

ZONING BOARD OF APPEALS  
TOWN OF CHESTER  
1786 Kings Hwy  
Chester, New York 10918  
August 20, 2015

Members present: Vincent Finizia, Acting Chairman, Gregg Feigelson, Julie Bell, and Konrad Mayer.

Alternate members present: Walter Popailo and Bob Garstak.

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

Acting Chairman Finizia led all those present in the Pledge of Allegiance.

The meeting was called to order at 7:05 pm.

Next meeting of the Zoning Board of Appeals will be September 17, 2015.

**VATAJ – PUBLIC HEARING**

First item on the agenda is a scheduled public hearing for Leke Vataj of 79 Southside Drive, Monroe for an area variance of the bulk regulations for a two-family home. Appearing before the Board was Mr. Vataj.

Mr. Vataj stated that the house was sold to him as a two-family home. The assessor has the property listed as a two-family home as of 1990. When he wanted to rent the home he was cited with violations from the Building Inspector. The property has been taxed as a two-family. The applicant wishes to get a variance to make the property officially a two-family home. Mr. Vataj stated it has two driveways from two different streets. In 1999 a search was done on the property and it shows that the property had no violations at that time.

The Board refreshed its recollection regarding the application. The Acting Chairman asked the Board if anyone had any more questions of the applicant. There were no questions.

Let the record reflect that the proper mailings went out and the legal notice was published in the Times Herald Record.

A motion to open the public hearing was made by Gregg Feigelson, seconded by Konrad Mayer. Motion carried 6-0.

First to speak from the public was Larry Warshauer of 72 Southside Drive. Let the record reflect that Mr. Warshauer had previously provided a letter in opposition to the application. Mr. Warshauer stated he has lived at his home since 1981 and he is opposed to the variance. He believes it sets a bad precedent. He stated that in 1992 another neighbor illegally converted their home to a two-family and then sold it as a two-family because the realtor advertised it as such. Mr. Warshauer doesn't agree that anyone can

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illegally convert their property and just do whatever they want. He doesn't want the character of his neighborhood changed just because people are doing whatever they want without regard to the code.

Bob Garstak asked when the house was built. The applicant stated 1954. Mr. Garstak asked how long it was taxed as a single-family home. The applicant stated as of 1990. In 1990 the assessor caught the two-family conversion. The applicant believes the conversion happened sometime in the 1960's. Mr. Vataj stated according to the immediate neighbors the house has had two families for as long as they can remember. Mr. Vataj stated that both kitchens are old as well as all the bathrooms.

The variance requested is because the lot size is subpar for a two-family home. The Board determined that the applicant needed to provide the Board with exactly how much of a variance he was asking for from the bulk requirements before they could render a decision. It was not the Board's job to determine what the applicant was requesting.

The Board determined they would like to keep the public hearing open. The applicant will come back on September 17, 2015.

**DR. MARK LANE – PUBLIC HEARING**

Next item on the agenda is a public hearing for Dr. Mark Lane requesting an interpretation of whether a veterinary clinic is considered a professional use. The proposed veterinary clinic is at 1136 Kings Hwy. Appearing before the Board was Jay Myrow, the applicant's attorney and the applicant, Dr. Mark Lane.

Mr. Myrow stated the applicant is a veterinarian looking to open a clinic at 1136 Kings Hwy which is in the IP zone. The interpretation is to determine if a veterinary office fits the definition of a professional office that is permitted in the IP zone. The application was referred to the Orange County Department of Planning. The County response is as follows:

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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:** Dr. Mark Lane  
**Project Name:** Lane Veterinary Clinic  
**Proposed Action:** Use Variance to determine whether vet clinic is acceptable use under category of "office building for professional use" in IP zone  
**Reason for County Review:** Within 500 feet of County Route 13 (Kings Highway)  
**Date of Full Statement:** July 20, 2015

**Referral ID #:** CHT 05-15M  
**Tax Map #:** 17-1-101  
**Local File #:** none provided

**Comments:**

The Department has received the above referenced use variance/zoning interpretation and has found no evidence that significant intermunicipal or countywide impacts would result from its approval. We would like to offer the following advisory comments:

**Definitions:** It is the County's opinion that a veterinary clinic certainly qualifies as a professional use, and that many similar uses such as medical or dental offices have treatment facilities in their offices. We support unreservedly the use of "professional office" to include veterinary clinic. If the Town wishes to revise their zoning to include a definition of professional or professional use, the County would be happy to provide assistance and technical support.

**County Recommendation: Local Determination**

**Date:** July 28, 2015  
**Prepared by:** Megan Tennermann, AICP, Planner

  
**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 online at [www.orangecountygov.com/planning](http://www.orangecountygov.com/planning).

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Let the record reflect the proper mailings went out and a legal notice was published in the Times Herald Record.

A motion to open the public hearing was made by Gregg Feigelson, seconded by Julie Bell. Motion carried 6-0.

No one from the public appeared to speak about the application.

A motion to close the public hearing was made by Julie Bell, seconded by Konrad Mayer. Motion carried 6-0.

