

**TOWN OF CHATHAM
APRIL 22, 2010**

**ZONING BOARD OF APPEALS
FINAL COPY**

MEMBERS PRESENT:

Robert Leary
JP Henkel
Mitchell Khosrova
David Everett, Chairman
Jeff Lick
Kary Jablonka (7:11PM)
Adrian Ooms
Walt Simonsmeier, ZEO
Tal Rappleyea, Atty. (7:30PM)

MEMBERS ABSENT:

None

PUBLIC PRESENT:

Linda Chernewsky
Pamela-Jo Nelson Drew Nelson
Paul Freeman Catherine Linck
Peter Linck

The April 22, 2010, Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:00PM. The Pledge of Allegiance was recited. Bob Leary moved and Mitchell Khosrova seconded that the minutes from the previous meeting be accepted, which was unanimously approved.

**PAMELA-JO AND DREW NELSON-REQUEST FOR A VARIANCE TO
ALLOW AN EXTENSION ON A PROPOSED SECOND STORY TO THEIR
HOME THAT DOES NOT MEET SETBACKS INFORMATIONAL**

The applicants wish to add a second story to their home, and one part would extend out over the kitchen. However, they are not going any further out than the original building. The architectural rendition was shown. Chairman Everett wondered if this would be blocking the views of anyone in the area, to which the applicant responded no. The DEC permit was reviewed, due to the proximity to Kinderhook Lake, and some neighbors have submitted letters stating they were not objecting to this. ZEO Walt Simonsmeier was asked why this project had to come to the ZBA. He explained that it is because the home is located on a town road, where the setback required is 50' from the center of the road as opposed to a 25' setback on a state or a county road. Because of this, a 17.1 foot variance from the front and a 23.7 foot variance from the side will be needed. A Public Hearing will be held on this request at the next meeting.

WHITE BRIDGE FARM- REQUEST FOR A SPECIAL USE PERMIT TO ALLOW THE RENOVATION OF THE FIRST FLOOR OF AN EXISTING STABLE TO USE AS A GATHERING SPACE WHICH WILL INCLUDE A BATHROOM AND A KITCHEN INFORMATIONAL

Linda Chernewsky is representing the applicant. When the client purchased the farm there were apartments on both the first and second floor. When a building permit was applied for to make these renovations, it was discovered that although the second floor apartment had a certificate of occupancy, the apartment downstairs was constructed without a permit. Because there is already an apartment, the ZEO felt that this request would make it a 2-family structure, which requires a Special Use Permit. Ms. Chernewsky added that this is not going to be used as a living space.

After some discussion, the Board felt that what is being requested here is to use the first floor as an accessory use to the main residence. Then, if someone were to live here, they would be violating the use. The applicant agreed to modify the application to request an interpretation allowing the applicant to use this as an accessory use. A Public Hearing will be set for the next meeting.

PETER AND CATHERINE LINCK- APPEALING A DECISION MADE BY THE ZEO AS TO WHETHER A BUSINESS IS BEING OPERATED IN AN H-1 ZONE INFORMATIONAL

Paul Freeman is the legal counsel for the applicants, who had sent a letter of complaint regarding activity on their neighbor's property. Mr. Simonsmeier investigated their complaints. They are appealing some of the decisions thereof, as they feel that there are activities occurring on this property that are beyond residential. Photographs were shown to the Board, which included a number of snowmobiles being repaired on the property close to the property line. After the ZEO contacted the neighbor, some of the machinery was moved towards the front of the property, and other items were moved behind the house. According to the applicant, there appears to be some sort of business going on. There are trucks parked and then used off-site. The Board wondered about an excavation business, but the applicant couldn't say for sure. There is a loader, a semi and tractors on site. Some are parked on the front yard which is a clear violation of the Town Code. Even if this was to be considered a home business, the criteria for that are not being met because a home occupation can't produce excessive noise, smoke, odor, vibrations, etc., and this does. ZEO Walt Simonsmeier's letter to the neighbor was reviewed. He had asked that the tire rims, etc. be cleaned up. This has been done, so the applicant is not appealing this. Mr.

Simonsmeier told the neighbor that trucks and trailers could not be parked in the front yard, but the rear of the property could be OK. This is being appealed. Mr. Simonsmeier stated that perhaps the vehicles' fumes would dissipate better in the back. This is being appealed. Mr. Simonsmeier stated that the vehicles that are parked are legal. This is being appealed. Mr. Simonsmeier also did not see an inordinate number of snowmobiles on his visit. The applicant is appealing this since there are snowmobile parts and a large number of these machines on the property. Mr. Simonsmeier said that the Ford tractor is there year-round and that many town residents have a tractor. The applicants are appealing this because they feel it is being used for a business use. This has been going on about 20 years. Mr. Simonsmeier stated that the neighbor knows of this appeal, and that he has contacted his lawyer. Atty. Freeman is going to look at the DOT records to see if he can learn how the truck is registered. The applicants were asked if other workers were coming to the property. They have not seen anyone. There was a legal resolution drafted many years ago regarding these same issues, but the neighbor never signed it. It was processed through the courts. It started in Chatham, then moved to Albany and finally to Kinderhook where the decision was rendered by Judge Williams. ZEO Simonsmeier stated that he has requested information about this and has gotten no response. Chairman Everett wondered if the trucks that are being seen are always the same ones. The Lincks stated that the semi is the same, there is a dump truck there some of the time and there has been a front loader there for quite awhile and various trailers. Mr. Simonsmeier stated that there is one tractor and 2 trailers on the property. The applicants stated that they have seen the neighbor working on the trucks, and that they have seen barrels, but they don't know what they contain, and that the truck is parked on the right of way driveway. Mr. Everett asked if the truck was parked on Rt. 203, to which the applicant responded that sometimes it is on the shoulder. Atty. Rappleyea wondered about the prior violation and whether it was still open, and why it was never formalized, and if it is still in the courts. Tal will look at the pleadings and find out what the stipulations were. A Public Hearing was set for next month. Mr. Everett questioned Mr. Simonsmeier as to why this is taking awhile, to which both Mr. Simonsmeier and Atty. Rappleyea responded that the process does take time. Mr. Simonsmeier stated that the area is about 50% cleaned up, so it is moving along.

Chairman Everett told the Board that two members of the ZBA are needed to assist in the writing of the new zoning code to complement the Comprehensive Plan. Many offered their services, but the decision was to have the Chairman (Dave Everett) and the Deputy Chairman (Mitchell Khosrova) represent the Zoning Board in this endeavor.

The meeting was adjourned at 8:06 PM.

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk