



**MINUTES OF MEETING
TOWN OF CHESTER ZONING BOARD OF APPEALS
Regular Meeting
September 28, 2021**

Acting Chairman Arnold Jensen called the meeting to order at 7:01pm.

ATTENDANCE:

Michael Hough, Arnold Jensen, Barbara Kearney (Via Zoom), Jim Batsford (Alternate), Jack D. Bartlett (Secretary), and Jeremy Little (Zoning Administrator) (Via Zoom). Absent was Mary Clark, and Chairman John MacMillen.

Jim Batsford, Alternate, sat on the Board in the absence of Mary Clark.

OLD BUSINESS AND PUBLIC HEARINGS:

#498-V: C. Thomas Luciano and Darlene Luciano are (1) requesting multiple setback variances for construction of structures on proposed Lot 1 and Lot 2 and (2) seeking relief from the 8.5 acres per Principal Building Intensity requirement for a proposed two-lot subdivision, according to Section 4.03 and Section 7.01(B)(4) of the Town of Chester Zoning Local Law. The proposed two-lot subdivision will result in the creation of Lot 1 consisting of 4.56 acres and Lot 2 consisting of 6.31 acres. Property is located at Carl Turner Road currently consisting of 10.87 acres, identified by Tax Map Parcel #: 87.2-1-1.1, in Zoning District Rural Use.

Not present.

#503-V: James Mrazek (Agent: Haley Grygiel, Purchaser Under Contract) is requesting a 62'-2" front yard setback variance, 41'-4" rear yard setback variance, 13'-4" right side yard setback variance, 19'-11" left side yard setback variance, and variance from Section 8.01(B) for minimum area requirements, according to Section 4.03 and 8.01 of the Town of Chester Zoning Local Law, in order to construct a 49' x 25' Two-Story Single Family Dwelling with a 12' x 33' deck and 33' x 8' porch. Property is located at Grove Street, identified by Tax Map Parcel #: 137.14-1-18.6, in Zoning District Rural Use.

Barbara Kearney recused herself at 7:03pm.

Hayley Grygiel was present at the meeting. The Board had requested items from the Applicant and the Contour Map has not yet been completed by the property owner. The Applicant stated that if everything is taken into account that a variance is required for use over 15% of lot, and the applicant is requesting to use 12.19% of lot coverage. The applicant does not require

Department of Health Approval and the Adirondack Park Agency has no objection to the project. John Palermo the Developer of the area has reviewed and approved the design of the property.

Arnold Jensen stated that he did research on the property and the area.

Michael Prince presented a PowerPoint to the Board regarding the Variance Application and the neighborhood. This presentation included-

- Existing Home Comparison
- Taxable Square Footage
- 2014 Square Feet Article from Home Designer
- Value of Neighboring Properties and Proposed Property
- Application Errors (In his opinion)
- First Floor Plan
- Loft Floor Plan
- Basement Plan- Showing possible additional bedroom in the basement
- Flag Pole Size of Property- Showing that existing homes could fit on the property
- Prefab Home Website- Designing a home similar to the normal size of the neighboring lot
- Additional Land or New Property Alternatives
- Possible Subdivision
- Area Variance Criteria Opinions of Mr. Prince
- Variance Law Example

David Urtz stated that his property would be adversely affected by the applicant. He feels that the house is way oversized for the lot. The massive driveway up the property line. He is not concerned with having neighbors, it is what is being proposed to be developed.

Michael Prince is worried about the precedence and the self-created problem and is looking for something that could fit the property.

Arnold Jensen asked if Mr. Prince felt that the designed home could be designed without variances. Mr. Prince stated that he felt that it could with minimal to no variances.

Mr. Kielbiowski stated that the current homes were Pre-Zoning Law and today could possibly need 1 or 2 variances.

Mr. Prince stated that 1,400 square feet would be less than 3,000 square feet.

Michael Hough asked what the big offense was with the basement, the basement does not have anything to do with the footprint.

Arnold Jensen asked if the application could be accomplished in another way.

Secretary Bartlett reminded everyone in the Public and the Board to not speak over each other as there was not a proper way to get a record.

Michael Hough asked if the neighbors were concerned that the applicant should go to a cheaper home. Mr. Prince responded stating that they would like to see the applicant go to a smaller home that would fit the property. The average home size is 3 bedrooms.

