

**MINUTES**

**VILLAGE of CHESTER ZONING BOARD OF APPEALS**

**APRIL 23, 2009**

**PUBLIC HEARING**

**PRESENT:** Vincent RAPPA, Chairman  
Ted KADALA, Member  
David STEVENSON, Member  
Gordon SHEHAB, Member  
Diane BLANTON, Member  
John ORR, Code Enforcement Officer  
Harold PRESSBERG, Attorney

**PUBLIC HEARING:**

**Meadow Hill Senior Citizen Complex**  
**Location:** N.Y.S. Highway 94, SBL 102-1-1.2  
**Owner:** John and Ciro Sorrentino  
**Project:** Meadow Hill Senior Citizen Complex  
**Re:** Building Height Variance

**ZBA File #09-04**

Zoning Board Secretary Susan Marino read the Public Notice as it appeared in the Times Herald Record on April 14, 2009:

"NOTICE IS HEREBY GIVEN, that the Zoning Board of Appeals of the Village of Chester, New York will hold a Public Hearing at the Village Hall, 47 Main Street, Chester, New York on Thursday, April 23, 2009 at 7:30 P.M., or as soon thereafter as the matter can be heard, concerning the application of John and Ciro Sorrentino. The applicant is requesting an area variance for Village Code Section 98-23.1(F) (1) (h) and Schedule of District Regulations for an RS Zone, Column 7, "Maximum Building Height (feet)" for the following height variances: a 7ft, 6ft, 6ft 9inch, 6ft 9inch, 6ft 3inch, and 6ft. These variances would accommodate the construction of six new buildings.

"The property is located in the Village of Chester, New York at 44 High Street and is listed on the Village Tax Map as Section 102, Block 1, Lot 1.2 in an RS Zone.

"The Zoning Board of Appeals of the Village of Chester, New York will hear all persons interested at the aforementioned time and place."

BY: ORDER OF THE ZONING BOARD OF APPEALS  
VILLAGE OF CHESTER, NEW YORK

VINCENT RAPPA, CHAIRMAN

Mr. Barry Terach, Architect, of Pendergast & Terach, P.C., representing. Mr. Terach gave a description of the project. He said that Meadow Hill Senior Citizen Complex would consist of 6 residential buildings and a Community Center building. The Community Center will include a meeting room, movie, kitchen, and an outdoor pool. The residential buildings are 6-7 feet taller than the permitted height. The buildings meet the minimum New York State requirements. Mr. Terach said that the main roof would be pitched 4&12. This pitch is the minimum accepted for an asphalt shingle roof. A hip instead of gable roof will be used. The ridge has dropped a foot so the entire roof has come down. The 6-7 feet variance requested are in fact between 5&6 feet. The Applicant is seeking a variance for height.

Chairman Rappa asked about the dormers. He said that it will be a truss roof, but that there's nothing up in the attic. It should be measured to the ridge line, from midpoint to the slope of the roof.

Attorney Pressberg said vertical distance.

Mr. Terach said that the hip roof is equal to the gable roof in measured height. We opted for the hip roof.

Chairman Rappa asked if the Applicant looked into a flat roof.

Mr. Terach said that a flat roof isn't desirable for the building's sake and gave the wrong character to the building. A partial gable/partial hip was best.

Member Stevenson asked if they had considered making 2-story buildings when they realized that the height was too tall.

Mr. Terach said that his company wasn't involved in the start of the project. The project already consisted of 3-story buildings. In terms of impact, most houses on the other side are at least a story below the road (Vista Drive).

There was general discussion regarding the tree line and vegetation. Mr. Terach said that regrading would be done to bring the buildings down. Two small retaining walls will help lower the buildings.

Chairman Rappa opened the meeting to the public. Resident Alice Higgins of 202 Green Meadows Way, said that she received a letter in the mail about this project. She asked for some background on the project and where it's located in relation to the condos.

Member Kadala showed Mrs. Higgins the Site Plan.

Attorney Pressberg stated that the Planning Board reviews the application for Site Plan Approval. Vegetation, required features for inhabitants, the clubhouse and swimming pool, erosion and water drainage - all of these are taken into consideration by the Planning Board. The application must be in accordance with Village Code provisions. The Applicant wants the buildings to be 5 or 6 feet higher than allowed. The Zoning Board of Appeals reviews whether it would be beneficial to approve a project or if it would be a detriment to the community. This project wouldn't affect the character of the neighborhood. The Zoning Board of Appeals (ZBA) decides whether to grant the 5 or 6-foot variance. The variance will not change what the building is used for.

