

MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS PUBLIC HEARING AND REGULAR MEETING HELD ON MONDAY, OCTOBER 6, 2014, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN ST. CHESHIRE CT 06410

Present

Ken Wilson, Chairman; Marion Nero, Secretary; Paul Bellagamba, John Pepper Agnes White.

Alternates: Jackie Cianci, Gerald Devine; Absent – Robert Formica

Staff: Dave Kehoss, Zoning Enforcement Officer

I. CALL TO ORDER

Chairman Wilson called the meeting to order at 7:31 p.m.

II. ROLL CALL

Secretary Nero called the roll.

III. DETERMINATION OF QUORUM

Following roll call a quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

Chairman Wilson read the fire safety announcement into the record.

V. ACCEPTANCE OF MINUTES – MAY 5, 2014

MOTION by Mr. Pepper; seconded by Ms. Nero

MOVED to accept the minutes of May 5, 2014 subject to corrections, deletions, additions.

VOTE The motion passed unanimously by those present.

VI. COMMUNICATIONS

VII. PUBLIC HEARING

Chairman Wilson reviewed the procedures for a public hearing before the ZBA, and explained that four (4) affirmative votes are required to approve a variance request. Mr. Wilson explained that the ZBA Alternate Members who are not seated for the public hearing and meeting may participate in the public hearing until it is closed. These members may not participate in or take action on an application during the decision making session.

Secretary Nero read the call of public hearing.

The application of PowerStation LLC c/o Matthew S. Hall, Esq., 195 S. Main Street, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, requesting a 50 foot side line variance of the required 50 foot sideline setback, for a loading dock addition, property located at 1718 Highland Avenue, Cheshire CT 06410, as generally shown on Assessor's Map No. 11, Lot No. 24, in an I-2 zone. The resulting side line setback requested is 30 feet. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

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| <p>1. Application 14-10-01
<u>Powerstation LLC</u>
1718 Highland Avenue
Requesting a variance of Section 32, Sch. B.
Dimensional Requirements in an I-2 Zone
Requesting a 50 foot side line variance of the
Required 50 foot sideline setback for a loading
Dock – The resulting side line setback requested
Is <u>30 feet.</u></p> | <p>PH 10/6/14
MAD 12/10/14</p> |
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Chairman Wilson stated the applicant provided a drawing which will serve as the A-2 Survey for the application.

Attorney Matthew Hall, 195 South Main St. Cheshire CT represented the applicant, and introduced Joseph Pisani, Contractor, and Alfred Vagnini, the applicant.

Attorney Hall stated that the rendering before the Board is a modification of an A-2 Survey from the prior owners (Jordan Caterers). The applicant is seeking a variance to the 50 foot side line setback resulting in a 30 foot side line setback to accommodate production, storage and equipment needs with a loading dock. The Board was informed by Attorney Hall that this property was classified I-2 Zone in 1960; a variance was granted in 1986 for a side line setback to 30 feet; and this is noted in the A-2 Survey showing the westerly side. The former owner, Jordan Caterers, did seek a variance for their business. The property was acquired by the applicant in 2014 from the holding company.

PowerStation LLC has been an existing business in Cheshire for 10 years; is located in a temporary facility on Highland Avenue; and will move into the 1718 Highland Avenue facility following the zoning process. The business needs a loading dock to load and off-load technical equipment for events and the production business, and will use larger trucks than the former owner due to turn around requirements. The intended use of the east side of the building will be staging and pre-production work, and trucks will be loaded in an efficient manner with a loading dock. Employees will use the parking spaces on the site. There are topographical issues which drive the location of the loading dock to the proposed area on the property.

The Board was informed by Mr. Hall that in 1989 there was a 100 foot wide easement placed on the property for access and travel which benefits this parcel and the parcel to

the immediate north. The location of the loading dock on the easement is prohibited. There is a water detention area in the northeast quadrant. The potential location of the loading dock closer to this area raises issues about runoff and was part of the IWW approval in 2005. According to Mr. Hall there are many practical reasons which make location of the loading dock unduly hard to place elsewhere on the site, i.e. 100 foot easement, issues with disruption of the paved surface, impact on the water detention area. He stated that the proposed location is the safest and best use of the property.

With regard to strict application of the regulations, Mr. Hall said the use would be permitted based on the variance already existing. The proposed variance is fewer than 40 feet from the existing variance. Stating the applicant is sensitive to the zoning regulations, Mr. Hall noted the variance request will not jeopardize the integrity of the regulations as applied in this zone, and the existing variance has been there for 30 years without complaints.

Attorney Hall cited the hardship for the variance application. The hardship is creation of an incongruity and forcing the applicant to reconfigure the entire construction of the loading dock in an unsafe and risky location to the already approved storm water plan. The hardship is enforcement of the incongruity causing undue hardship to the applicant, and the request is not out of character with the neighborhood.