The Applicant stated that they had been gathering information. The house assumptions presented by the neighbors are incorrect. Mr. Prince was incorrect with 90% of his presentation. The house would cover 12.19% of the lot. Does not know the community should provide information when there are governmental organizations for that. They are not looking to create a condo unit or townhouse. The Septic system is designed for 3 bedrooms. The seepage pits and cesspools should be what the neighborhood should be concerned with.

Mr. Kielbiowski stated that the information is accurate and wants to come to terms with the applicant for the wellbeing of the neighborhood.

Mr. Prince said the footprint is larger and the building is above and beyond.

Mr. Kielbiowski asked if the home has been purchased yet, the neighbors are just trying to balance the community.

Alex Davis, Attorney representing a couple the neighboring property owners stated that the Board should be weighing the factors to balance the variance and that the lot next door is available if the applicant is looking to make a bigger lot to fit the home.

Arnold Jensen read the letter from L.P. Coe into the record.

Arnold Jensen asked the applicant if they have or would be willing to consider alternatives. The applicant stated "Why should we, and that they would fight this to have the home where it is".

Lane Shofsky asked why the applicant is not willing to let it go? The applicant responded that this is where we want to build this home.

Secretary Jack Bartlett reminded the Public and the applicant that comments should be directed to the Board and back and forth conversations and comments should not be occurring.

Mr. Prince stated that the septic must meet all rooms in the home.

The applicant stated that the reason she wants to build here is she grew up here, and her family has a deep connection to the area.

Mr. Kielbiowski is trying to come to an agreement for the neighborhood. This is a lose-lose situation for everyone.

The Applicant stated that the vacant property owners had not been surveyed for contest. Jeremy Little, Zoning Administrator, stated that all neighboring property owners were contacted and made aware of the project and the public hearing.

Bill O'Dwyer is concerned with the amount of variances being requested. Asked the Board why we should have the law if everyone is going to get all the variances anyways.

Arnold Jensen stated that the Board reviews each variance and determines whether it should be approved or disapproved.

Mr. Prince is concerned with the precedence and would like the applicant to meet the design of the neighborhood.

Michael Hough stated that the property owners have to understand that the property is a non-conforming lot.

Hearing no further comments, a motion was made by Jim Batsford, Seconded by Michael Hough to close the Public Hearing at 8:01pm. A Roll Call Vote was called by Secretary Bartlett-

Mr. Jensen- Yes, Mr. Hough- Yes, Mr. Batsford- Yes. The motion was carried 3-0.

Jim Batsford stated that he feels it would be important to see the contour of the property.

The Board will make a decision at a later meeting of the Zoning Board of Appeals within 62 days.

Barbara Kearney rejoined the meeting at 8:06pm.

NEW BUSINESS AND PUBLIC HEARINGS:

#504-V: Thomas Gilmore is requesting a 19 ft. front yard setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to demolish an existing three-bedroom single family dwelling and construct a new three-bedroom single family dwelling with attached two-car garage, screened porch and entry porch. Property is located at 444 Chester Shores View, identified by Tax Map Parcel #: 86.18-1-5, in Zoning District Moderate Intensity.

Bret Winchip from Winchip Engineering as present at the meeting. Thomas Gilmore was also present at the meeting. The applicant would like to demolish the existing home and move away from the steep embankment, construct a replacement septic system, , install a new well, remove the cesspool, become code compliant and keep property with the neighbors.

Michael Hough stated that he has no problems with it.

Barb Kearney stated that the property was not staked well. Brett Winchip stated that he had mixed up the procedure between the Planning Board and Zoning Board of Appeals. He explained the locations on the map.

Mr. Winchip explained that the neighboring well is too close and no permit has been issued for it.

Having been duly advertised, Acting Chairperson Jensen opened the Public Hearing at 8:26pm.

A letter submitted by Jeffrey Peifer was read by Arnold Jensen into the record stating that they were in favor of the project.

A motion to close the Public Hearing at 8:27pm by Barbara Kearney, Seconded by Jim Batsford. A roll call vote was called by Secretary Bartlett-

Mr. Jensen- Yes, Mr. Hough- Yes, Mr. Batsford- Yes, Ms. Kearney- Yes. The motion was carried 4-0.

