



**MINUTES OF MEETING  
ZONING BOARD OF APPEALS  
TOWN OF CHESTER  
MAY 26, 2015**

The meeting was called to order by Chairman Grady at 7:01 p.m.

**ATTENDANCE:**

Chairperson John Grady, Mary Jane Dower, Arnold Jensen, Bill Oliver, John MacMillen, Walter J. Tennyson (Zoning Administrator), and Jeremy J. Little (Secretary).

**NEW BUSINESS:**

**#417-V** – Leroy H. Layton is requesting a 3 ft. shoreline setback variance and a 6 ft. height variance, according to Section 4.03 and Section 9.01 of the Town of Chester Zoning Local Law, in order to vertically expand the pre-existing single family dwelling on existing footprint within the shoreline setback. Property is located at 61 Marina Road, identified by Tax Map Parcel #: 86.13-1-2, in Zone Classification Moderate Intensity.

Leroy Layton was present as well as Michael Rice from MacMillen Construction.

Mr. Oliver made a motion to deem application **#417-V** as complete, refer the application to the Warren County Planning Department, and schedule a public hearing for the next meeting on June 23, 2015. Motion seconded by Mr. MacMillen. Motion carried 5-0.

**#418-V** – Timothy and Colleen Yates are requesting a 17 ft. shoreline setback variance and a 14 ft. height variance, according to Section 4.03 and Section 9.01 of the Town of Chester Zoning Local Law, in order to vertically expand the pre-existing single family dwelling on existing footprint within the shoreline setback. Property is located at 93 Blythewood Island Road, identified by Tax Map Parcel #: 86.5-1-11.5, in Zone Classification Moderate Intensity.

Due to his involvement with the project for Mr. Yates, Mr. MacMillen recused himself from taking part in any discussion regarding this variance application.

Michael Rice from MacMillen Construction was present to represent the application in the absence of the property owner.

Chairman Grady stated that he did not believe a deed was provided with the application and recommended it to be submitted before the next meeting. Mr. Jensen said that he visited the site and suggested to have the proposed addition properly marked to give a better perspective.

There was discussion whether the 15' sideline setback would be maintained for the addition. Chairman Grady questioned if the distance from the sideline to the addition would include

the overhang. Mr. Rice stated that it did not and the roof overhang would encroach into the sideline setback. The Board questioned the Zoning Administrator and he stated it would need a sideline variance. The Board concurred and believed the application is to be amended with the sideline variance request. Mr. Rice stated that the sideline variance request would be for 1 ft. and would revise the application to include such variance request.

Mr. Jensen made a motion to deem application **#418-V** as complete pending receipt of the deed and revision to the application, refer the application to the Warren County Planning Department, and schedule a public hearing on June 23, 2015. Motion seconded by Mrs. Dower. Motion carried 5-0.

**#419-V** – David House is requesting an area variance for thirty-three (33) parking spaces where 70 parking spaces are required, according to Section 7.06 of the Town of Chester Zoning Local Law, in order to construct a Dollar General. Property is located at 6127 State Route 8, identified by Tax Map Parcel #: 87.20-1-11, in Zone Classification Hamlet.

Chairman Grady stated that this application was a last minute addition to the agenda.

Mr. House stated that his proposal is to construct a Dollar General next to the location of Gallo Realty on State Route 8. He mentioned that for most surrounding Dollar General stores, there are approximately 33 parking spaces.

Chairman Grady referred to Section 7.06 of the Zoning Local Law. Mr. House explained that the retail space is 7,000 sf. and Section 7.06 states that for every 100 sf. of space, 1 parking space is required. Further, 70 parking spaces would be required under the Zoning Law and Mr. House stated 33 spaces is more than satisfactory for the proposal.

Mr. House explained that wetlands exist on the property and there is a non-jurisdictional letter from the Adirondack Park Agency concerning the Dollar General proposal. The Agency stated that a permit was not required for construction of the commercial use.

Mr. Oliver made a motion to deem application **#419-V** as complete, refer the application to the Warren County Planning Department, and schedule a public hearing on June 23, 2015. Motion seconded by Mr. Jensen. Motion carried 5-0.

### **PUBLIC HEARING:**

**#414-V** – Douglas Murray is requesting a 36.2 ft. Northerly frontline setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to construct a 22' x 20' single car garage with 1' overhangs. Property is located at 41 Clarkson Road Extension, identified by Tax Map Parcel #: 86.15-1-25, in Zone Classification Moderate Intensity.

Having been duly advertised, the public hearing for Application **#414-V** was opened by Chairman Grady at 7:20 p.m.

Zack Monroe from Winchip Engineering presented the application in the absence of the property owner.

Tom Sliva, who owns property at 38 Clarkson Road Ext., questioned if it was the only location to place the garage on the parcel and if not, if it could be placed elsewhere and not require a variance. Mr. Monroe stated that it is not the only location you could position the garage, but it would be the most ideal place to put it. He also explained that due to the topography of the lot, a great deal of time, work, and money would be involved to move it to a different location. Mr. Sliva questioned if the garage could be plotted in the front of the house; however, Mr. Monroe stated it would also most likely require a variance. Mr. Monroe said that the proposed location of the garage allows it to be more hidden and out of sight.

Chairman Grady stated that he agreed the garage would be more visible if moved to the other location. Mr. MacMillen said that if the garage was moved, it would be closer to the neighboring homes.

Mr. Sliva questioned if more trees would be removed during the construction phase of the garage. Mr. Monroe did not believe any trees would be removed or taken down.

Chairman Grady stated there were three letters received regarding the variance, all letters were in support of granting the variance. Letters in support were from Kevin Wickert (22 Kingsley Ln.), Rene Stehle (86 Kingsley Ln.), and Valerie Koehler (28 Kingsley Ln.).

Mr. Sliva was also concerned if the exterior of the garage would be consistent with the dwelling. Mr. Monroe stated that the siding would match that of the existing house.

Mr. MacMillen made a motion to close the public hearing concerning Variance Application **#414-V** at 7:40 p.m.; motion seconded by Mr. Oliver. Motion carried 5-0.

Chairman Grady made a motion to classify this project (Variance Application **#414-V**) as a Type II action which does not require further review under SEQRA and to declare a negative declaration due to the project having no significant impact on the environment; seconded by Mr. Oliver. None opposed; motion carried 5-0.

Following discussion, criteria for an Area Variance were reviewed and the findings were as follows:

- 1.) The Board agreed that the benefit cannot be achieved by other means feasible to the applicant and the proposed garage is in the most suitable location on the parcel;
- 2.) The Board agreed that there would not be an undesirable change in neighborhood character or to nearby properties;
- 3.) The Board agreed that the request is substantial, as the applicant is requesting a 36.2 ft. frontline setback variance;
- 4.) The Board agreed that the request will not have any adverse physical or environmental effects;
- 5.) The Board agreed that the alleged difficulty is self-created.

Mr. Jensen felt that in the motion to approve there should be a condition imposed by the Board to prohibit the removal of any trees. Chairman Grady and Mr. MacMillen did not believe it was necessary to include the condition as part of the approval.

Mr. MacMillen made a motion to approve and grant the request for a 36.2 ft. frontline setback variance with no conditions, in order to construct a 22' x 20' single car garage with 1' overhangs, in reference to Variance Application **#414-V**; motion seconded by Mr. Oliver. 4-Aye; Mr. Jensen-Nay. Motion carried 4-1.

**#415-V** – James Hales is requesting a 2 ft. shoreline (backline) setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to replace existing dwelling with new dwelling on same footprint, on property located at 108 Jones Road, identified by Tax Map Parcel #: 86.10-1-58, in Zone Classification Moderate Intensity.

David Schaefer presented the application in the absence of the property owner.

Having been duly advertised, the public hearing for Application **#415-V** was opened by Chairman Grady at 7:51 p.m.

Mr. Schaefer stated that the new dwelling with deck would be constructed on the same footprint; however, he stated 2 ft. of the deck would encroach in the 50' shoreline setback.

Chairman Grady referred to the Shoreline Restrictions of the APA Act (§ 575.3) regarding variances of less than two feet. Section 575.3 states that “the Agency will not require that a landowner in need of a shoreline building setback... of two feet or less, submit an application for such variance, provided that the town or village involved is consulted and does not object to the proposed action.”

Mr. Jensen made a motion to classify this project (Variance Application **#415-V**) as a Type II action which does not require further review under SEQRA and to declare a negative declaration due to the project having no significant impact on the environment; seconded by Mrs. Dower. None opposed; motion carried 5-0.

Mr. Jensen made a motion to close the public hearing concerning Variance Application **#415-V** at 7:55 p.m.; motion seconded by Mr. MacMillen. Motion carried 5-0.

Mr. MacMillen made a motion to approve and grant the request for a 2 ft. shoreline setback variance with no conditions, in order to replace existing dwelling with new dwelling on same footprint, in reference to Variance Application **#415-V**; motion seconded by Mr. Jensen. Motion carried 5-0.

**#416-V** - Gary Andrews is requesting a 17 ft. frontline setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to construct a 24' x 24' two-car garage, on property located at 731 Atateka Drive, identified by Tax Map Parcel #: 120.15-1-28, in Zone Classification Moderate Intensity.

Having been duly advertised, the public hearing for Application **#415-V** was opened by Chairman Grady at 7:58 p.m.

Mr. Andrews was present to speak on behalf of the proposal. Mr. Grady stated that the area is heavily wooded and that the proposed garage would be shielded from being seen from Atateka Drive. The board agreed that it was the logical place to construct the garage.

Following discussion, criteria for an Area Variance were reviewed and the findings were as follows:

- 1.) The Board agreed that the benefit cannot be achieved by other means feasible to the applicant;
- 2.) The Board agreed that there would not be an undesirable change in neighborhood character or to nearby properties;
- 3.) The Board agreed that the request is substantial as the applicant is requesting a 17 ft. frontline setback variance;
- 4.) The Board agreed that the request will not have adverse physical or environmental effects;
- 5.) The Board agreed that the alleged difficulty is self-created as the applicant is proposing to construct the garage.

Mr. Jensen made a motion to classify this project (Variance Application **#416-V**) as a Type II action which does not require further review under SEQRA and to declare a negative declaration due to the project having no significant impact on the environment; seconded by Mrs. Dower. None opposed; motion carried 5-0.

Mr. Dower made a motion to close the public hearing concerning Variance Application **#416-V** at 8:02 p.m.; motion seconded by Mr. MacMillen. Motion carried 5-0.

Mr. Jensen made a motion to approve and grant the request for 17 ft. frontline setback variance with no conditions, in order to construct a 24' x 24' two-car garage, in reference to Variance Application **#416-V**; motion seconded by Mr. MacMillen. Motion carried 5-0.

#### **MINUTES:**

On a motion made by Mr. Jensen, seconded by Mr. Oliver, the Minutes of the Zoning Board of Appeals meeting held on April 28, 2015 were accepted. None opposed; motion carried 5-0.

#### **CORRESPONDENCE:**

Zoning Administrator & Sanitary Code Enforcement Officer's Activity Report for April 2015.

#### **BOARD PRIVILEGE:**

Chairman Grady welcomed Bill Oliver to the Board as a member, as he has been an alternate on the Board for quite some time. Chairman Grady also discussed with the Board changing the order of items on the Agenda to establish a better flow at future meetings.

Mr. MacMillen and the Board commended Chairman Grady on his first meeting as being Chair.

**ADJOURNMENT:**

Mrs. Dower made a motion to adjourn the meeting at 8:10 p.m.; seconded by Mr. Jensen. None opposed. Motion carried 5-0.

Respectfully submitted,

Jeremy J. Little  
Secretary  
Zoning Board of Appeals