

ZONING BOARD of APPEALS – MINUTES OF MEETING
Wednesday August 26, 2015, 7.00 PM

The regularly scheduled meeting of the Pleasant Valley Zoning Board of Appeals was held on August 26, 2015 at 7 p.m. at the Pleasant Valley Town Hall, 1554 Main Street, Pleasant Valley, New York.

Chairman: John J. Dunn
Board Members Present : Kathy Myers
Stephen Kish
Robert Maucher
Tim Gerstner
Board Members Absent : Ms. Sharon Wilhelm
Mr. Michael Schroeder
Staff: Michael White, Zoning Administrator
Sonia James, Secretary

Chair called the meeting to order at 7pm and explained the Procedure, stating that all proceedings were legal and all the testimonies will be taken under oath or affirmation. Procedure is to let the applicant present their case first, then Board will take comments from the public. Close the public hearing part of the meeting and move to the next appeal. After all appeals are heard, the Board will discuss and vote on each one.

First Item on the Agenda was area variance for a fence, but as the representative Mr. Leroy Mitchell was late this was moved to the end of agenda. Chair moved on to next appeal

Area Variance - Appeal # 998
First Presbyterian Church of Pleasant Valley, NY
Grid # 6363-02-828559
Location: 1576 Main Street, Pleasant Valley, NY 12569

The Banner Sign, The Church would like to Place does not Comply with Chapter 98, Article N, 598-46:G(2)(2);J(2)(c)

Chair, Mr. Dunn also gave proof of i) Certified Letters sent to the neighbors, and ii) Affidavit of publication from Poughkeepsie Journal.

Following variances were requested:

1. **Size:** Code allows banners no bigger than 18 sq.ft. Church banner is 40 sq. Therefore a variance of 22 sq. feet was required.

2. **Words:** Code allows for maximum of 7 words, church banner has 15 words, therefore a variance of 8 words was required.
3. **Days:** code allows a display period of 90 days. Church wanted to display the sign up for 365 days. Thus requiring a variance for 275 days.

Chair, invited Mr. Michael White to shed some light on the subject.

Mr. White thanked everyone for their presence. He stated that Mr. Denny Smith, representing the church visited him in the office, Mr. Smith was informed all about the Town Codes, was given a friendly denial, and thus they appealed before the ZBA. In this case the variances were large, they were given application for appeal and had to appear before the Zoning Board of Appeals.

Chair opened the Public hearing and invited anyone to speak regarding the appeal:

Mr. Denny Smith of 37 Sherow Road, Pleasant Valley NY 12569, was sworn in and spoke on behalf of the applicant. Following is his testimony:

“It is my first time I am doing anything, like this, so bear with me. This banner we put up is to let people know that we are celebrating 250 years of servicing God and this community. The church has been servicing this community before there was a town. It is my understanding that at one time the churches were exempt from signs, so we put up this huge banner. There is no change to the character of neighborhood, we really want the town to know that we are proud of our services. The sign/ banner will be up there till the end of this year and will never come back up again.”

Chair, Mr. John Dunn, explained that the Board had no objection with the church putting up the sign, but as it is larger than the code allows, thus a variance is required.

Mr. Smith told the board that he has observed signs put up around the town with more than 7 words.

Mr. White replied that those signs must have been pre-existing.

Mr. Smith pointed out that the campaign signs put up all over the town had more than 7 words.

Mr. White informed him and all present that “Campaign Signs” are exempt from sign codes.

Mr. Smith apologized, for he was not aware of the facts. Further he requested the town to waive \$250 paid as an application fee.

Chair informed, that it is already being considered. He will go in front of the Town Board, and request that all non-profit organizations should be given a break on fees. Unfortunately we do not have a choice, it is the town board which sets the fees. So I will take this up to the board in the upcoming meeting. We do not have many applications from non-profit, so town will not go broke, waiving or bringing down the fees.