RESOLUTION FOR VARIANCE APPLICATION #504-V
Introduced by: Michael Hough, Seconded by Barbara Kearney

WHEREAS, Thomas Gilmore (the “Applicant”) is proposing to demolish the existing three-bedroom single family dwelling and construct a new three-bedroom single family dwelling with attached two-car garage, screened porch and entry porch on property located at 444 Chester Shores View, identified by Tax Map Parcel Number 86.18-1-5, in Zoning District Moderate Intensity (the “Project”) and have applied to the Town of Chester Zoning Board of Appeals (“ZBA”) for a 19 ft. front yard setback variance from requirements of Section 4.03 of the Town of Chester Zoning Local Law; and,

WHEREAS, the ZBA has classified the project as a Type II Action, requiring no further review under SEQR; and,

WHEREAS, as required by General Municipal Law Section 239-m, the Variance Application was referred to the Warren County Planning Department for its review and the County has determined that there was No County Impact,

WHEREAS, the ZBA opened and held a properly-noticed Public Hearing on Variance Application #504-V on September 28, 2021 and closed the public hearing on September 28, 2021; and,

WHEREAS, Site Plan Review approval by the Planning Board will be required for the Project; and,

WHEREAS, the ZBA has reviewed, considered and deliberated about the variance requested and the written and verbal comments received in connection with the variance application;

NOW, THEREFORE, BE IT

RESOLVED, that the ZBA hereby determines that the Application meets the requirements set forth in Section 4.03 of the Town of Chester Zoning Local Law for issuance of an area variance as further discussed below:

1. An undesirable change will not be produced in the character of the neighborhood nor be a detriment to nearby properties. Neighboring properties have garages that are close to Chester Shores View and have similar layouts to what is proposed.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than area variances, due to the slope of the property.

3. The requested area variance is substantial. The Board agreed that the proposed 19 ft. front yard setback variance is substantial.

4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed dwelling with attached garage is similar to the neighboring properties and the replacement septic system is a benefit to the environment.

5. The alleged difficulty is self-created, as the property owners are choosing to build a new single family dwelling.

FURTHER RESOLVED, that the ZBA therefore grants the requested area variance with no condition(s) imposed.

Duly adopted this 28th day of September, 2021 by the following vote:

AYES: Acting Chairperson Arnold Jensen

Michael Hough

Barbara Kearney

Jim Batsford

NOES: None.

ABSTAIN: None.

ABSENT: Mary Clark

John MacMillen

The motion was carried 4-0.

Brett Winchip thanked Arnold Jensen for his years of service to the Town of Chester.

MINUTES:

A motion was made by Jim Batsford, Seconded by Michael Hough to approve the August 24, 2021 Minutes of the Zoning Board of Appeals. A Roll Call Vote was called by Secretary Bartlett-

Mr. Jensen- Yes, Mr. Hough- Yes, Mr. Batsford- Yes, Ms. Kearney- Yes. The motion was carried 4-0.

CORRESPONDENCE:

- Zoning Administrator's Activity Report for August 2021;
- Letter from L.P. Coe received by the Zoning Office via e-mail on September 10, 2021 RE: Variance Application #503-V (Mrazek; Grygiel);
- Letter from John D. Wright (Bartlett, Pontiff, Stewart & Rhodes, P.C.) dated September 14, 2021 with attached Decision and Order and received by the Zoning Office via e-mail on September 14, 2021 RE: Area Variance Application #488-V (0 Valentine Park, LLC);
- Letter from Mary Elizabeth Slevin (Stockli Slevin, LLP) dated September 15, 2021 with attachments and received by the Zoning Office via e-mail on September 20, 2021 RE: Area Variance Application #488-V (0 Valentine Park, LLC);
- E-mail from Jeffrey Peifer dated September 20, 2021 and received by the Zoning Office on September 20, 2021 RE: Variance Application #504-V;
- Letter from John D. Wright (Bartlett, Pontiff, Stewart & Rhodes, P.C.) dated September 20, 2021 and received by the Zoning Office via e-mail on September 21, 2021 RE: Area Variance Application #488-V (0 Valentine Park, LLC);
- Warren County Planning Department Project Review and Referral Form, reviewed by Department on September 21, 2021 for Variance #504-V. Form received by the Zoning Office on September 22, 2021.

PUBLIC PRIVILEGE:

None

BOARD PRIVILEGE:

A discussion on the 0 Valentine Park Application (Variance #488-V) will take place at the October 26, 2021 Meeting of the Zoning Board of Appeals.

ADJOURNMENT:

A motion was made by Barbara Kearney, seconded by Michael Hough to adjourn the meeting at 8:40pm. A Roll Call Vote was called by Secretary Bartlett-

Mr. Jensen- Yes, Mr. Hough- Yes, Mr. Batsford- Yes, Ms. Kearney- Yes. The motion was carried 4-0.

Respectfully submitted,

Jack D. Bartlett
Secretary
Zoning Board of Appeals