

**TOWN OF CHATHAM
JUNE 27, 2013**

**ZONING BOARD OF APPEALS
FINAL COPY**

Members Present:

David Everett, Chairman
Mitchell Khosrova
Adrian Ooms
Jeff Lick
JP Henkel
Walt Simonsmeier, ZEO

Members Absent:

Robert Leary
Kary Jablonka

Public Present:

Jeff Weiner Calliope Nicholas
Len Shayer Gordon Ross
Aaron Gaylord Amy Zimmerman
Frank Mercurio Judy Grunberg
Jeanette Mercurio Sam Reilly
Nicholas Vamvas

The June 27, 2013 Zoning Board of Appeals meeting was called to order at 7:00PM by Chairman David Everett. The Pledge of Allegiance was recited. Mitch Khosrova moved and David Everett seconded that the May 23, 2013 meeting minutes be adopted, motion carried.

Mitchell Chaitman and Calliope Nicholas- Requesting an Area Variance for a 12'x 10' storage shed set back approximately 30 feet from the front property line located at 129 George Road.

Public Hearing

Ms. Nicholas presented another survey map to the Board. The new survey map showed the shed to be 46'11" from the center of the road therefore Mr. Chaitman and Ms. Nicholas are asking for a Variance. David Everett made a motion to open the Public Hearing at 7:06 PM, Jeff Lick seconded the motion, carried. There were no comments from the audience. Mitch Khosrova made a motion to close the Public Hearing at 7:07 PM, David Everett seconded the motion, carried. ZEO Walt Simonsmeier commented that all of George Road is narrow and that some properties were subdivided in the past. Jeff Lick made a motion to approve the Area Variance for 28.1ft. seconded by David Everett, motion carried. Ms. Nicholas submitted a \$50 approval fee check.

Leonard Shayer and Jacqueline Windisch Shayer- requesting an Area Variance for a side yard setback for a single family dwelling located on Seven Bridges Road so that a Certificate of Occupancy may be issued.

Public Hearing

Mr. Shayer and Jeff Weiner the project manager for this property presented notices and the letter sent to the abutting property owners. The side yard lot line was also noted to the Board. David Everett made a motion to open the Public Hearing at 7:12 PM, Mitch Khosrova seconded the motion, carried. Neighbors Gordon Ross and Amy Zimmerman expressed their concerns with the Board stating that their seasonal cabin/garage is only 45 feet away from Mr. Shayers' house and that the trees were actually located on their property not Mr. Shayer's. Chairman Everett asked Mr. Ross and Ms. Zimmerman if they were aware that Mr. Shayer was building a house in this location and they responded yes but they did not expect anyone to be "breathing down" on their property. Mr. Shayers house was built under the perception that the property line pins were correct but in actuality they were not. It was not discovered until after the house was built that the pins were in the wrong location.

Mr. Ross would like a fence to be placed along this property line or some evergreen trees. Mr. Shayer commented that the lights on the house are motion detector activated only and that he is willing to put up more trees to block the house as much as he can from the neighbors. There is a 10-12 foot slope between these two properties and he will look at the angle between the properties. Mitch Khosrova commented that the request is only for 4.3 feet. Mr. Ross stated that Mr. Shayer had a problem in the past getting power to this property because of a 30 foot easement and he wasn't able to move in because of that. Mr. Ross feels that his property has lost some value because of this. Audience member Frank Mercurio commented that the right trees need to be planted at the right distance to block this site from the neighbors. David Everett made a motion to close the Public Hearing at 7:25PM, Mitch Khosrova seconded the motion, carried.

Chairman Everett asked the Board if they would like to postpone this hearing to gather more information about the planting of trees but the consensus of the Board and Mr. Shayer was to make a decision this evening. Mr. Shayer explained that he tried to follow the rules from the beginning but this was just an error. This is a Type II action therefore a SEQR is not required. Mitch Khosrova explained that he felt this was more of an emotional concern on the neighbors' part and believed that the variance should be granted. JP Henkel and Jeff Lick also agreed that the neighbors should try to work out the tree issue as well as some lighting. Mr. Shayer stated that Mr. Ross' house was well back from the property line and that the cabin/garage wasn't even occupied. He stated he just wants to be a good neighbor. Dave Everett read aloud the Variance Standards from the Town Zoning Law to the Board. Mitch Khosrova stated that he did not see a problem based on the standards in the Zoning law. Mitch Khosrova made a motion to approve the Variance for a 4.3ft. setback, JP Henkel seconded the motion, carried.

Chairman Everett decided to change the agenda to allow Mr. Gaylord to present his information before the Board since the PS21 matter may take a lot longer. Mr. Vamvas, representing PS21 did not have a problem with this.

Aaron Gaylord- Requesting an Area Variance for a side yard set-back for a septic system that is within 10 feet of the property line located at 2628 County Route 9.