Mr. Aikman stated the vote for interpretation would be that a veterinary clinic falls within the definition of a professional office in the IP zone.

The roll for the vote was as follows:

Members voting to approve the interpretation:

Members voting against the interpretation:

Vincent Finizia, Acting Chairman  
Gregg Feigelson  
Julie Bell  
Konrad Mayer  
Walter Popailo  
Bob Garstak

The Acting Chairman declared the interpretation granted.

**RODNEY – PUBLIC HEARING**

Next item on the agenda is a public hearing for Chris Rodney and Laurene Immateo of 261 Pine Hill Road seeking an area variance to construct an eight-foot overhanging porch cover which would reduce the front yard setback to 42 feet where 50 feet is required.

Appearing before the Board was Joe Matta of Masterwork Home and the applicants Mr. Rodney and Ms. Immateo. Mr. Matta explained that the property line is 443 feet off of Pine Hill Road and then there is 50 feet to the house. So it is 493 feet and if the relief were to be granted, it would still be 485 feet from Pine Hill Road.

Let the record reflect that the proper mailings went out and a legal notice was published in the Times Herald Record.

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A motion to open the public hearing was made by Walter Popailo, seconded by Konrad Mayer. Motion carried 6-0.

No one from the public appeared to speak about the application.

A motion to close the public hearing was made by Julie Bell, seconded by Gregg Feigelson. Motion carried 6-0.

The Acting Chairman polled the Board on the 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.

Acting Chairman Finizia: No.  
Gregg Feigelson: No.  
Julie Bell: No.  
Konrad Mayer: No.  
Walter Popailo: No.  
Bob Garstak: No.

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

Acting Chairman Finizia: No.  
Gregg Feigelson: No.  
Julie Bell: No.  
Konrad Mayer: No.  
Walter Popailo: No.  
Bob Garstak: No.

3. Whether the variance is substantial.

Acting Chairman Finizia: No.  
Gregg Feigelson: No.  
Julie Bell: No.  
Konrad Mayer: No.  
Walter Popailo: No.  
Bob Garstak: No.

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

Acting Chairman Finizia: No.  
Gregg Feigelson: No.  
Julie Bell: No.  
Konrad Mayer: No.  
Walter Popailo: No.  
Bob Garstak: No.

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

Acting Chairman Finizia: Yes.  
Gregg Feigelson: Yes.  
Julie Bell: Yes.  
Konrad Mayer: Yes.  
Walter Popailo: Yes.  
Bob Garstak: Yes.

Attorney Aikman stated the resolution as proposed is that the applicants be granted an area variance to permit 42-foot setback in an AR.3 zone which requires a 50-foot setback with a provision that the front porch as proposed to be built should not be enclosed as living space in the future.

The roll for the vote was as follows:

Members voting to approve the variance:

Members voting against the variance:

Acting Chairman Finizia  
Gregg Feigelson  
Julie Bell  
Konrad Mayer  
Walter Popailo  
Bob Garstak

Acting Chairman Finizia declared the area variance granted.

A five-minute break was taken by the Board.

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**JJLV PROPERTIES – WORK SESSION**

The final item on the agenda was a work session for a proposed gas filling station with retail center at 1831 Kings Hwy. The applicant is seeking an interpretation of §98-29 J(2) of the Zoning Code. Appearing for the applicant were Jay Samuelson of Engineering and Surveying Properties, LLC and Jay Myrow, Attorney.

At last month's meeting the applicant was asked to submit a narrative further explaining their opinion of the zoning code which was submitted to the Board. Mr. Myrow stated the applicant's opinion was that the adjacent property, Frozen Ropes, was not a place of public assembly, defined in the code as a structure, and the structure was over 500 feet from the proposed project anyway.

Gregg Feigelson stated he questioned the intent of the code and considered it to be a protection measure from flammable and toxic materials. He argued that the ballfields could be characterized as a playground populated with children and spectators which does fall within 500 feet could be within the envelope of protective intent of the code.

Mr. Myrow argued that a playground is not for pay and that Frozen Ropes is a private, for-pay business, therefore not a playground.

The Board rebutted that many times people assemble for free, just as spectators. Also children assemble, for free to play on the fields.

Acting Chairman Finizia stated that Frozen Ropes' use under the GC code is that as a school of special instruction. A school is not allowed within 500 feet of the project either. Mr. Myrow argued that a school of special instruction is different than a school as defined in the code line items.

The Board further discussed at length its opinion that Frozen Ropes was both a place of public assembly as well as a school and the fields could be considered a playground.

Mr. Myrow requested that the Board set a public hearing for the application.

A motion was made to move the application to a public hearing by Gregg Feigelson, seconded by Konrad Mayer. Motion carried 6-0. A public hearing will be set for September 17, 2015.

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A motion to close the meeting was made by Gregg Feigelson, seconded by Bob Garstak.  
Motion carried 6-0.

The meeting was adjourned at 8:16 pm.

Respectfully submitted,

Tanya McPhee  
Zoning Board of Appeals Secretary

Adopted September 17, 2015