
Members Present:

Kary Jablonka
Adrian Ooms
JP Henkel
David Everett, Chairman
Mitchell Khosrova
Tal Rappleyea, Atty.
Paul McCreary, Engineer
Walt Simonsmeier, ZEO

Members Absent:

Robert Leary
Suzanne Williams

Public Present:

Stephen H. Hermance Carl S. Matuszek
Marcie L. Weisberg Ted Miner
Bob Novak Elle Dietemann

The June 28, 2007, Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:03 PM. The Pledge of Allegiance was recited. Kary Jablonka moved and Adrian Ooms seconded that the amended meeting minutes from the previous two meetings be accepted. This carried.

SHARYN RICHARDS- VARIANCE REQUEST FOR HER PROPERTY SO THAT A POOL CAN BE PUT IN PUBLIC HEARING

Ms. Richards provided the Board with the requested survey map, as well as the postal receipts. The shed will be 10' from the rear property line, and the pool will be 37' from said line. The Public Hearing was opened at 7:06 PM. A letter from Jeffrey Capone was read into the record. Mr. Capone requested a stockade style fence and a line of trees to be placed on the side of the property that adjoins his, as the primary building site would be close to that property line. Ms. Richards stated that she might be willing to close up the property with some additional plantings, but that she really didn't want to be required to do that. After much discussion, it was pointed out that the setback rules on the side of the property shared by Mr. Capone meets the present code requirements, so asking the applicant to do as he wished was refused. Ms. Richards was asked if any of the other neighbors had contacted her, and she stated that Mrs. Myer called and told her that the plan was fine with her. Mitchell Khosrova asked if the pool could be placed differently where it would meet all setback requirements, to which Ms. Richards stated that to do that would not place it where she could supervise the pool and it would require much more excavation than the proposed site would require. Building Inspector Walt Simonsmeier stated that the proposed location is the best place for this pool. The Public Hearing was closed at 7:18 PM. The standards for granting a variance were reviewed, and Mitchell Khosrova moved that up to a 40' variance be granted for the shed and up to a 13' variance be granted for the pool. This carried unanimously. Approval fees were paid.

FAIRPOINT COMMUNICATIONS (TACONIC TELEPHONE) –REQUEST FOR A PUBLIC UTILITY SPECIAL PERMIT FOR A STATION LOCATED ON RT. 203 IN NORTH CHATHAM PUBLIC HEARING (cont.)

Mr. Hermance reported that he has not gotten any additional information regarding a survey from the DOT. Town Engineer Paul McCreary, who has researched this property, reported that both the DOT and the County have done takings, but neither has been filed. The older map was created in 1933, and using this map the boxes that Fairpoint have put in fall outside of the taking line. However, the DOT map is more recent, and using this map places the boxes +/-3 feet outside of the right of way, and are on private lands. Mr. McCreary expressed the wish that the DOT had come up with some mathematical method of calculating this. Chairman Everett stated that based on this report, he is uncomfortable with giving a permit until some arrangement with the neighbor owning the property is made. Once that is done, Mr. Hermance can return to continue this request.

George Vollmuth stated that he is concerned with the visual impact of the boxes as they are placed at the entry point to the village. Screening is definitely needed, and there never was a chance to site these boxes any differently. Even if the Special Permit is granted, there should be no expansion, and where the parking and snowplowing and guide wire placement are should be determined. It is currently very ugly and it needs to look much better. Chairman Everett responded that the Board has asked for screening and will still want it. The Public Hearing will be continued once the arrangements with the neighbor have been made. Chairman Everett asked Mr. Hermance whether alternative locations were considered. He replied that cable and electric all use that pole because of the location. There is yellow on the poles for safety purposes. A site near the other end of the hamlet was considered near the ball field, but was dismissed because of the need to run wires through the hamlet.

Paul Lang, who lives adjacent to the boxes placed in Malden Bridge, stated that he was never told about these, and that they just appeared. He was assured that there would be no noise, and they are very loud. Why do these boxes in the middle of the hamlet have to be white?

Elle Dietemann said that the guide wires interfere with her ability to mow. These wires were not present last year. The coloration should be part of the agreement with the landowners. George Vollmuth stated that the property may actually belong to the people across the street. Mr. Hermance said that the plan all along was to consult with the neighbors about the screening. Mr. Everett stated that the screening plan to buffer the boxes and any color changes would be discussed when the decision has been made between the property owner and Fairpoint. Engineer McCreary was asked to research to find out who actually owns the property in question. Mr. Hermance was asked to resubmit the Long

Form SEQRA as well as the Visual EAF form, a site plan and reasons as to why this site is preferable.

George Vollmuth wondered about a time limit. Mr. Everett stated that we are moving as quickly as we can on this.