Mrs. Higgins asked if this was senior citizen housing.

Mr. Terach said that this is not a medical facility. It is a condo complex for senior citizens aged 55 years and older.

Mrs. Higgins asked about the flow of traffic.

Mr. Pressberg said that the traffic conditions were already reviewed by the Planning Board. The Applicant has conducted studies and the DOT has to issue certain permits. Sidewalks are required where people cross the street. This is on the Approved Site Plan.

Chairman Rappa said yes, there would be more cars.

Mr. Pressberg said and hopefully more pedestrian traffic.

There were no other comments or questions from the public. The Board continued with their discussion.

Chairman Rappa said that a flat roof wouldn't blend with the neighborhood. The Applicant did a good job with making the project as "soft to the eye as possible."

Mr. Pressberg said that a lot of effort went into the landscaping.

Mr. Terach said that there are 3 different color schemes of browns and greens.

Chairman Rappa asked if this should be listed as Type II under SEQRA.

Mr. Pressberg said no, this should be an Unlisted Action.

Chairman Rappa asked for a **Motion** to list this project as an Unlisted Action under SEQRA. **Motion** was made by Member Kadala, seconded by Member Stevenson. All in favor, none opposed. **Motion** carries.

There was general discussion regarding the height variance and the affordability of housing for senior citizens.

Code Enforcement Officer John Orr asked Mr. Terach if he was comfortable that he could get all 6 buildings 6 feet or under.

Mr. Terach replied absolutely.

Member Kadala made a **Motion** to grant a 6-foot height variance on each of the 6 buildings. **Motion** was seconded by Member Stevenson. All in favor, none opposed. **Motion** carries.

Mr. Terach thanked the ZBA for their time.

**PUBLIC HEARING:****Chester Shopping Plaza Subdivision****ZBA File #09-03****Location: 69 Brookside Avenue, SBL 110-6-1.11****Owner: Chester Shopping Plaza, LTD - Attn: Jacob Deutsch****Project: Proposal for a 2-Lot subdivision to "split-off" the hotel site as a separate lot**

Zoning Board Secretary Susan Marino read the Public Notice as it appeared in the Times Herald Record on April 14, 2009:

NOTICE IS HEREBY GIVEN, that the Zoning Board of Appeals of the Village of Chester, New York will hold a Public Hearing at the Village Hall, 47 Main Street, Chester, New York on Thursday, April 23, 2009 at 7:40 P.M., or as soon thereafter as the matter can be heard, concerning the application of Chester Shopping Plaza LTD. The applicant is requesting area variances from the Village Schedule of District Regulations for a B-2 Zone, Column 6, for two side-yard area variances. The side yard variance request for Lot One is for 1 ft 6 inches; the side yard variance for Lot Two is for 9 ft 7 inches. The requested variances would accommodate the subdivision of one lot into two separate lots and the construction of a building on Lot Two for use as a hotel.

The property is located in the Village of Chester, New York at 69 Brookside Ave and is listed on the Village Tax Map as Section 110, Block 6, Lot 1.11 in a B2 Zone.

The Zoning Board of Appeals of the Village of Chester, New York will hear all persons interested at the aforementioned time and place.

BY: ORDER OF THE ZONING BOARD OF APPEALS  
VILLAGE OF CHESTER, NEW YORK

VINCENT RAPPA, CHAIRMAN

Mr. Larry Torro, Engineer, of JL Consulting representing.

Chairman Rappa asked if there were any comments or questions from the public. There were none.

Chairman Rappa asked Mr. Torro if this project has been going on since 2004.

Mr. Torro replied that he wasn't involved with the Site Plan Approval but that people have indicated this to him.

Chairman Rappa said that under the Village Code, the ZBA is supposed to get reasonable return. We don't have numbers. To me, there are other ways to move the project forward.

Attorney Harold Pressberg said that Mr. Torro may have misspoken. The criteria for use variance are more stringent than for area variance. We don't want a hot dog factory in the middle of a residential zone.

Chairman Rappa said that we're thinking in the box about enforcement for the Village.

Mr. Torro said it's overstated. The document was given to me.

Mr. Torro said that the biggest Village issue is fire protection or access to it. There is an issue with fixing the waterline on one parcel.

Member Stevenson said that Jacob Deutsch owns all of this. We've seen what the condition of the parking lot has become.

