

ZONING BOARD OF APPEALS
TOWN OF CHESTER
1786 Kings Hwy
Chester, New York 10918
June 18, 2015

Members present: Dimitrios Lambros, Chairman, Gregg Feigelson, Julie Bell and Konrad Mayer.

Also present: David Aikman, ZBA Attorney and Tanya McPhee, ZBA Secretary.

Chairman Lambros led those present in the Pledge of Allegiance.

Next ZBA meeting is July 16, 2015.

Motion to open the meeting made by Chairman Lambros, seconded by Konrad Mayer.
Motion carried.

PUBLIC HEARING – GUANERI 18 NATURES TRAIL

Appearing before the Board was Jim Clearwater for applicants Paul and Linda Guaneri.

Let the record reflect that the proper mailings went out and a notice was placed in the Times Herald Record announcing the public hearing.

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

First to speak was Caroline Hamling of 36 Natures Trail. Ms. Hamling stated that she offered no objections but was curious about the road requirements. She stated she had gone for an interpretation before the Planning Board, but that was on hold because there were a lot of questions about the road.

Attorney David Aikman stated there was a lawyer present at the last meeting from Jacobowitz and Gubits who gave a brief rundown about the road and Mr. Clearwater presented the Board with a map that they found. Mr. Aikman stated that one of the questions was whether the 280A variance was actually necessary in view of what was presented.

Ms. Hamling stated that she went before the Planning Board but never ended up making a formal application because there were so many questions about the private road. She questioned whether if she decides to go forward with her application in the future can she expect that these requirements will apply to the remainder of the road as well. Gregg Feigelson stated the Board is not dealing with road requirements, but rather 280A.

Paul Guaneri presented the Board with three (3) emails from other neighbors supporting his project which are on file and on the website as an associated document to this meeting.

ZONING BOARD OF APPEALS
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June 18, 2015

Chairman Lambros made a motion to close the public hearing, seconded by Gregg Feigelson. Motion carried.

Attorney David Aikman stated there are actually two resolutions before the ZBA. One is for a variance under 280A of the Town Law because the property does not front on a public road and the other is for a variance because the proposed subdivision would result in a 33' setback on a side yard where 40' is required in the AR.3 zone.

Gregg Feigelson asked Mr. Aikman if the Board was considering abandoning the 280A requirement. Mr. Aikman's stated his opinion was based upon what the Board saw at the last meeting, 280A is not necessary, but the matter was referred by the Planning Board. Mr. Feigelson stated the ZBA has final determination.

Mr. Aikman stated that the resolution could be framed as that after review the 280A of the Town Law variance is not necessary based upon the map that was submitted by the applicants showing that Natures Trail is a recognized private road that does not have to be a Town road. Mr. Feigelson's opinion was that the Board does not need to grant the 280A and the Board should provide a letter of support back to the Planning Board stating the ZBA's determination was that it is not necessary. Mr. Feigelson stated the Board's goal should be to minimize the issue of variances.

Mr. Aikman suggested that the resolution be worded that based upon the information supplied by the applicant a 280A Town Law variance is not necessary because although it is a private road it is a road which has been designated on a Town map.

Chairman Lambros made a motion to take a vote on that issue, seconded by Konrad Mayer. Motion carried.

Mr. Aikman restated that the proposed resolution is that the variance under §280A of the Town law in this situation is not required because based upon the documents submitted by the applicant, the road in question – although it's a private road – is an established road on a Town map.

A vote was taken with all members present voting to grant the resolution. Resolution granted.

On the second issue Mr. Aikman proposed a resolution to grant a variance for the 33' side yard setback where 40' is required in an AR.3 zone for the pre-existing non-conforming condition if the property is subdivided.

A voted was taken will all members present voting to grant the variance. Variance granted.

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TOWN OF CHESTER
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June 18, 2015

PUBLIC HEARING – MURRAY 18 HIDDEN DRIVE

Appearing before the Board were Jerry and Rachel Murray of 18 Hidden Drive for an area variance for a side yard setback for addition to existing residence.

Let the record reflect that the proper mailings went out and a notice was placed in the Times Herald Record announcing the public hearing.

Chairman Lambros stated the application went to Orange County Department of Planning for review as per General Municipal Law §239-1 and is on file.

Chairman Lambros made a motion to open the public hearing, seconded by Konrad Mayer. Motion carried.

No one from the public came forth to speak regarding the application for an area variance. Chairman Lambros asked the ZBA secretary if any emails or phone calls were received. Tanya McPhee stated that one neighbor had called inquiring as to the nature of the variance. Ms. McPhee explained the application and the neighbor had no further comment.

Chairman Lambros made a motion to close the public hearing, seconded by Konrad Mayer. Motion carried.

David Aikman proposed a resolution to grant to the applicants a variance permitting a side yard variance of 18.3' where 30' feet is required and a rear yard variance of 56.9' where 60' is required in an SR.1 zone.

Chairman Lambros 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.

Gregg Feigelson: No.

Julie Bell: No.

Dimitrios Lambros: No.

Konrad Mayer: No.

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

Gregg Feigelson: No.

Julie Bell: No.

ZONING BOARD OF APPEALS
TOWN OF CHESTER
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Dimitrios Lambros: No.

Konrad Mayer: No.

3. Whether the variance is substantial.

Gregg Feigelson: Yes.

Julie Bell: No.

Dimitrios Lambros: Yes.

Konrad Mayer: No.

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

Gregg Feigelson: No

Julie Bell: No.

Dimitrios Lambros: No.

Konrad Mayer: No.

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

Gregg Feigelson: Yes.

Julie Bell: Yes.

Dimitrios Lambros: Yes.

Konrad Mayer: Yes.

Chairman Lambros made a motion to vote on granting the area variance, seconded by Julie Bell. Motion carried. All members present voted yes to grant the area variance to the applicant. Variance granted.

WORK SESSION – BAKSH 63 WILSON ROAD

Appearing before Board were Bibi and Saheed Baksh of 63 Wilson Road. They are seeking an area variance for a pre-existing eight-foot shed that currently sits in the rear yard setback and has since 1988. They are selling their home and were referred to the ZBA by the Building Inspector. They need to clear up any non-conformity before sale.

Gregg Feigelson stated he had no problem with the variance but would like to put a restriction on the variance stating that if the shed were ever to be rebuilt it would be in the right spot. Julie Bell agreed.

ZONING BOARD OF APPEALS
TOWN OF CHESTER
1786 Kings Hwy
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The applicants will come back for a Public Hearing which is scheduled for July 16, 2015 at 7 pm.

Chairman Lambros made a motion to close the work session, seconded by Julie Bell. Motion carried.

Chairman Lambros made a motion to adjourn the ZBA meeting, seconded by Julie Bell. Motion carried. Meeting adjourned.

Respectfully submitted,

Tanya McPhee
ZBA Secretary