Informational

Mr. Gaylord stated that he had been before the Planning Board in September 2012 and received approval for a subdivision. He has also been before the County Planning Board and received approval from them as well. The house site has not been established as of yet but it was determined that he could build the house in a buffer zone. Mr. Gaylord is asking for a 10 foot variance for a septic system with a raised bed level sand filter. Walt Simonsmeier stated that this meets New York State setbacks but not the Town setbacks. Mr. Gaylord commented that the property is sold and he will escrow the deposit. He also stated that the house will be at least 50 feet from the property line. Chairman Everett asked Mr. Gaylord that when he comes before the Board he make a copy of the survey map for the Board so that the scale is accurate and that he should have his surveyor write on the map stating that the septic would be 10 feet from the property line. Mr. Gaylord stated that he will not be able to attend the next meeting but he will send a representative in his place. The Public Hearing will take place on July 25th at 7:00 PM.

Continuation of Special Use Permit Modification for the PS21 performance arts facility owned by Questaterra, LLC located at 2980 State Route 66.

Informational

Mr. Nicholas Vamvas from Crawford & Associates Engineering, PC submitted another packet of information to the Board showing revisions of the drop off circle, a decreased plaza area, asphalt walking areas and a gravel loading dock area that may be made of recycled rubber. Mr. Vamvas was asked to mark out on the plans the areas where these surfaces would be located and to explain to the Board what was impervious and what is not. The packet will be forwarded on to Engineer Paul McCready for review and comments. Tal Rappleyea will be instructed to do a SEQR as soon as possible.

Mr. Vamvas explained that the septic system will be downhill, the well will be surveyed and a buried tank for fire protection will also be beneath the building footprint and will be noted on the new plans. An engineers' report for the well should be submitted for SEQR purposes as well. Various lighting plans were also submitted for 3 new lamp posts that will match the existing posts and be 12 ft. tall. Seven short bollards will also be added as well as down directed light fixtures with no light spillage off the site. Mitch Khosrova asked that the height of the lights be drawn on the map as well as showing the current lighting fixtures. Mr. Vamvas stated that this is part of the original Phase II proposal but a reduction in the foot print. Chairman Everett asked Mr. Vamvas to quantify what that reduction is. A Stone & Water Implementation Plan (SWPPP) will be done to show that these plans are compliant. The lawn area will be available for seating but they will not be selling lawn seats. If people wish to use their ticket to sit

outside, that would be their option. The architects rendering also showed that there will be fixed seating on the upper level not the lower level. There will be a total of 273 seats and tickets sold. The original plan called for 405 seats. Some aesthetic impacts discussed were the color of the roof, siding color and line of site drawings. There was also a discussion of using renewable energy. Ms. Grunberg stated that they will have a model and video animated virtual tour of the facility. The Board asked that any changes of color to the existing plans be shown on the new plans and to re-submit line of site drawings to show that this building will not be seen from the roadway. Mr. Vamvas stated that you could not see the building in the original building plan but this will also be a smaller building.

Chairman Everett asked that any signage be noted on the new plans such as pedestrian crossing, handicapped parking, any signs on the facility and arrows marking the driveway directions. Also, to show the placement of any underground utility lines and the lights for the loading dock. The Board may also ask for additional sound monitoring to be done for the new facility and to have Town Engineer Paul McCreary evaluate the findings since this building will be 800-900 feet closer to the Lasky property but further away from the Village of Chatham. Jeff Lick asked if a sound engineer was involved since this is a new facility and he wondered if it is designed to funnel noise to the audience as opposed to the sides of the building. He also suggested that PS21 describe where the noise will go, possibly adding baffling which might be gesture of good will toward the neighbors, and if there is any testing done that the Board be included when it is done so they may also listen. Also, if any marketing of this project is done, PS21 may want to include some of the neighbors now to see how this would interact with the neighbors.

The Board asked PS21 to provide the following items before the next meeting to be held on July 25th at 7:00 PM.

1. Where the new building will direct sound, where speakers will be positioned
2. Any baffling placed in the building
3. Inform the Board of any sound testing
4. Any marketing done to include the neighbors
5. Send a letter to the Board if there are any complaints from neighbors
6. A SWPPP report as well as an engineer report for the septic system and if there will be a public water supply
7. Site plan items such as the lighting, a line of site drawing, what the roof (shape and color) and stairs will look like as well as ground surfaces
8. Any SEQR issues

The Board also suggested that there needs to be a Special Permit approval as well as a developers' agreement for this project. Tal Rappleyea will be asked to do a SEQR as well. JP Henkel asked that a hard count of the number of people that may attend functions also be given to the Board.

With no further business to discuss, Jeff Lick entertained a motion to adjourn at 8:43, JP Henkel seconded the motion, carried.

David Everett, Chairman

Respectfully submitted,
Barbara A. Fischer, Clerk