Joseph Pisani, Pisani Construction Inc. stated that the proposed location is the safest place for vehicles to load and unload technical equipment. The applicant is requesting extension of the existing variance along the property line to position the loading dock. Mr. Pisani explained that the addition/loading dock will not be seen from the road; vehicles cannot be seen from the road; and it will be a nice architectural structure. He said the turn around is 40 feet for a tractor trailer. On the property to the north is the detention area with steeper grades, so the proposed location is the safest for the loading dock. Construction of the addition will be similar to what is already there, and it cannot be seen from the street. The loading dock will slope to various levels, have a concrete base, will be an enclosed structure, will have a solid back on the south side, will have a pitched roof and will mirror the building to the west. The grade to the east will be the lower part of the dock; the edge of pavement will be connected to the back; it is a 2400 sq.ft. addition with minimal impact on the water detention area.

ZEO Kehoss informed the Board that this application must go through the Planning and Zoning Commission process and approval.

In response to a question about the number of employees and cars at the site, Mr. Vagnini stated there would be 35 to 40 cars. The lot is 50 parking spaces; his business is growing over the last few years; and he plans on this being the final location for his business.

Mr. Bellagamba asked about this being a building addition/loading dock and asked about the size of the trucks.

Mr. Pisani explained it is a 3-sided building at one end; it will have access from the main building; and trucks will be 16 foot box truck, 20 foot box truck and 26 foot box truck. He stated the business receives shipments of supplies from contractors and must accept deliveries at the dock.

Mr. Bellagamba noted the 1986 variance does not address the variance on the south property line.

Charles Dimmick, 60 Broadview Road, former owner of the property, reported on the history of the subject property. He said this was once a 65 acre dairy farm, broken off into two pieces of land from the farm. Each was 100 feet wide and 200 feet deep, and the side line variance was for property only 100 feet wide. The 30 foot variance permitted 40 feet with house built there and was not in violation. It was an implied variance on both sides of the 100 foot lot, and when new property was added it was unclear in the transfer language about what property was being referred to. With regard to zoning, in 1940 there was no zoning in town; 1960's zoning was imposed; the subject land was I-2; there were two ½ acre lots; in 1980's the I-C zone was overlaid on top of this zone, with larger requirements of 5 acre zoning. In 1986 a variance was requested for his existing house to fit within the requirements so it could be sold. There was another structure on the property, 2 feet over the property line onto the adjacent property. Mr. Dimmick sold the house in 1987.

Attorney Hall commented on many issues being raised beyond the variance request, other site plan and issues, and the ZBA approval being the first in the procedures for the applicant.

There were no further questions or comments, and Attorney Hall concluded his presentation to the Board. THE PUBLIC HEARING WAS CLOSED.

VIII. DECISION MAKING SESSION

Secretary Nero read the call of public hearing.

The application of PowerStation LLC c/o Matthew S. Hall, Esq., 195 S. Main Street, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, requesting a 50 foot side line variance of the required 50 foot sideline setback, for a loading dock addition, property located at 1718 Highland Avenue, Cheshire CT 06410, as generally shown on Assessor's Map No. 11, Lot No. 24, in an I-2 zone. The resulting side line setback requested is 30 feet. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

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Chairman Wilson commented on Cheshire farm land being turned into industrial property, and the Board has seen these applications in the past and will see them in the future.

Ms. Nero stated that the original variance did not go the full length of the property. She supports the variance request because there could be encroachment of the storm water area without the variance approval. This approval just brings the variance down the rest of the property on that side of the site.

Mr. Wilson stated this is a non-conforming issue that is being extended to the back of the building. The variance will not change the character of the non-conformance or the surrounding neighborhood. He is in favor of the variance request.

Mr. Bellagamba stated this is an extension of an existing variance on the southern property line. There are not issues; the applicant is not looking for a larger variance on the southern line; and he is in favor of granting the request.

Mr. Pepper was confused about addition vs. loading dock and now understands what the applicant has proposed. He noted that the applicant cannot operate this type of business without the dock, and this is a hardship. He said PowerStation is a great business in Cheshire and he supports the variance request.

Ms. White is in favor of granting the variance request, and concurs with the statements of the other Board members.

MOTION by Mr. Wilson; seconded by Ms. Nero.

MOVED that the Cheshire Zoning Board of Appeals grants the variance of Section 32, Schedule B, Dimensional Requirements, for a 50 foot side line variance for a loading dock at 1718 Highland Avenue, Cheshire CT 06410, Assessor's Map No. 11, Lot No. 24, in an I-2 Zone, resulting in a side line setback of 30 feet. The hardship does not appear to result from the actions of the applicant, is not applicable to other properties to other properties in the district, and to strictly apply the Zoning Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Regulations. Granting of the variance will not confer upon the applicant any special privilege; the variance is the minimum that will make possible the reasonable use of the land and structures; the variance will not injure the neighborhood or public welfare; and granting the variance will be in harmony with the general intent and purpose of the Regulations.

The scope of this variance is limited to the loading dock which is indicated in the plans and documents presented at this hearing on October 6, 2014.

VOTE The motion passed unanimously by those present.

The variance is approved; it becomes effective upon being filed on the land records of the Town of Cheshire; and this is the responsibility of the applicant.

IX. OTHER ZONING BOARD OF APPEALS BUSINESS

X. CHAIRMAN'S REPORT

XI. ADJOURNMENT

MOTION by Mr. Pepper; seconded by Ms. Nero

MOVED to adjourn the meeting at 8:25 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk