

Chester Zoning Board of Appeals
Regular Meeting, July 18, 2016
Page 1 of 6

1. Call to Order

The Chester Zoning Board of Appeals held its regular meeting on Monday, July 18, 2016, at the Chester Town Office Building, 203 Middlesex Avenue, Chester, Connecticut. Vice Chairman DeLaura called the meeting to order at 7:30 PM.

2. Seating of Members

Members present and seated were Mark Borton, John DeLaura, Lisa Tollefson, Alex Stein and Brian Sakidovitch.

3. Approval of Minutes – done at the end of the meeting.

4. Old Business

(a) Public Hearing and Consideration of Application

Application submitted by Chester Point Real Estate LLC (owner and applicant) for variance of Section 40D Improvements and Sections 100C.1 and 100C.9 General Provisions for Flood Hazard Reduction and Coastal Site Plan Review, to construct 15,000 sf marine commercial building at Chester Point Marina, at property located at 72 Railroad Avenue, Chester, CT (Tax Map 15, Lot 56, Zone WDD).

Vice Chairman DeLaura introduced members explaining the procedures for a public hearing and regular meeting. He also explained there must be 4 affirmative votes to pass a variance.

Vice Chairman DeLaura read the Legal Notice of Public Hearing into the record, said notice having been published in the Hartford Courant on July 5 and 12, 2016. He noted the variance application will be taken up first and if approved, then the Coastal Site Plan Review application.

Tom Metcalf introduced himself as the applicant's engineer/surveyor and Attorney Steve Karlson as Attorney and President of BLP Enterprises, owner of the parcel.

Mr. Metcalf handed out supplemental documentation. He noted the reason for this variance is because the property is in a flood zone. He reviewed the location of the 13 acre parcel at the end of Railroad Avenue noting there is a boat basin in the middle and several commercial buildings on the property.

Mr. Metcalf noted the survey of the property was done by Don Carlson. He reviewed the location of tidal waters, Land Trust property and the railroad tracks. The survey was done prior to the hoop structure (11,000 sf+/_) being damaged. The hoop structure was damaged several winters ago by a storm it being an essential piece of the marina operation utilized for maintenance, repair of boats and temporary

Chester Zoning Board of Appeals
Regular Meeting, July 18, 2016
Page 2 of 6

storage.

Mr. Metcalf noted the proposal is to construct a new 15,000 sf building which is an increase of about 4000 sf. He submitted copies of a FEMA flood plain map pointing out the boat basin and location of the new structure. The entire property except for several isolated small pockets are entirely in a FEMA flood zone. Metcalf noted the adopted flood plain Zoning Regulations were pretty much what the State recommended for language to be included in local regulations. Two sections prohibit placing structures in a flood zone unless it is elevated above the flood zone. This property is very flat. The base elevation is between 7-8 feet and the flood zone elevation is 10 feet. In order to meet FEMA requirements they would have to place over 3 feet of fill to elevate and construct this building. Therein lies the problem. This is a marina property which needs to be able to get boats in and out without going up ramps. These are boats up to 65 feet in length on a travel lift. It is prohibitive to raise the elevation because of the slopes and the impact it would have on adjacent structures and on septic. The placement of fill is prohibitive for the functionality of the marina. Mr. Metcalf further noted, according to Section 108.2 of the FEMA regs the placement of fill is discouraged in a flood zone. Placing fill takes up flood storage area and its flood waters have to be displaced elsewhere. If they had to place the fill, they would be requesting a variance of that section also. The structure will be constructed in accordance with FEMA requirements in a flood zone. There will be no mechanical, electrical, heating, ventilating below the base flood elevation. The building will contain engineered flood vents. In the event of a flood, these vents allow for free flow of water to minimize damage to the structure.

Mr. Metcalf noted the hardship as already stated establishes good sufficient cause to justify granting of the requested variances. Failure to grant the variances would result in exceptional and prohibitive difficulty in that the uses are functionally dependent on their location at grade within a flood area. He reiterated being able to get in and out of this building at grade is critical. With respect to the said use of the building there are no other suitable locations outside of the flood hazard area of 72 Railroad Avenue. The building can't be positioned elsewhere. Raising the building slab elevation to or above the base flood elevation requires significant placing of fill material and essentially not possible as it would adversely affect adjacent buildings and the functional use of outdoor storage and work area, parking and vehicle access.

Mr. Metcalf noted by its functional nature a marina requires and depends on activities at or near water level of the adjacent waterbody. Denial of the request would adversely affect the function and viability of the marina business.

Mr. Metcalf noted plans were submitted to both the Inland Wetlands Agency and

Chester Zoning Board of Appeals
Regular Meeting, July 18, 2016
Page 3 of 6

Harbor Management Commission, both of which indicated they did not have jurisdiction. The Sanitarian also reviewed the plan to be sure there was no impact on the septic system. Lee Vito submitted an email to that effect.

Mr. Metcalf noted for the record the uses have existed for this building and the property and will continue to be used are permitted uses for the waterfront zone. The structure conforms to all setback requirements and height requirements are consistent with Gateway standards. The only variances needed are flood zone related.

Mr. Metcalf noted the primary charge of Gateway is to maintain the traditional riverfront vistas and views. Elevating this building with the placement of fill would make the building higher and they would be against it. Gateway would rather see a lower profile.

Mr. Metcalf reviewed Section 100 Definitions referring to the definition of functionally dependent use or facility. This is by its very nature a water dependent use consistent with coastal site plan objectives of DEEP. Short term vs long term use was briefly reviewed.

The flood insurance rate map was reviewed. It was noted the flood way is essentially along the CT River and also associated with Chester Creek along the shoreline. This property is in an AE Zone.

