



**MINUTES OF MEETING  
ZONING BOARD OF APPEALS  
TOWN OF CHESTER  
April 23, 2019**

The meeting was called to order by Chairman MacMillen at 7:01pm

**ATTENDANCE:**

Chairperson John MacMillen, Christine Hayes, Barbara Kearney, Michael Hough, and Arnold Jensen, Mary Clark (Alternate), and Jeremy J. Little (Zoning Administrator).

**OLD BUSINESS:**

**#448-V:** CK Franchise Mgmt. Corp. (Kevin Wickert) is requesting an area variance for a 10 ft. extension attached to an existing dock that currently extends 40 ft. offshore where 40 ft. is required, according to Section 7.03(B)(4) of the Town of Chester Zoning Local Law. Property is located at 9 Woodside Ln., identified by Tax Map Parcel # 86.15-1-41, in Zone Classification Moderate Intensity.

Chairman MacMillen read the Variance Information to the Board. The Zoning Office has received a letter from the APA regarding this request for a variance and they are currently looking into this and has requested that board table this Variance Application at this time. Chairman MacMillen advised the board that we would be tabling until we hear further information from the APA.

**#449-V:** James M. Crandall is requesting a 20 ft. backline setback variance and 2.5 ft. right sideline setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to construct a 16' x 16' storage shed. Property is located at 64 Clarkson Rd., identified by Tax Map Parcel #: 86.19-1-51, in Zone Classification Moderate Intensity.

Chairman MacMillen read the Variance Information to the Board. The Variance would be tabled until the applicant returns to a Meeting of the Zoning Board of Appeals.

**NEW BUSINESS:**

**#458-V:** Hill Park Property Owner's Association are requesting area variances for the construction of two (2) docks that will extend 44 ft. offshore where 40 ft. is required and for the use of more than one-half of the shoreline for docking and beaching, according to Section 7.03(B)(4), 7.03(B)(5), and 7.03(B)(7) of the Town of Chester Zoning Local Law, in order to construct a total of (6) docks. The four (4) remaining proposed docks have a length of 24 ft. Property is located at 192 Hill Park Rd., identified by Tax Map Parcel #: 120.14-1-23, in Zoning District Moderate Intensity.

Chairman MacMillen read the Variance Information to the Board. Greg Taylor representing the Hill Park Property Owner's Association presented the Variance Application Proposal to the Board. Arnold Jensen asked Mr. Taylor if a Homeowner's Association with legal bearing had yet been formed in which Mr. Taylor advised the Board that they are working on finding the rightful heir to

the property and then will be completing the two day process to form the association through their attorneys office. Marion Eagan the Assessor's Clerk for the Town of Chester answered a question from Mr. Taylor regarding the property being taken off of the Tax Rolls in the 1980's. Mr. Jensen asked Chairman MacMillen if the Board could move forward with the Variance Application without having an Association formed. Zoning Administrator Little advised the Board that himself and Supervisor Leggett had spoken to the Town Attorney who advised them that the Town cannot force any group of people to form an association and that if the variance is granted, it is to be transferred to all applicants. Barbara Kearney asked Mr. Taylor regarding the differing amount of names on the two survey lists for the variance in which he advised that a husband and wife had each signed on one of the sheets resulting in an extra signature. Arnold Jensen asked Mr. Taylor regarding the Missing Signature of one set of property owners (Michael & Margaret Terry). Mr. Taylor advised that they did not sign off in favor of the variance. Mr. Jensen asked if Mr. Taylor knew why? Chairman MacMillen advised that the Terry's were in attendance at the meeting and could speak during the Public Hearing if they so wished to do so. Barbara Kearney asked Mr. Taylor about three deeds that did not have rights to docking. Mr. Taylor advised that although they may be lacking in the deeds provided to the Board, he has seen in all three deeds the rights for docking and bathing. Ms. Kearney requested that Mr. Taylor or the Association provide the Board with Deed Descriptions for Docking a boat for Mary Ford, Sharon Taylor, and Charles and Jeanie Howe. Mr. Taylor said he would gather these documents and provide them to the Board. Mr. Hough and Mr. Jensen asked about the distance between the docks and how two boats were able to dock and depart. Mr. Taylor advised that the boats could dock and depart by crossing the water in front of the neighboring property. A discussion took place regarding the legality of the boats crossing over another's property line to the center of the lake. Chairman MacMillen stated that according to our Zoning Local Law there is nothing saying that a boat does not have a berthing right to cross over the neighbor's property line to the center of the lake while in the action of boating.

Having been duly advertised, Chairman MacMillen opened the Public Hearing at 7:23pm.

