

MINUTESVILLAGE of CHESTER ZONING BOARD OF APPEALSAUGUST 18, 2014

**PRESENT:** David STEVENSON, Chairman  
Gordon SHEHAB, Member  
Daniel GORMAN, Member  
Colleen COLLINS, Member  
Keith BRIDEWESER, Member  
John ORR, Code Enforcement Officer  
Harold PRESSBERG, Attorney

**PUBLIC HEARING 7:03 PM:**

**Project: #ZBA-14-01**            2 Vadala Road  
**Location:**                    2 Vadala Road  
**Applicant:**                   N2O Enterprises  
**Re:**                                Seeking variance to build (2) duplexes on property.  
    Front and rear yard distances need to be addressed

**Presented By:**                Matt Houston and John McGloin

Chairman Stevenson opened the meeting by making a **\*MOTION** to reopen the Public Hearing for Project #14-01, 2 Vadala Road. **\*MOTION** made by Chairman David Stevenson, seconded by Member Daniel Gorman. **\*MOTION** passed 5-0.

Richard Croughan, attorney for Anthony Quinn, neighbor of 2 Vadala Rd., handed the Board members a prepared letter on behalf of Mr. Quinn. (The Board members reviewed the letter.) Mr. Croughan then addressed the Board; "I had a chance to look at the Resolution online today, and I would like to bring up points in response to it. As you know, there are criteria that need to be discussed with response to the following points:

- 1) "The requested variance will not produce undesirable changes in the character of the neighborhood"; driving into Chester today, I noticed that all of the homes leading into downtown are single family homes that may house 1 or 2 families but they are all single structures on small lots. The proposed structure would be 2 duplexes – 4 families living on a small lot. It seems to be out of character for the neighborhood.
- 2) "Detriment to nearby properties; the detriment to Mr. Quinn would be to his nearby property. On 1 side the detriment to him would be having 2 – 2 family homes. On the property adjoining him, with use of the easement; numerous cars and lots of children running around.
- 3) "Whether the benefit sought by the applicant can be feasibly achieved by some other method"; the applicant doesn't have to build 2 – 2 families. He could build a single family. He has another way. Although the variance is only 13ft.; 13 ft. of 30 ft. amounts to 43%. The applicant bought this knowing what the setback requirements are. I would ask the Board to consider my letter and find that the applicant doesn't meet the requirements as set forth".

Chairman Stevenson asked if there were any comments from the Public and as there were not, Member Daniel Gorman made a **\*MOTION**, seconded by Member Gordon Shehab, to close the Public Hearing. **\*MOTION** passed 5-0.

**PUBLIC HEARING 7:15 PM:**

**Project: #ZBA-14-02**                      **Meadow Hill Apts.**  
**Location:**                              **NYS Rt 94 – SBL – 102-1-1.2 Zone – RM**  
**Applicant:**                             **John Sorrentino**  
**Re:**                                        **Seeking variance for increasing percentage of 2 bedroom units, size of identification sign and building height.**  
**Presented By:**                         **Mark Siemers**

Chairman Stevenson opened the second Public Hearing for Meadow Hill Apts. He asked Missy Sosler, Zoning Board Secretary, to read the Notice of Public Hearing. All of the mailings were collected.

The County Reply from the OCDP was read and the recommendation was for "Local Determination" with no issues cited.

Mark Siemers then addresses the board. He advised that this project has a long history. The project was originally proposed in July of 2002 as a Senior Citizen Complex. In 2007, there were revisions to the plans to increase the building height to 41 ft. high. The project went in front of the Zoning Board of Appeals and was granted a 6ft. building height variance.

Since then, Mr. Sorrentino has reevaluated the project and revised the proposed plans. He went back in front of the Planning Board in December of 2012. The buildings were smaller, there were 108 units; 36 – 1- bedroom and 72-2-bedroom. In order to move forward, he needed to go in front of the Village Board and get a zoning change from the RS Zone to the RM Zone. The Senior Citizen Complex had a zone change from the RS to the RM Zone, but that was tied to the Senior Housing designation. Once the senior designation was removed, Mr. Sorrentino had to go back to the Village Board to have them evaluate the zoning change to the RM Zone. During that time there was an agreement between Mr. Sorrentino and the Village that all ground floor apartments would be offered to the Senior Citizens. After the seniors were offered first refusal, they would be offered to the seniors of the Village of Chester, seniors of the Town of Chester, seniors of Orange County and if all of the apartments were not rented within 30 days, ~~it~~ they would be ~~opened up~~ offered to the general public. The Zoning Change presented to the Village Board in January of 2013 with that present. There was full evaluation of the project as it relates to the Village and the impacts to the school. Mr. Siemers continued on and advised that the Zoning Change was approved by the Village Board in May of 2013. The project then went back to the Planning Board with 108 units with a 2 to 1 bedroom ration. A full evaluation was conducted by the Planning Board as far as all environmental issues as well as all parking, water and sewer etc. The plan was issued site plan approval on 6/24/14.

He continued on advising that prior to the issuance of that approval, it came to light that the Village Code would only allow 50% to 50% ratio of 1 bedroom to 2 bedroom apartments. One condition to get that unit count was to come in front of the Zoning Board of Appeals for a variance. In addition, the Planning Board asked that a decorative sign be prepared for this project. We prepared a sign and brought the picture to the Planning Board. It is 8ft. long by 5 ft. high and it will be located at the entrance of the complex. The face of the sign will be 40 sq. ft. which will make it 80 sq. ft. on both faces. The Village Sign Code only allows a 16 sq. ft. on one face (32 sq. ft. on both sides) so we are requesting a variance for 24 sq. ft. (48 sq ft total). In addition, these buildings would require a 39 ft. height and the Zoning Code limits them to 35 ft. We are asking for a 4 ft. height variance.

Chairman Stevenson asked the board members if they had any questions before we took questions from the public. Member Shehab asked why it is not feasible to have a 50-50 ratio. Mark Siemers advised that the architectural lay out is for 2 to 1 bedroom mix. Member Shehab asked if there would be an elevator and Mr. Siemers advised that there would not be. Mr. Siemers further advised that each floor would house 1 and 2 bedroom units. Chairman Stevenson asked how you would reestablish 50-50. Mr. Siemers advised that he would have to go back to the architect and relook at the apartment calculation. The outer look of the buildings would not change. Member Shehab asked why the sign is 40 sq. ft. He advised that he has checked other signs in the Village apartment complexes, and all of them are 12 – 18 sq. ft. with the exception of the firehouse sign. Mark Siemers advised that the main reason is that most of the sign is the stucco type finish around it. The Planning Board was looking for a decorative sign with a specific sign requests by Planning Board Member Gene Winters, such as be decorative and make sure it looks very nice. John Orr asked what the exact

square footage of the actual sign is, and Mark Siemers didn't know, but advised that he will find out. (Some discussion about the sign ensued between John Orr and Chairman Stevenson.) Mark Siemers advised that, during the planning process, we did take care to site the sign so that it doesn't affect the sight distance when exiting the building.

Chairman Stevenson asked if an analysis with regard to the impact on the school district had been done. Mark Siemers advised that when the Planning Board referred this project to the Village Board for evaluation of a zone change, we prepared a document for the Planning Board review and to assess the situation in their report to the Village Board. Part of that report is economic impact and the number of school children; the report demonstrated that the additional anticipated school children would not have an economic impact.

John Orr advised that Mark Siemers will want to bring to the Board's attention regarding the number of units that Code Section 98-18E was updated by Local Law in 2005. Chairman Stevenson asked what the breakdown was pre 2005. John Orr advised that he would have to get back to him with that information.

Chairman Stevenson stated that when the project was to be Senior Housing you asked for and received a zone change. And now you are having it changed back. Mark Siemers advised that the property was in an RS Zone. In order to create a Senior Project, we needed a zone change from RS to RM, but it was tied to being offered as senior apartments. He went on to say that when the economy changed and his client brought this project back in 2012 to remove senior citizen designation and do this project, we lost the zoning change and had to go back to the Village Board and ask for the zone change, for the second time, from RS to RM.

Chairman Stevenson asked what the financial impact to this development would be if instead of 108 units – 36 and 72, it would be 108 units – 54 and 54. Mr. Siemers advised that he feels that it would be a significant due to the reduced number of 2 bedroom apartments.

Chairman Stevenson asked Mr. Siemers about the inclusion of the telephone number on the sign. John Orr advised that it is not a provision of the sign code.

(Discussion the ensued about how the number of 1 bedroom and 2 bedroom units has changed over the years.)

Chairman Stevenson then opened up the meeting to the public for questions and or comments.