Chairman Borton noted there have been three 100 year floods in the last 30 years. He asked if 10 feet was sufficient. Mr. Metcalf noted in this case yes given the use of the building and inclusion of the flood vents.

Mr. Metcalf reviewed some changes that had been made since the original rendering. These changes had to do with aesthetics and the 2 doors. It was noted the building has been over-engineered. It will also be heated. Chairman Borton asked if solar had been considered. Mr. Karlson replied they will be talking about that. Hays Haven recently did a lot of solar installation at its marina.

Buoyancy was reviewed. Mr. Metcalf noted he didn't think that was an issue because of the flood vents. There would be enough open area for the water to flow through. Mr. Karlson noted the foundation would also be over-engineered due to a 40 to 50 ton travel lift with a 30 ton boat on it. Metcalf also noted he didn't think uplift would be an issue but that would be considered by the structural engineer.

There being no further questions, **motion by Tollefson, second by Borton, to close the public hearing for the variance. Unanimously Approved.**

Chester Zoning Board of Appeals
Regular Meeting, July 18, 2016
Page 4 of 6

Consideration of Application

Lisa Tollefson noted there shouldn't be much of a rise with a travel lift. Heavy boats could be a real problem. She didn't see where raising the building would accomplish anything positive. Brian Sakidovitch felt if the building were raised it would create an unsafe condition with regards to the travel lift. Lisa Tollefson agreed as it would create an unstable load. Tollefson also noted there is a very small area between the pool and the building.

Chairman Borton noted he knows the property well as he has had his boat there for the 10 years. He agreed one would not want to take a travel lift up a ramp. This structure is an integral part of the marina. He indicated Deep River recently built a similar building that sticks out like a sore thumb. This building is quite back and not too much is seen from the river which is an advantage. Brian Sakidovitch noted this would probably be an improvement in the view. Chairman Borton noted he felt the more natural light the better. He was also pleased they were considering solar. The roof would have to be designed to accommodate it. He felt the hardship was quite evident. The appropriateness of this structure in the zone was quite evident. The engineering relative to flood issues seems to be appropriate.

Vice Chairman DeLaura noted he was in favor of the application as it makes sense. It is the best solution to handle the marina's needs.

Brian Sakidovitch noted he was in favor. He also noted these regs are based on FEMA and flood zone related issues and the Board has to be careful on how it approves this. Sections 100C.1 and 40D says one has to be in conformance. He noted Section 100C.9 is the real section to be concerned with. He reviewed the criteria raised in subsections a, b, and c.

Chairman Borton noted these regs were written decades ago. It would behoove the applicant if they built well in excess of the code.

Alex Stein noted he was in favor but commented if the applicant is truly considering solar, they should take into account the snow will come off the panels and it could be quite dangerous to anything underneath those panels at that time.

There being no further discussion, **motion by Sakidovitch, seconded by Stein, to grant the variance of Chester Point Real Estate LLC as presented. Unanimously Approved.**

Chester Zoning Board of Appeals
Regular Meeting, July 18, 2016
Page 5 of 6

Coastal Site Plan Review

Tom Metcalf and Steve Karlson were present. Mr. Metcalf noted a coastal site plan review is required if there is a variance application within the coastal management area. These plans were forwarded to DEEP OLISP (Office of Long Island Sound) for their review for compliance with CAM requirements. Letter was received from Marcy Balint, OLISP, dated July 13, 2016, with attachments referencing water dependent uses. Ms. Balint's review stated this is a marina site, therefore a water dependent use and the proposal was consistent with statutory requirements for such use. The proposed building is part and parcel of the marina and part of the functionality of the marina. Coastal resources on adjacent property was identified as was the construction sequence. This is a flat area with no clearing of trees. Erosion control will consist of a stone berm during construction allowing runoff to filter through the berm. Long term they are proposing off the side of the building a stone infiltration trench sized to capture the first one inch of runoff from the roof. This is consistent with DEEP requirements adjacent to tidal waters. The inclusion of floor vents allows for free flow of water. Ms. Balint was pretty much in agreement and didn't believe there were any remaining adverse impacts during construction or long term.

Tom Metcalf noted if this is a favorable vote, they still must go before Planning & Zoning with another Coastal Site Plan Review. John DeLaura asked if OLISP had made any suggestions. Mr. Metcalf noted he spoke to both Marcy Balint and Diane Ifkovic who were both fine with it.

Brian Sakidovitch asked if the gravel berm was included in the DEEP guidelines for erosion control. Mr. Metcalf replied he couldn't say with 100% certainty, but based upon his experience it was an acceptable practice.

Motion by Tollefson, second by Sakidovitch, to close the public hearing for the Coastal Site Plan Review. Unanimously Approved.

Motion made and seconded to approve the Coastal Site Plan Review application for Chester Point Real Estate LLC as presented as it is consistent with the goals and policies of the Connecticut Coastal Management Act and construction would include all reasonable measures to mitigate any potential adverse impacts on coastal resources.

**Chester Zoning Board of Appeals
Regular Meeting, July 18, 2016
Page 6 of 6**

Unanimously Approved.

3. Approval of Minutes

Motion by Stein, seconded by Borton, to approve February 22, 2016 Minutes as written. Unanimously Approved.

5. New Business -

(a) Receipt of New Applications – none.

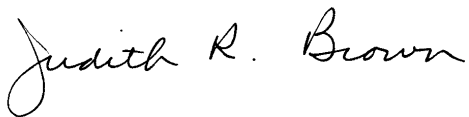
6. Any Other Business – none.

7. Audience of Citizens – none.

8. Adjournment

There being no further business, the meeting adjourned at 8:35 PM.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith R. Brown". The signature is written in black ink and is positioned below the typed name.

Judith R. Brown, Recording Secretary