 24, 2015

Referral ID #: CHT 02-15M

Tax Map #: 8-1-6

Local File #: none provided

Comments:

The Planning Department has reviewed the submitted materials regarding the appeal for an area variance. While the Zoning Board of Appeals must weigh the local issues in balancing the needs of the appellant with the potential impacts on the surrounding area, it does not appear that intermunicipal or countywide impacts would result if the board finds that granting relief is warranted in this matter.

County Recommendation: Local Determination

Date: April 6, 2015

Prepared by: Megan Tennermann, AICP, Planner


for **David Church, AICP**
Commissioner of Planning

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available on-line at www.orangecountygov.com/planning.

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Chairman Lambros made a motion to close the public hearing, seconded by Walt Popailo.

In reviewing area variances there are five questions that must be considered:

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Appendix A:

Reviewing Area Variances – The Five Questions

The standard to be used is the weighing of the benefit to the applicant against the detriment to the health and safety and welfare of the neighborhood or community if the variance is granted.

The questions to be considered:

1. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created;
2. Whether an applicant can achieve his goals via a reasonable alternative which does not involve the necessity of an area variance;
3. Whether the variance is substantial;
4. Whether the variance will have an adverse impact on physical or environmental conditions in the neighborhood or district;
5. Whether there has been any self-created difficulty.

(The New York Planning Federation Fourth Edition 2001)

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Chairman Lambros polled the Board on Question 1.

Gregg Feigelson: No.
Julie Bell: No.
Dimitrios Lambros: No.
Walt Popailo: No.
Bob Garstak: No.

Chairman Lambros polled the Board on Question 2.

Gregg Feigelson: No.
Julie Bell: No.
Dimitrios Lambros: No.
Walt Popailo: No.
Bob Garstak: No.

Chairman Lambros polled the Board on Question 3.

Gregg Feigelson: No.
Julie Bell: No.
Dimitrios Lambros: No.
Walt Popailo: No.
Bob Garstak: No.

Chairman Lambros polled the Board on Question 4.

Gregg Feigelson: No.
Julie Bell: No.
Dimitrios Lambros: No.
Walt Popailo: No.
Bob Garstak: No.

Chairman Lambros polled the Board on Question 5.

Gregg Feigelson: Yes.
Julie Bell: Yes.
Dimitrios Lambros: Yes.
Walt Popailo: Yes.

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Bob Garstak: Yes.

David Aikman stated that he would propose a resolution that an area variance permitting a side-yard setback of 24 feet when 30 feet is required be granted to Shane and Nicole Ferraro for 219 Bull Mill Road in Chester, New York.

Julie Bell reiterated that the covered porch cannot be enclosed as discussed at the prior meeting. Mr. Aikman stated he would add a provision that the covered porch would not be permitted to be enclosed.

Chairman Lambros made a motion to propose the variance, seconded by Walt Popailo.

Chairman Lambros asked the Board to vote on granting the variance with a unanimous yes vote. Chairman Lambros then made a motion to close the vote, seconded by Walt Popailo.

The Board votes unanimous to grant the Ferraro's side yard variance on 219 Bull Mill Road and Mr. Aikman will draw up the resolution.

DANIEL STEINBERG 125 NANCY LANE – WORK SESSION

The next item on the agenda is Daniel Steinberg, 125 Nancy Lane, area variance for a fence.

Daniel Steinberg stated he is looking for an area variance for a fence in both height and structure. One of the applicant's neighbors concerns him and his family. The neighbor's home is approximately between 300 and 400 feet from the applicant's property line. The neighbor has installed video cameras on the property line that point to the applicant's driveway and where his children play. One of the cameras is a still-photography camera. The applicant stated that he called the Town of Chester Police Department about it to see what his potential rights were regarding this. The police indicated from their perspective it was surveillance of the applicant's property, however the neighbor could say that it was for the purpose of protecting his property and suggested a civil suit or something of that nature.