Chair invited anyone in the public to speak for or against the appeal, no one responded.

Mr. Steve Kish wanted to know when the banner went up, and was told that it went up late January or early February 2015.

Mr. Tim Gerstner, pointed out that the applicant seeks approval for 1 year but application indicated end date as December 31, 2015.

Mr. White explained that the approval will be back dated.

At this point public hearing portion of the meeting was closed. Rev. Shawn Zanicy, of 30-5513, Harveys Place, Brookside Meadows, Pleasant Valley NY 12569, affirmed that she will tell the truth as she was clergy she will swear to only GOD. Her question was that "Who creates these law? Was it the Town Board, for if we want to challenge them, where do we go"?

Chair, told her that if she wanted things changed, she will have to talk to the Town Board. We are less expensive as far as our fees goes. All these fees helpo to bring the taxes down.

Next was:

Area Variance - Appeal # 999

Gary and Janet Gross

Grid # 6463-01-172918

Location: 66 Creek Road, Pleasant Valley, NY 12569

Area Variance for a Garden Shed – 13 feet variance – 2 feet from the property line. Shed dimensions 10' x 18'.

Chair, Mr. Dunn also gave proof of i) Certified Letters sent to the neighbors, and ii) plus affidavit of publication from Poughkeepsie Journal.

Variance requirement is 13 feet from side lot line.

Ms. Janet Gross of 68 Creek Road, Pleasant Valley, NY 12569 was sworn in. She stated that: “The reason I want to put the garden shed 2 feet from the property line is because I have a small lot, plus the lot next door is also our property. I own both lots yet I have to pay a fee. I am very upset about paying \$250 when I do not know what I am paying for. We are comparing ourselves with other towns. I get charged on top to improve my lot. If you look at both sides of Creek Road, my house is the best and I have to notify my neighbors to check if I was doing everything properly. I am very upset with this Town, that I have exorbitant amount of money to pay. I want to thank the two gentleman who came to look at my property. I see many other violations in the town, which need to be addressed as well”.

Mr. White told her to make a list of complaints and address them to him

Chair explained that he himself needed variances for his house and had to pay fees. If the Gross's had one large lot, there would be no need to apply for a variance. One day if the lot next door is sold, it will create a problem.

Mrs. Gross reiterated the question of why she has to pay, while others have violations too.

Chair, stated that the fees are taken to support town if fees are not paid taxes would go up. He suggested that Ms. Gross take these complaints up with the Pleasant Valley Zoning Administrator.

Mr. Maucher wanted to be clear if she was speaking in the favor of the application.

Chair, firmly informed people present, that this was the Zoning Board of Appeals and all complaints regarding fees, and other complaints should be taken up with the Town Board.

Mr. White, stated that the Fees are set by the Town Board, we have nothing to do with it we just follow the codes and rules already set by the Town. He emphasized on the fact that he does not like to cite people but it is his job, and that's all he is doing. He requested people to bring the violations to his attention and he will take action on them.

Mr. Maucher, added that the Chair is merely trying to explain what the fees are for and why they have to be paid.

Chair, further informed all present that both ZBA and Planning Board members are volunteers. There are reasons to collect the fees.

Ms. Carol Campbell, Supervisor, Town of Pleasant Valley, explained why it is essential to collect fees for the permits issued by the Town. "We have the Zoning Administrator, a Zoning Secretary, we have Utility bills, Town has lots of expenses, and we do not like to raise taxes. We try to have an office stand on its own. But Mr. White and his staff have really taken a hard look at the budget. It is the Town Board decision to set fees. That code was adopted after 6 years of deliberations, there was a room full of people when codes were adopted and it was to everyone's consent".

At this point the public portion of the hearing was closed.

Next was:

Area Variance – Appeal # 997

Le Roy Mitchell

Grid # 6463-02-993758

Location: 111 Ross Way Road, Pleasant Valley NY 12569

Area variance for 6 feet stockade fence for Sound Attenuation and Privacy. Area Height Variance required 4 feet to 6 feet – Chapter 98, Article IV, 398-28A Need 2 feet variance for the height of the fence, because of noise issues. Total of 64 feet variance was required.

