

**CHESTERTON BOARD OF ZONING APPEALS**  
**APRIL 23, 2015**  
**6:30 P.M.**

The meeting was called to order at 6:30 p.m. Present were member T. Browne, F. Owens, J. Kowalski, J. Ackerman and President R. Corder. Town Manager B. Doyle and Town Engineer M. O'Dell were in attendance. Attorney J. Paulson was present as legal advisor. The pledge of allegiance was recited.

**APPROVAL OF MINUTES**

Member J. Kowalski moved approval of the minutes from March 26, 2015 seconded by member F. Owens and passed by unanimous voice vote.

**PRELIMINARY HEARINGS**

**SBA Tower VI, LLC C/O Dolan Realty Advisors, LLC.** requesting a variance for a setback from property line. **Petition 15-03** There was no representative in attendance to speak on the petition.

Attorney J. Paulson advised the board that they could choose to continue the preliminary hearing. If the petitioner would fail to appear at two consecutive meetings the board would be required to dismiss their petition for want of prosecution.

Town Engineer M. O'Dell said that he had not been in contact with anyone regarding this item. They had just begun the review process.

Attorney J. Paulson said she had several issues with the petition. They would need additional variances.

Member F. Owens moved to continue the preliminary hearing for this Petition 15-03 until the next scheduled meeting seconded by member T. Browne and passed by unanimous voice vote.

Pastor Eric of Bethlehem Lutheran Church was present. It was the general consensus of the board to provide a brief rundown of items the board would be looking to have provided.

Attorney J. Paulson told the petitioners she had several issues with the petition. She briefly touched on each of the following items; the petition would need to be amended to reflect the property owners as the petitioner. A deed would be required along with a full legal description of the property. Additional variances would be required. She explained that the petition needed to indicate how much of a setback is requested. Additionally a USE Variance would be required because communication facilities are not permitted in R-1 Zones. A Developmental Standard Variance would be need for the height. Findings of Fact would need to be submitted for the Developmental Standard Variance. She advised the petitioner that the Findings of Fact should be filled out completely.

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Town Attorney M. O'Dell said he would need structural calculations for the foundation. Additionally the petitioner would be required to provide information and sizes regarding signage. He called attention to a drain tile coming off the back of the church. He told petitioners that if this moves forward they would need to put in a culvert under the driveway. The drainage issue would need to be worked out as a part of this project. He commented that once the footprint is set they cannot keep adding additional providers. Conditions and language from the town attorney would be forthcoming.

Member T. Browne asked the petitioner to submit a depiction of what the site would look like. Perhaps something that had been completed.

Representation for the petition arrived late to the meeting. Daniel J. Duehren of Dolan Realty Advisors, LLC apologized for arriving late to the meeting. He thought the meeting started at 7:00 p.m. He told the board that SBA Towers is a power development company. He explained that when there is a need for power or a deficiency in service they build the tower which can house multiple wireless carriers. Verizon would be the first tenant.

Attorney J. Paulson and M. O'Dell once again run through the items required to complete this petition.

Town Engineer M. O'Dell commented that the church is entitled to one accessory structure. The site plan depicts pads for 4 additional future structures. Those additional structures would not be allowed without a variance for each additional structure. He said he would like the petitioner to provide a Verizon analysis justifying a tower in the proposed location.

Member T. Brown commented that an 8 foot fence would require a variance as would the use of barbed wire.

Member F. Owens said he would like to know the height of the existing bell tower. Additionally he said he wanted to see an amended petition before setting this item for public hearing.

Member T. Browne moved to continue the preliminary hearing seconded by member J. Kowalski and passed by unanimous voice vote.

## **PUBLIC HEARINGS**

**Lawrence J. Janowski, Trustee of the Josephine M. Janowski M. Living Trust** requesting a variance to reduce the size of off-street parking spaces (length: 20 ft. to 18 ft. for 75-90 degree parking angle) **Petition 15-01** Rules for conducting a public hearing were read aloud. The secretary verified proof of publication, notification and payment. Attorney Todd Leeth was

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present as representation for the petition. He explained to the board that they had discovered that potentially there could be an additional variance necessary. He respectfully requested a continuance so they could evaluate the petition further.

Member T. Browne moved to continue the preliminary hearing Petition 15-01 until May 28, 2015 seconded by member F. Owens and passed by unanimous voice vote.

**Kenneth O. McAloon III and Christine Allison McAloon, Husband and Wife** requesting a variance to construct a shed on an inactive utility easement and reduce a rear yard setback from 5 feet to 4.3 feet a reduction of .7 feet **Petition 15-02** The secretary verified proof of publication, notification and payment. Mr. McAloon was present. He said the shed was already under construction with its placement being on an inactive easement. The location of the shed is the only position on the property that is aesthetically pleasing and consistent with neighboring sheds. He respectfully requested the board to consider granting the variances requested.

There was no one present to speak in support of the petition.

There was no one present to speak in opposition to the petition. The public comment portion of the public hearing was declared closed.

Town Engineer M. O'Dell said he was ok with the placement of the shed and there was no issue with lot coverage.

Member F. Owens moved to close the public hearing accept the Finding of Fact and grant the variances requested seconded by member T. Browne and passed by unanimous voice vote. New member, J. Ackerman abstained from voting because he did not have the opportunity to review the petition.

**OLD BUSINESS- None**

**NEW BUSINESS**

Members of the BZA welcomed new member Joseph Ackerman to the board.

Attorney J. Paulson informed the board that the town had signed a lease to put a cell phone tower at the property it owns on Grant Street. That would require a BZA variance. Since the town owns the property the town would be the petitioner. The company erecting the tower has agreed to pay for an outside attorney since the town's legal would not be allowed to represent themselves. She said that attorney Gregory Babcock would be willing to advise the board on that petition only.

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Member T. Browne moved to accept the recommendation to use attorney Babcock for that petition seconded by member F. Owens and passed by unanimous voice vote.

**MISCELLANEOUS BUSINESS- None**

**ADJOURNMENT**

There being no further business before the board member F. Owens moved adjournment seconded by member T. Browne and passed by unanimous voice vote. The meeting adjourned at 7:25 p.m.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved:

R. Corder, President