Daniel Steinberg stated that he has had issues with the neighbor swearing and yelling profanity at him and also at his wife while the children were present. Friends and other

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neighbors have also observed this. This neighbor is irate as he paces up and down the property line carrying a firearm on the outside of his clothing which is very unnerving. Recently the neighbor put up an orange construction fence strung with multiple strands of barbed wire adjacent to the applicant's driveway where his children play. The applicant said it's a visual eyesore as well as a hazard because of the barbed wire.

Mr. Steinberg stated he spoke to the Building Department regarding the orange construction fence and whether the neighbor got a permit for it and to find out whether it's being maintained in its present condition. The Building Department stated that the construction fence is of a temporary nature and they consulted with the home owner and they are not pursuing the matter further.

As a result of these issues and concerns the applicant would like to replace his current open, picket fence that is (4) four-foot tall and replace that with a (6) six-foot solid vinyl privacy fence and extend it down to the end of his property line which ends at the cul-de-sac of Nancy Lane. Currently the permit allows a (4) four-foot, open fence for visibility. The applicant stated there is forest next to his property with no buildable lots and no inlets or outlets within several hundred feet of the driveway.

Mr. Steinberg stated the neighbor's home is in a private development on the back side of Goosepond Park adjacent to the soccer fields at the commons. His home is on Valerie Road. The applicant stated that one of the video cameras is pointed at his upstairs bathroom window with two others pointed at his driveway. The three cameras are installed on trees along the property line. The applicant understands that the fence is not an ideal situation and would be much happier if the cameras were taken down, but feels the privacy fence would help make him and his family more comfortable.

Chairman Lambros stated the applicant would come back for a public hearing at the next meeting. The ZBA secretary would provide Mr. Steinberg a list for him to notify surrounding neighbors of the public hearing.

Gregg Feigelson said he came into the meeting with a dim view of this variance, but after hearing the applicant's concerns he understands the request. Mr. Feigelson stated that this type of fence variance is a hot topic and it is all about precedent, but the applicant's situation is interesting.

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Chairman Lambros made a motion to close this work session, seconded by Walt Popailo.

PAUL GUANERI 18 NATURE'S TRAIL – 280A VARIANCE AND INTERPRETATION

Appearing before the Board on behalf of applicant Paul Guaneri is Jim Clearwater, Land Surveyor with MJS Engineering.

Mr. Clearwater stated the applicant was referred to this Board by the Planning Board because the application needs a 280A variance and perhaps a side-yard variance. The Guaneri's are proposing a two-lot subdivision of their site to create one new single-family lot to build a house for themselves. Nature's Trail is a private road. The entire site has no frontage on a public street which triggered the 280A variance.

There is a side-yard variance on the existing property line for the existing house and the new application does not change the property line. Mr. Clearwater is unsure if the Town of Chester allows the applicant to keep the pre-existing non-conformity or not.

Gregg Feigelson asked Mr. Clearwater if the road was part of any official Town documents, tax plats or anything like that. Mr. Feigelson is trying to establish if Natures Trail is a legitimate road on other pre-existing documentation such as County maps or Town maps, because if it is it may not need a 280A because 280A specifically calls out and differentiates between non-public roads. Gregg Feigelson asked if it's possible if Natures Trail is filed on County and Town maps. Mr. Clearwater stated it's a recognized road. Mr. Feigelson stated if it conforms to the Town requirements, even though it is private, it may not need 280A. Gregg Feigelson read from a section of a legal opinion trying to interpret the law to make it approachable for general audiences. The legal opinion is on file.

Mr. Clearwater stated that the rub would be that the applicants cannot produce a subdivision map that created the road. He stated that he didn't know if it was on any official map of the Town as a street, albeit private.

Chairman Lambros asked the applicants to come back next month for another work session with any information they could find while the Board reviews the 280-A law.

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Chairman Lambros made a motion to adjourn the meeting, seconded by Walter Popailo.

Respectfully submitted,

Tanya McPhee
ZBA Secretary