Chair, Mr. Dunn also gave proof of i) Certified Letters sent to the neighbors, and ii) plus affidavit of publication from Poughkeepsie Journal.

Mr. Leroy Mitchell of 111 Rossway Road was sworn in. Following is his testimony:

“My biggest problem is that I am 74 years old and not a spring chicken anymore. I am on medications, but I cannot get any sleep because of the noisy traffic on Rossway Road. The traffic is like a thruway - fast and very noisy. There are motorcycles on the road as well. Majority of the traffic are not from the residents living there, but people passing thru. I noticed that more traffic is coming from the south and they step on it even 2 in the morning the traffic is very heavy and noisy. I cannot get sleep like a normal person is supposed to, because of that I am losing weight. My house is on the decline and the cars come roaring down. Lots of garbage is thrown on the road side by these cars.”

Chair, informed him that the Board cannot do anything about the speed.

Mr. Mitchell’s reply was “That’s why I want to put up the fence.

Ms. Myers inquired, if putting up the fence would help buffer the sound.

Mr. Mitchell’s response was “Yes”.

Public section of the hearing was closed. Discussions were held among the board members.

Appeal # 998:

Ms. Myers commented that all three variances were substantial, but considering the circumstances she had no objection.

Mr. Steve Kish added that the code does not specify non-profit organization, as church’s cannot be singled out as a non-profit organizations, but he would like to see some adjustments in the code to allow church to celebrate their 250th anniversary, and had no objection in ZBA granting the variance. He also wanted to know if the library had a permit, for the recent banner that was put on.

Mr. White told them that the Library had applied for the sign permit and were granted permission to do so.

Chair, informed the members that it was his intention to talk to town board regarding non-profit organizations.

Mr. Maucher proposed that the end date should be mentioned on the church resolution.

Mr. Smith, informed that December 15 2015 will be fine. Chair, gave them end date of December 31, 2015, for the banner to come down.

Mr. Kish wanted clarification as to why a variance for 365 days was granted as there are only few months left in the year 2015.

Mr. Maucher, informed that the variance/resolution will be back dated.

The Resolution was read and a motion was made to grant variance to First Presbyterian Church, for banner. Motion was seconded by Mr. Tim Gerstner and was approved 5-0. (Attached)

Appeal # 999:

Regarding appeal # 999, Mr. Kish wanted to know, if there was any place else the shed could be put up on the property. The response was “negative”.

The Resolution was read and a motion was made to grant variance to Janet and Gary Gross for a Garden Shed. Motion was seconded by Mr. Bob Maucher and was approved 5-0. (Attached)

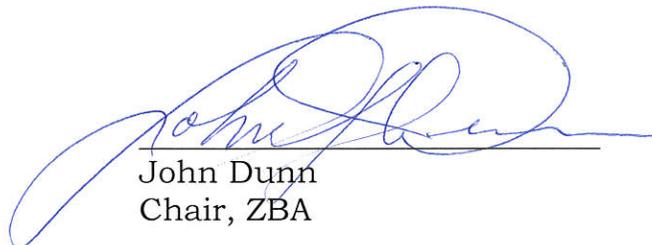
Appeal # 997:

The Resolution was read and a motion was made to grant variance to Mr. Leroy Mitchell for 6' Fence. Motion was seconded by Mr. Bob Maucher and was approved 5-0. (Attached)

Mr. Maucher made a motion to approve the minutes of April 2, 2015 ZBA meeting as amended. It was seconded by Mr. Steve Kish and was approved 5-0.

Motion was made by the Chair to close the meeting it was seconded by Mr. Gerstner and was approved 5-0.

Approved By:


John Dunn
Chair, ZBA

Dated:

4/9/15