Larry Estill a member of the Hill Park Property Owner's Association residing at 155 Hill Park Road presented a Possible Solution to the Docking System that is fair to all property owner's in the Association. Chairman MacMillen asked Mr. Estill if he was presenting an alternative to the current proposal in which Mr. Estill said he was. Chairman MacMillen asked Mr. Taylor if he was opposed to what Mr. Estill had presented this evening. Mr. Taylor stated that he had no issues with Mr. Estill's proposal, however, he was tasked with bringing this Proposal forward and would hate to see the Association have to drop back to square one. Chairman MacMillen advised that if they wished to move forward with Mr. Estill's proposal they would have to apply for a totally different Variance. Chairman MacMillen advised that part of the Board's criteria for approving a variance was that there were no alternatives to the variance and Mr. Estill had just presented a reasonable alternative to that of which the Association is proposing this evening. Mr. Taylor proposed that the Board move forward with the Variance Application this evening and then he would bring back Mr. Estill's proposal to all of the members and see what they would rather go with.

Margaret & Michael Terry who own property at 16 Hill Park Road, and 24 Hill Park Road presented their objections regarding this variance application on the grounds of the financial impact that they would ensue because of it and the fact that they have had their docks in the lake for over 60 years. Mr. & Mrs. Terry said that they also own two sets of property and have rights to dock a boat for each property. Barbara Kearney asked Mr. Taylor why the Terry's were not being given the right to dock boats for each of their properties, in which he responded that he had not seen a deed stating

that they had the right to dock two boats. Mrs. Terry stated that they had subdivided their property and had been given the right to dock two boats when they did so. Arnold Jensen asked if they had given themselves the right to dock two vessels and Mrs. Terry responded that their attorney had. Christine Hayes stated that they could not legally give themselves a right to dock an additional vessel no matter what their deed says as it is illegal. Chairman MacMillen asked if the Terry's would be in favor of Mr. Estill's proposal in which they responded that they may be in favor of it.

A motion was made to close the Public Hearing by Christine Hayes, Seconded by Arnold Jensen. With all members in favor, non-opposed, the motion was carried. The Public Hearing was closed at 7:46pm.

A discussion took place between Board Members present and Mr. Taylor regarding which proposal that the Association would like to move forward with. Mr. Taylor stated that he was tasked with moving forward with the proposal that was brought forward this evening so that is what he wishes to move forward with. Board Members present discussed the fact that Mr. Estill had presented a reasonable plan and if this plan had been brought at the March 26<sup>th</sup> Meeting when the Association gave their Preliminary Discussion they would have advised for them to go forward with that plan. Chairman MacMillen stated that Mr. Estill had presented a reasonable alternative which was in the criteria for approving a variance application. Arnold Jensen stated that he would not be voting in favor of this variance this evening. Barbara Kearney stated that she would also not be voting in favor of this variance. Chairman MacMillen asked Mr. Taylor if he would like to move forward with this variance moving to a vote or if he wanted to withdraw the Variance Application and bring forth another proposal at the May 2019 Meeting. Mr. Taylor asked what the deadline for submitting information for May 2019 Meeting was. Secretary Jack Bartlett advised that the deadline was May 8<sup>th</sup>, 2019. Chairman MacMillen stated that he was fine if the association did not go through the expense of having a second survey completed. Mr. Taylor stated that he had paid for the original survey and would have a second survey completed for the next meeting. Barbara Kearney asked if Mr. Taylor could still bring forth the deeds requested for the next meeting. Mr. Taylor stated that he would bring the deeds to the next meeting of the Board.

Greg Taylor on behalf of the Hill Park Property Owner's Association was withdrawing their Variance Application.

Chairman MacMillen thanked Mr. Taylor and the Association for bringing forward this proposal and welcomed them to come back to the May 2019 Meeting. Greg Taylor thanked the Board for their time this evening.

#### **MINUTES:**

A motion was made by Christine Hayes, Seconded by Michael Hough to approve the March 26, 2019 Minutes of the Zoning Board of Appeals. All Board members present in favor, non-opposed, the motion was carried 5-0.

**CORRESPONDENCES:**

The Zoning Board of Appeals received the following Correspondences-

- Zoning Administrator's Activity Report for March 2019
- E-mail from Lou Koehler dated 04/02/19 with corrected letter
- E-mail from Lou Koehler dated 04/02/19 regarding Variance#448-V with attachments.
- Letter from Thomas and Susan Silva dated March 19, 2019 and received by the Zoning Office on March 20, 2019 re: #448-V.
- E-mail dated April 3, 2019 from Kevin Wickert with attachment of letter from Kevin Wickert dated April 3, 2019 re: #448-V
- APA Request for Consultation for APA Permit 1976-0035CR dated April 17, 2019 re: Tax Map Parcel #: 86.15-1-41.

**PUBLIC PRIVILEGE:**

Mary Clark asked if the Board knew if the docks being proposed by the Hill Park Property Owner's Association were wooden docks.

**BOARD PRIVILEGE:**

There was no business conducted during Board Privilege.

**ADJOURNMENT:**

A motion was made by Arnold Jensen, Seconded by Barbara Kearney to adjourn the meeting at 8:06pm. All Board members present in favor, non-opposed, the motion was carried 5-0.

Respectfully submitted,

Jack D. Bartlett  
Secretary  
Zoning Board of Appeals