- 1) Jenny Edwards - 2 Green Meadows:
  - advised that she is concerned by the possible increase in the number of school children and how it could flood the school district.
  - she is also concerned the 30-45 days is not enough time for a senior to make a decision and figure out what to do.
  - traffic is also a concern
  - the size of the sign is also concerning.
- 2) Tom Grzonka - 115 Green Meadows:
  - concerned about the sign light.
  - noted that the Notice of Public Hearing indicated an SBL of 102-2-1; Harold Pressberg advised that there was sufficient notice sent to property holders, and John Orr advised that the correct SBL was used to identify and notify property holders.
- 3) Leslie Smith – 119 Brookside:
  - concerned that when the code was written it did not envision a Village of tall buildings and if another project with 40 ft. buildings wants to build what will happen then.
  - she is also concerned that the generic type of buildings is not visually appealing.
- 4) Nikki Mayer – 68 High St.:
  - she is opposed to the sign.
  - she is concerned that there will not be enough time for seniors to get organized to move in and out and that they will need more time.

Harold Pressberg advised that the Village Board agreed with the Developer on the amount of time to offer to a senior being 45 days.

- 5) Patrick Phillips – 71 High St.:
  - he feels that the Developer should adhere to the code and should redesign his project to our standards.
  - he also feels that the sign is too big.
- 6) Jean Rose – 16 Meadow Ave.:
  - she agrees that the sign is too big.
  - The height of the buildings should not be taller than 35 ft.
  - if there are too many 2 bedrooms there could be too many kids in to 2 bedroom
  - should be building built to the code.
- 7) Alyssa Phillips – 71 High St.:
  - There should not be a telephone number on the sign, and it should be smaller.
  - The height should not be a done deal. The Zoning Board is there for a reason.
- 8) Chris Battiato – 17 Kerner Drive:
  - feels that if this variance goes through for this project what happens with the next project.

Chairman Stevenson advised that the variances are tied to the projects, and John Orr advised that the variance ~~on~~ only goes with the project and land. Harold Pressberg advised that they have to meet the criteria for the area variance.

- 9) Clifton Patrick – 119 Brookside:
  - he asked when the 45 days for the offer to the seniors begins and what kind of marketing will occur.
  - He is also concerned about a sidewalk.

John Orr advised that sidewalks will be installed and will meet sidewalk in the area of Green Meadows.

- 10) Anthony Quinn – 77 Main St.:
  - he expressed his empathy to the public at the meeting and advised that he is in a similar situation and he feels that we can mold our community to look like what we want.
  - he also feels that we are becoming overcrowded and the roads connecting to Rt. 94 are a disaster.

Mark Siemers then addressed some of the questions, comments and concerns. He advised that the school analysis was done in February of 2013 with the assumption that the Senior Citizens would occupy a certain percentage of ground floor apartments, but with the anticipation of school children. He further advised that a report was submitted to the Planning Board and the Town Board and was accepted.

He then addressed the 45 days; the developer's agreement was written up by the attorney and agreed to by the applicant's attorney and the Village Board.

Mark also advised that the sign will be lit by a ground light. He further advised that the buildings meet the 3 story sections of the building code, but it may get to a 39 ft. height. He addressed the comments regarding the sign being too large. He advised that he originally proposed a smaller sign, but the Planning Board asked me to propose a larger, more decorative sign. He stated that he would like direction from the Village Board regarding the sign.

Member Shehab asked if the trees that are on the southwest end of the property remain. Mark Siemers advised that all of the trees (he indicated the trees he was referring to on the site plan) will not be touched and that evergreen trees will be planted as a buffer.

Mark Siemers then asked the Zoning Board to consider leaving the Public Hearing open so that he can gather answers to the questions he was unable to answer and bring them back to the board.

Chairman Stevenson asked John Orr if the height of the buildings is calculated half way up to the gable roof. Harold Pressberg then read the definition of height. John Orr advised that height was an issue with the original senior citizen project, but he doesn't think that it will be for this project.

Chairman Stevenson asked for a motion to keep the Public Hearing open so that we can ascertain answers from the applicant and Planning Board.

A **\*MOTION** by Member Gordon Shehab, seconded by Member Daniel Gorman to keep the Public Hearing open. **\*MOTION** passed 5-0.

Chairman Stevenson then outlined the questions that need answers from the applicant and the Planning Board:

- 1) We need a copy of the report regarding the impact on the school system.
- 2) We need a copy of the traffic study.
- 3) Need quantification that changing the ratio to 50-50 would cause a hardship in any way.
- 4) Please clarify whether the roofline of the buildings will notch the hillside in any way.
- 5) Need confirmation of the building height.
- 6) Need clarification from the Planning Board's regarding their decision about the sign; clarification about what Member Gene Winters requested regarding the sign.

### **REGULAR MEETING – 8:40pm**

Chairman Stevenson opened the Regular Meeting at 8:40PM.

1. **MINUTES**

None.

2. **CORRESPONDENCE**

None

3. **Projects for Review**

**Project #ZBA 14-01**

**Applicant/Owner:**

**Location:**

**Re:**

**Presented By:**

**Project Name: 2 Vadala Rd.**

**N2O Enterprises**

**2 Vadala Rd. SBL 108-2-1 Zone - RM**

**Seeking variance to build (2) duplexes on property  
Front and rear yard distances need to be addressed.**

**Matt Houston and David Getz**

Chairman began by stating that we need to clarify a few items. He asked whether or not Mr. Houston's property is in a B1 Zone, and Harold Pressberg advised that it is in a B1 which is incorporates the RM Zone District uses and regulations. Chairman Stevenson stated that if the Quinn property, next door, is an RS Zone, do we need to consider Section 98-17 regarding the buffer strips. Harold Pressberg advised that was an issue for the Planning Board.

Chairman Stevenson then asked if the only variance needed is a rear yard variance. He went on to state that he is questioning the 17 ft. setback from the rear property line to the corner of Unit #2; hanging off is a deck and an enclosed room so that it should be a rear part of the building not the corner of the building it is attached to. John Orr advised that issue is to be decided by you, the Zoning Board of Appeals.

Clifton Patrick then stated that the board members are talking and we (the public) can't hear what they are saying.

Chairman Stevenson then advised that no variance is needed for the front yard. If the utility room is part of the configuration then you will need a 20 ft. variance not a 13 ft. variance. Harold Pressberg advised that the property owner is entitled to build on the lot if there is sufficient area for the setback. Chairman Stevenson stated that he has uncomfortable feelings about the Unit 2 being so close to the filling stations. He went on to state that he did speak to the Planning Board, and it still is a major consideration as well and the Planning Board indicated that they mentioned putting up a safety fence along Main Street. Mr. Houston advised that possibly a fence that you can see through; 4ft. high chain link around and down.

Chairman Stevenson stated that he feels that all he has stated are mitigating factors of granting a variance. John Orr stated that you do not have to give an open book to do what he wants.

Matt Houston then stated that originally he wanted 4 in a row but the Planning Board suggested that I do it the way it is now and that made sense.

Chairman Stevenson then raised the issue of the legal ability to move an easement. Anthony Quinn then advised that it is how you interpret the law. Harold Pressberg commented that it could become a lawsuit between 2 property owners.

Harold Pressberg then stated that we are not deciding where the easement goes, but are deciding whether we are granting a 13ft. rear yard easement and that we have criteria to go by.

Chairman Stevenson stated that, when he stands on the property and looks around at neighboring residential lots, he sees only single family homes. Matt Houston advised that across the way are municipal buildings; it is a mix.

Member Shehab advised that his concern is the proximity to the fuel tanks.

Chairman Stevenson then asked if there were any other questions or comments from the board members and he also asked if the board members if they want to change the amount of the variance to be voted on. Harold Pressberg advised that they can change the resolution on any way they want to.

Chairman Stevenson stated that Mr. Houston did know about the right of way when he purchased the property. Mr. Houston advised that he was told by his attorney that as long as the neighbor has access to the roads there should not be a problem.

Chairman Stevenson stated that although a lot of issues have been raised; he does feel that it comes down to 2 issues:

- 1) Fuel station nearby
- 2) Project is too dense.

Harold Pressberg then asked if anyone wants to amend the resolution. Chairman Stevenson then advised the board members that if they are thinking of denying, there is no language revision needed, but if they are considering approving, they may need to revise the language. Mr. Pressberg went on to say that you can add anything you want to the resolution or direct the Planning Board to address what is appropriate. He then advised that if they deny then the applicant's option would be to go back to the Planning Board and build with a 20 ft. set back; you can decide how large a variance you want to permit.

Chairman Stevenson then decided to take a vote on the proposed Resolution to grant the area variance:

Member Gordon Shehab – Yes  
Member Colleen Collins – No  
Member Daniel Gorman – No  
Member Keith Brideweser – Yes  
Chairman Stevenson – No

Motion to grant the area variance denied by a vote of 2 Yeas to 3 Nays.

Chairman Stevenson stated that he would entertain a motion to deny the area variance based upon the findings of fact that the Zoning Board of Appeals finds that the proximity of the rear units to the fueling stations poses a health and safety hazard that would not be mitigated by a wall.

**\*MOTION** by Member Daniel Gorman, seconded by Member Gordon Shehab to deny. **\*MOTION** passed 5-0.

**\*MOTION** by Member Gorman, seconded by Member Gordon Shehab to **ADJOURN THE MEETING AT 9:40PM.** **\*MOTION** passed 5-0.

**Respectfully Submitted,**

**Missy Sosler**  
**Planning and Zoning Board Secretary**