Mr. Pressberg said that the hotel has the right to maintain and make necessary repairs to the easement or approach road. The Board should decide whether the benefit to approve the project outweighs the detriment to the health and welfare of the community.

Chairman Rappa said that this was settled in the first variance we gave them. I'll concede it.

Chairman Rappa said that the subdivision is creating 2 nonconforming lots. He asked Mr. Pressberg if this is okay?

Mr. Pressberg said that the Board has to look at the neighborhood. You can either accept or reject it. The Board decides if the criteria are satisfactory or not satisfactory. It's a matter of balancing. What is detrimental to the surrounding area? One could argue that nothing is going to change - just a change in ownership, a line on a piece of paper. Would it change the character of the neighborhood?

Chairman Rappa asked if it would be allowed in the Village Code to create a nonconforming lot.

Mr. Pressberg replied if it was a lot that someone could use, if the variance is not granted.

Member Stevenson said that the whole area is still owned by Jacob Deutsch. If the variance is granted, can Jacob Deutsch sell it?

Code Enforcement Officer asked if there was a potential purchaser of the property.

Mr. Torro said that he is not aware of one.

Mr. Orr said that it seems like we're putting the cart before the horse again.

Mr. Torro said that the Applicant has the Site Plan with a footprint. Some site work has been started already.

Member Shehab asked if the hotel is on Lot 2, with everything else on Lot 1. He asked if building a condo was possible.

Chairman Rappa asked if there was any comment on the detriment related to this project. He asked if the benefit could be achieved by other means.

Member Stevenson said that he sees this situation as only being detrimental. He said it seems as if we're undermining our own Village Code by granting this variance.

Mr. Pressberg said that this is malleable if the criteria are met. Area variances aren't that detrimental. It's a Type II SEQRA action with no potentially significant environmental impact. If the criteria are met, the ZBA should grant variance. There are no neighbors who would be affected by this set back variance inside the lot.

Chairman Rappa asked for a **Motion** to classify this project as Type II action under SEQRA. A **Motion** was made by Member Stevenson, seconded by Chairman Rappa. All in favor, none opposed. **Motion** carries.

Member Stevenson commented that the plan is approved and the project is going ahead no matter what.

Mr. Pressberg said that the reason for the variance is to subdivide the property. The benefit to the Applicant is that he can subdivide, market, and sell. The possible detriment, in the extreme case, for example would be if a 60-foot tall building was constructed in a residential zone where everything else is 2 stories. That would change the neighborhood.

Member Stevenson said that he has a problem with changing or undermining the Code when the only benefit is for the profit of the Applicant.

Mr. Pressberg said that the Code provides for variances if the criteria are satisfied. It's a balancing act.

There was general discussion regarding the possibility of reducing the side yard variance including reducing the size of the hotel and moving the building.

Mr. Torro said that the Applicant has looked at and used the Approved Site Plan.

Mr. Pressberg said that the ZBA is telling you that you haven't proved that you've done everything you could to reduce this variance. The Board is saying that you haven't looked at this plan to divide it into 2 lots.

Mr. Torro said that he doesn't see shifting the building over 15 feet.

Mr. Pressberg said that the Board is saying that you haven't looked to achieve this in some other way. This is a proper decision for the ZBA to make.

Mr. Torro said that the project was approved by the Planning Board.

Mr. Pressberg said that the ZBA can deny it on grounds.

Chairman Rappa asked what are we asking the Applicant? To move totally, 15 feet? To reduce the variance by half?

Mr. Pressberg said or he explains it to you.

Chairman Rappa asked by making him shift the building over, what do we accomplish? How much will it change the situation?

Chairman Rappa said that the ZBA has 3 options - to deny; to postpone and ask the Applicant to come up with a better plan; or to grant the variance.

Mr. Pressberg suggested that someone on the Board make a **Motion**.

Chairman Rappa made a **Motion** to grant a 9 foot 7 inch side yard variance for Lot 2 and a 1 foot 6 inch variance for Lot 1 so that the Applicant can proceed with the subdivision. Member Kadala seconded the **Motion**. Four in favor, one opposed (Member Stevenson). **Motion** carries.

Chairman Rappa asked for a **Motion** to adjourn the meeting. **Motion** was made by Member Stevenson, seconded by Member Kadala. All in favor, none opposed. **Motion** carries. Meeting adjourned.

Respectfully Submitted,

Susan Marino  
Zoning Board Secretary  
July 13, 2009