**FAIRPOINT COMMUNICATIONS-REQUEST FOR A PUBLIC UTILITY
SPECIAL PERMIT FOR A STATION LOCATED ON RT. 32 IN MALDEN
BRIDGE PUBLIC HEARING**

The Public Hearing was opened at 8:02 PM.

Paul Lang reiterated his feelings about not being contacted about the placement of the structure. Stephen Hermance stated that they always try to put them in a suitable place. Mr. Everett stated that the Long Form SEQRA, the Visual effects form, a site plan and a map, and the analysis as to why this is the best place. Morris Associates will take care of the survey once an additional \$2500 is placed in escrow and once the current easement owner of the property writes a letter saying it is OK for Morris Associates to come on his land to perform the survey. Mr. Hermance agreed to this and said that the noise coming from the box would be corrected within the next few weeks.

**DAVIS TRACTOR-REQUEST FOR A VARIANCE SO THAT A SIGN CAN BE
ERECTED LARGER THAN THAT PERMITTED INFORMATIONAL**

The applicant reported that the present sign that is outside of the business is in violation of their John Deere contract, and being in compliance with the sign is necessary in order for them to retain their gold star store status. The existing sign is 128 square feet, 15' tall and 30' from the property sign. There are two acceptable choices---one is 30' high and is 196 square feet and the other is 24' high and 196 square feet. The Code states that the maximum size may be 18' with 100 square feet allowable. Two signs are permitted with a total of 150 square feet. The applicant would like to go with the 24' high sign. There was some discussion on how the town counts area of a sign. If the town counts only one side of a sign, they would be in compliance. It was suggested that the applicant resubmit their request as an interpretation on this issue. There was some discussion as to whether the non-conforming rule, where an expansion of 1/3 is allowable, would apply to this case. The applicant was advised to provide a letter documenting that the present sign was in place when zoning laws were initiated. If this can be determined as being so, a second interpretation would be requested in regard to allowing this expansion of the sign to 24'. The applicant will resubmit the application requesting two interpretations rather than a variance.

This project will be set for a Public Hearing in July. The Planning Board will be asked to provide input.

POWELL HOUSE- REQUEST FOR AN AREA VARIANCE FOR THE CONSTRUCTION OF AN ADDITION AND A CONTINUATION OF A SPECIAL USE PERMIT INFORMATIONAL

Carl Matuszek, Marcie Weisberg and Ann Davis are representing Powell House. Due to the age of the building renovations are needed as well as updating accessibility for the physically handicapped. The plan is to add small areas in three spaces. However, the setback in the front is not able to be reached. The current building, to which the extension is being added, doesn't meet setbacks either, but this will require an additional 7 feet in the front. The addition will be about 1250' square feet. The Board discussed the need for the special use permit since it is a religious retreat and has been that since before zoning. Thus, a continuation is not needed. Ted Miner, a neighbor of Powell House spoke very highly of the group. A Public Hearing will be set for the July meeting. Input from the Planning Board will be requested.

Ted Miner, from the Chatham Bowl and Family Center asked the Board whether they would consider batting cages an accessory use of the Family Center, as the school, Little League and colleges in the area are requesting them. Mr. Miner and Bob Novak would create space in the back of the center for these, as Mr. Novak already has cages. The 10 cages would take up about 80'x150' (actual 70'x148'), and require no additional parking, and they'd be used 7.5 months a year. Because there would be a walkway behind the main bowling center, there'd be no traffic danger. The area would be supervised and would be open the same hours as the bowling center. At first, no lights would be needed. After much discussion, it was determined that Mr. Miner has to come up with the figures that would say how many square feet was originally approved with the Bowling area, and how much of the allowable .333 expansion has already taken place so the Board would know if the second .333 is needed, which would then have to be approved by the ZBA. Mr. Miner stated that he does not want to go to the expense of having a survey done. Mitchell Khosrova stated that as long as the numbers could be provided, and a sketch plan was submitted, that would work. Mr. Miner suggested that the expansion might not necessarily be considered in square footage, but in other ways, such as financial expansion. The Board responded that the Code speaks to size only in this matter. Mr. Miner said that he feels that this is clearly an accessory use, and that he is trying to get the facility to operate in the black. He and CEO Walt Simonsmeier will review the square footage and the amount of expansion already realized to determine what may be needed next.

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Chairman Everett announced that the Comprehensive Plan Committee has published its document as to their recommendations, and it has been formally referred to the ZBA and to the Planning Board. After some discussion, the clerk was asked to send a letter to the Town Board requesting that enough copies of the plan be made available to each member of the Zoning Board, so that it can be reviewed, as there are many references to changes that the Zoning Board will have in the Zoning Code. A request will also be made that the members of the Zoning Board be able to discuss what is in the Comprehensive Plan's recommendations with the Town Board.

The meeting was adjourned at 9:27 PM.

David Everett, chairman

Respectfully submitted,

Marilyn Cohen, clerk