

ZONING BOARD OF APPEALS  
TOWN OF CHESTER  
1786 Kings Hwy  
Chester, New York 10918  
May 21, 2015

Members present: Dimitrios Lambros, Chairman, Vincent Finizia, Julie Bell, Gregg Feigelson, Bob Garstak (arrived at 7:35 pm), David Aikman, ZBA Attorney and Tanya McPhee, ZBA Secretary.

Chairman Lambros called the meeting to order at 7:08 pm and led those present in the Pledge of Allegiance.

The next ZBA meeting will be held on June 18, 2015.

**DANIEL STEINBERG – PUBLIC HEARING**

First item on the agenda is a public hearing for applicant Daniel Steinberg for an area variance for a fence on his property at 125 Nancy Lane, Chester, New York 10918.

Let the record reflect that the proper mailings were sent out and a Notice of Public Hearing was published in the Times Herald Record.

Mr. Steinberg introduced himself to the Board. He explained he was requesting an area variance for a fence on his property. He wishes to put a 6' privacy fence in lieu of a 4' picket fence that is currently installed. Chairman Lambros stated that the current code calls for an open fence with a height restriction. Attorney Dave Aikman asked for a brief summary of why the applicant was requesting such a variance.

Mr. Steinberg explained that it is a quality-of-life issue. His property borders a neighbor's property which he has had significant problems with in the past. Mr. Steinberg alleges that the neighbor has been harassing his wife and children for the last eight years, pressed a lawsuit against him several years ago that resulted in a judgment being held against him, and has since installed two video cameras and a still camera in trees that are adjacent to his property and that point to his driveway and what appears to be his master bedroom.

Mr. Steinberg stated that this has been traumatic for him and his family living this way. He explained the neighbor's home is located approximately 400' to 500' away from his and is not visible, yet the neighbor stands at the fence and name calls and harasses his family. He is not comfortable with the cameras facing his property. He has two daughters. Mr. Steinberg feels the neighbor goes out of his way to make every effort to harass his family.

The applicant stated that the neighbor has installed an orange construction fence that runs along the border of the property and has strung five strands of barbed wire through it. He feels that is a hazard for the children.

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Vincent Finizia asked why a 6' fence and are the cameras at that level. Mr. Steinberg stated the cameras are high up on trees and view over the fence. His feeling is that the 6' solid fence will mitigate the face-to-face visual contact with his neighbor but would not alleviate the problem with the cameras. The fence is to increase his family's sense of security.

Mr. Steinberg stated that approximately 30' of this fence will border the Thomson's property, the neighbor in question. The other 80' or 90' of the fence will border the Reilly's property which does not have any issue with the applicant installing the fence.

Chairman Lambros made a motion to open the public hearing, seconded by Julie Bell.

First member of the public to speak was Michael Thomson of 2 Valerie Drive, Chester. Mr. Thomson stated he has lived at that address for 17 years. Mr. Thomson noted there was a Town of Chester Police Officer present who previously was on his property and discussed the issues with him. Mr. Thomson stated that approximately 10 years ago Mr. Steinberg came to his door and said they had to swap property because of a septic. Mr. Thomson said he was not interested and said no. A few years later Mr. Steinberg built a driveway that Mr. Thomson alleges was on his land on the portion he was interested in previously.

Mr. Thompson said he had to go through a lot of hassle because Mr. Steinberg cut down about 200 of his trees as well as another neighbor's trees. This happened in the winter but he did not notice until the spring time. He said he spent three or four years trying to settle this issue in the courts. Mr. Thomson stated that Mr. Steinberg was found guilty for trespassing and cutting about 400 trees from his and another neighbor's property.

Mr. Thomson stated in a perfect world he and Mr. Steinberg would be friends. They are both engineers with children, but unfortunately it's not a perfect world. He stated the court case was filed in New York Supreme Court and he spent hundreds of thousands of dollars to have justice. Mr. Thomson said the fence Mr. Steinberg wants to put up is on his property. He said the allegations of harassment are simply BS and he is happy the police are here tonight because they have all the records regarding that.

Mr. Thomson said the only reason he put video cameras and a still camera up is because he wants to protect himself so that Mr. Steinberg will not come with a chainsaw and try to cut down more trees and make more damage. He claimed that Mr. Steinberg has come on his property in the past. He objects to the variance because the land that Mr. Steinberg built his house was not approved for building. He claims the land was bought with \$10. As of 2010 Mr. Thomson's lawyer could not find an approved septic plan for Mr. Steinberg's property. He feels a fence would look ugly and says the law says what it

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says and has a purpose and Mr. Steinberg should follow it whether he likes it or not. He said if Mr. Steinberg has an issue with him making video he should go to the police station and file a claim and take it from there. He says it's completely legal and he consulted with the police department of where to place the cameras and he does it because he's found Mr. Steinberg too many times on his land. He believes the variance should not be approved.

Vincent Finizia asked Chairman Lambros if he could ask Mr. Thomson a question. Chairman Lambros said yes. Mr. Finizia asked Mr. Thomson if the cameras were put up prior to this situation. He stated he has a problem with cameras facing someone else's property. Mr. Thomson asked Mr. Finizia to be more specific. What camera, what positioning? Mr. Finizia asked several times of Mr. Thomson if he installed the cameras after all of the incidents with Mr. Steinberg. Mr. Thomson asked what kind of incidents or altercations. Mr. Finizia asked if he could please answer the question, yes or no. Mr. Thomson stated he has moved cameras around and in and out of his property.

Mr. Finizia then asked what the reason was for the construction fence. Mr. Thomson said the construction fence is not a construction fence. It's approved by the Building Department. Mr. Finizia again asked if there was a reason why he had a construction fence up. Mr. Thomson stated that because Mr. Steinberg was found guilty in the lawsuit it is his right to fence his property.

No one else from the public came to speak about this variance. Chairman Lambros thanked Mr. Thomson for his explanation but stated the Board is not here to settle disputes between neighbors. The Board is here for a limited application for a variance for a fence and its character and height. Chairman Lambros stated the Board followed the protocol in having the applicant notify neighbors and publish the notice in the newspaper that they have to follow according to New York State. Mr. Thomson is the only neighbor to appear at the public hearing. Chairman Lambros stated this means that no other neighbor has an objection with the fence. Mr. Thomson stated he has an objection with the fence.

Chairman Lambros polled the Board for comments. Gregg Feigelson said he would like to see an official survey of the lot. He questioned the legitimacy of the lot. Mr. Steinberg stated he had a survey with him. He said the home, the septic and the fence all had permits. It was an approved building lot that he paid \$100,000 for.

ZBA Attorney David Aikman noted for the record that Mr. Steinberg had sent the Board a five-page letter that detailed the history between the two neighbors. Mr. Steinberg presented the Board with a building lot subdivision approved by the Orange County Health Department and certified by the Orange County Health Commissioner and

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Zimmerman Engineering of Monroe. He stated this is what is on file with Joe Mlcoch, Building Inspector and the County. He showed the certified and approved septic field which was approved in 2002.

Mr. Feigelson asked if there was some question about the Zimmerman survey. Mr. Steinberg stated that Zimmerman surveys tend to be somewhat inaccurate at times and that the survey he presented actually doesn't close at one corner. He had it resurveyed by Lanc and Tully of Goshen and certified by them and they showed how it would close.

Chairman Lambros made a motion to close the public hearing, seconded by Vincent Finizia.

The Chairman then polled the board on five questions from the New York State Planning Federation.

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

Vincent Finizia: No.

Julie Bell: No.

Dimitrios Lambros: No.

Gregg Feigelson: No.

2. Whether an applicant can achieve his goals via a reasonable alternative which does not involve the necessity of an area variance.

Vincent Finizia: No.

Julie Bell: No.

Dimitrios Lambros: No.

Gregg Feigelson: No.

3. Whether the variance is substantial.

Vincent Finizia: No.

Julie Bell: No.

Dimitrios Lambros: Yes.

Gregg Feigelson: Yes.

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

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Vincent Finizia: No.

Julie Bell: No.

Dimitrios Lambros: No.

Gregg Feigelson: No.

5. Whether there has been any self-created difficulty.

Vincent Finizia: No.

Julie Bell: No.

Dimitrios Lambros: No.

Gregg Feigelson: No.

Attorney Aikman stated he would frame the resolutions as to grant to the Steinberg's a variance to install a six-foot solid, privacy fence where the zoning only permits a four-foot picket-type or visually open type-fencing in the area due to the issues that have arisen and have existed between the Steinberg's and their neighbors to permit the privacy and a buffer zone between the applicant and the neighbor.

Chairman Lambros made a motion to vote on the variance, seconded by Vincent Finizia.

The Board voted unanimously (4/0) to grant the motion for an area variance for a fence for the applicant.

### **GUANERI – CONTINUED WORK SESSION**

Second item on the agenda is a continued work session for Paul and Linda Guaneri of 18 Natures Trail. Appearing before the Board was Jim Clearwater, Land Surveyor and John Cappello, Esq. from Jacobowitz & Gubits, LLP.

Vincent Finizia stated that he wanted to disclose that he and John Cappello are good friends who bowl together.

Mr. Clearwater stated as recap that the Guaneri's own a seven-acre parcel on Natures Trail which is a private road off of Gibson Hill. They are proposing to divide the property to create one new single-family residential lot. Because Nature's Trail is a private road the application was referred from the Planning Board for a 280-A variance and also because the existing house is closer to the property line than what the code allows now.

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Last month it was requested that the applicant try to find a map that showed Natures Trail, the intention being that if it was a recognized street, albeit private, perhaps a 280-A variance would not be necessary. Mr. Clearwater went to the Town of Chester DPW garage and hanging on the wall is a map of the town showing all the various streets and he sent a photograph of that map to the Board.

Mr. Cappello stated that the Guaneri's had asked for his assistance in looking into this. He stated that the subdivision regulations do allow access from private streets under 280-A of the Town Law is acceptable. 280-A of the Town Law says it doesn't have to be a Town Road, but it has to be a road laid out on an official map of the town. Mr. Clearwater submitted the map from the DPW showing Natures Trail as a road on the official map of the municipality. The applicants are prepared for a public hearing on 280-A should it please the Board.

Mr. Cappello also stated regarding the side yard variance on the house is a pre-existing non-conforming condition. The use conforms as it's a single-family home on a lot that is acceptable size. The code states for normal maintenance, repair, alteration, reconstruction or enlargement of a building which does not house a non-conforming use, but is non-conforming as to district regulations for lot area, lot width, front, side or rear yards, maximum height in lot coverage or other such regulations is permitted if the same does not increase the degree of or create any new non-conformity with such regulation and such building. The applicant is not subdividing on the side or taking off any of the existing side yard. The side yard is 33 feet now. The lot will still conform as to lot size and will remain as exactly as non-conforming in the side yard as it exists today.

The Board discussed the possible actions it could take.

Chairman Lambros made a motion for public hearing for the 280-A variance and side yard variance, seconded by Vincent Finizia. All in favor. Motion passed unanimously (5/0).

A Public hearing is to be held at 7 pm on June 18<sup>th</sup>, 2015.

**MURRAY – WORK SESSION**

Last item on the agenda is a work session for Hugh J. Murray of 18 Hidden Drive seeking an area variance for an addition. Appearing before the Board was Jerry Murray and Rachel Murray. They just purchased the house on 18 Hidden Drive. The lot is 1.25 acres. For an addition they need a 30' setback on the side of the property. The

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applicants are looking to add 26' feet to the house. The way the house is situated it puts the addition at 18.3' setback. The applicant is requesting a 12' variance. Mr. Murray presented the board with a map showing the proposed addition. The Board discussed the variance.

Chairman Lambros made a motion to close the work session, seconded by Vincent Finizia.

Chairman Lambros made a motion to grant a public hearing, seconded by Vincent Finizia. Motion passed unanimously (5/0). A public hearing is scheduled for 7:30 pm on June 18<sup>th</sup>, 2015.

The meeting was adjourned at 8:15 pm.

Respectfully submitted,

Tanya McPhee  
ZBA Secretary