

**TOWN OF CHATHAM
JULY 22, 2010**

**ZONING BOARD OF APPEALS
FINAL COPY**

Members Present:

Robert Leary
Jeff Lick
Kary Jablonka
Adrian Ooms
Mitchell Khosrova, Dep. Chair
JP Henkel
Tal Rappleyea, Atty.
Walt Simonsmeier, CEO

Members Absent:

David Everett

Public Present:

Paul Freeman
Joseph Briggs
Gail Wessot
Catherine Linck
John Wapner

Cynthia K. Elliot
Paul O'Leary
Lawrence M. Intrieri, Jr.
Peter Linck
Cindy Bobseink

The July 22, 2010, Zoning Board of Appeals meeting was called to order at 7:00PM by Deputy Chairman Mitchell Khosrova. The Pledge of Allegiance was recited. Jeff Lick moved and Bob Leary seconded that the minutes from the May meeting be approved. This carried. Bob Leary moved and Adrian Ooms seconded that the meeting minutes from the June meeting be adopted. This carried.

PETER AND CATHERINE LINCK-APPEALING A DECISION MADE BY THE CODE ENFORCEMENT OFFICER AS TO WHETHER A BUSINESS IS BEING CONDUCTED IN AN H-1 ZONE.

This project had been adjourned while the resolution was being prepared. A letter from Lawrence Intrieri was received. The Lincks' attorney requested that this letter not be considered as it was received after the Public Hearing had been closed. The resolution (attached) was reviewed and some minor adjustments were made. Kary Jablonka moved and Jeff Lick seconded that the resolution be accepted. This carried unanimously. CEO Walt Simonsmeier asked whether the fact that the pay loader is gone and that this changes the circumstances, whether a new determination could be made. He wondered if the ZBA would like to provide some guidance in this matter. Atty. Freeman, who represents the applicant, stated that he understands that this resolution regards everything in totality—the tractor, and the three trailers which are owned by a corporation. It was further pointed out by the ZBA that the resolution states that this decision is not precedent setting since it is based on facts pertaining to this situation only. As such, this does provide limited guidance as to future issues, and if at a later date things change, a new determination may be sought.

PAUL O'LEARY- APPEALING A DECISION MADE BY THE CODE ENFORCEMENT OFFICER AS TO WHETHER A CLASS C SHOOTING PRESERVE IS PERMISSIBLE ON HIS PROPERTY ON ROCK CITY ROAD PUBLIC HEARING

The applicant submitted the copy of the application, and the new and renewed licenses, and postal receipts showing that the adjoining property holders had been notified. Ms. Elliot reviewed the different classes of licenses available from the DEC. The one that is being sought is for the applicant's own personal use, with no commercial use at all. Some of the rules the DEC adheres to with a license includes no shooting within 500' of a dwelling, and no shooting across a street. This license would extend the ability to hunt by one month. Mr. O'Leary has hunted on his property since he has owned it. He was asked where the hunting would be taking place. Mr. O'Leary responded that he reserves the right to hunt anywhere on his property. The Public Hearing was opened at 7:27PM.

John Wapner requested more information as to the length of the season and what the plan was. The applicant will be allowed to hunt for an extra month and will be releasing birds for his own use and for the use of his guests. Cindy Bobseink asked about the process and what it meant. Mr. Wapner added that many years ago on what was the Highland Farms there was a hunting facility. CEO Walt Simonsmeier said that that was a class A commercial license that eventually went to court. Another one also had been operated in the town that also went to court.

ZBA member Jeff Link indicated that he spoke with two of the adjoining property holders (Johnson, Paul) and they indicated that they had no problem with this. Walt Simonsmeier said that all he needed to know was whether this Class C license is OK. The Public Hearing was closed at 7:35PM.

The Board was reminded that this request is for a private use license, and it is important to differentiate this from a commercial use. There was a comment made about setting precedent, and whether this could happen in a hamlet area. The applicant stated that this wouldn't happen because DEC controls where licenses are permitted.

A SEQRA determination is not required for this project.

Jeff Lick moved that this property can have a Class C Shooting Preserve as an accessory use to the house, as it is limited to non-commercial use and the DEC deems it acceptable. This will allow one additional month of hunting on the

property and the release of birds on the property. This was seconded by Kary Jablonka. This carried unanimously.

JULIE FENSTER-REQUEST FOR A VARIANCE IN ORDER TO PUT IN A SWIMMING POOL ON HER PROPERTY ON OLD RT. 66 PUBLIC HEARING

Cynthia Elliot submitted new maps with the pool and its dimensions as it relates to the property lines and the postal receipts. The request is for a 10' rear yard variance and a 20.11' side yard variance. Although the code requires 50' setbacks, the overhead utility lines prevent this from happening. The Public Hearing was opened at 7:46PM

Joseph Briggs, who lives next door, asked to see the map. He wondered if an accessory building or lights would be putt in. Ms. Elliot stated that the pool will have the required fence and alarms, but no structure, and nothing was said about lighting. Some landscaping will be done. The Public Hearing was closed at 7:54PM.

The Board reviewed the criteria for a variance: Is this a substantial change? Will it substantially change the area environment? Is this an undesirable change? Is there an alternate way that this change can take place? And is this self-created? All of the responses were in the negative. The Short Form SEQRA application, which shows no significant adverse effects to the following: air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems was reviewed. Also, there are no aesthetic, agricultural, archaeological, historic, or other natural or cultural resources or community or neighborhood character concerns. There are no significant effects to vegetation or fauna, fish, shellfish or wildlife species, significant habitats or threatened or long or short-term effects identified. Since this is the case, JP Henkel moved that there is no significant adverse environmental impact with this project, and should be accepted. This was seconded by Jeff Lick. Kary Jablonka moved that a 10' rear yard variance and a 20.11' side yard variance be approved. Adrian Ooms seconded this motion and it carried unanimously.

The meeting was adjourned at 8:00PM.

Respectfully submitted,

Mitchell Khosrova, Deputy Chairman

Marilyn Cohen, clerk

