



**MINUTES OF MEETING
TOWN OF CHESTER ZONING BOARD OF APPEALS
Regular Meeting
August 24, 2021**

Chairman John MacMillen called the meeting to order at 7:00pm.

ATTENDANCE:

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

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.

Stefanie Bitter, Attorney representing the applicant was present via Zoom. She stated that the survey of the land was completed and some of the land had been taken by the New York State Department of Transportation during the construction of Interstate 87, they are working on following up with DOT. This application is on hold at this time.

#502-V: Diane Nagle is requesting a 13 ft. front yard setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to replace an existing porch with a new 6' x 6' wood-framed porch with steps. Property is located at 897 Atateka Drive, identified by Tax Map Parcel #: 120.7-1-1, in Zoning District Moderate Intensity.

Steven Smith was present at the meeting representing the applicant. Mr. Smith stated that there is no difference in the setback, the applicant is just updating.

Having been duly advertised, Chairman MacMillen opened the Public Hearing at 7:03pm.

No comments were made during the Public Hearing.

A motion to close the Public Hearing at 7:04pm by Arnold Jensen, Seconded by Barbara Kearney, with all Board Members in favor, the motion carried 5-0.

Arnold Jensen introduced the Resolution #502-V, which was seconded by Michael Hough:

RESOLUTION FOR VARIANCE APPLICATION #502-V

WHEREAS, Diane Nagle (the “Applicant(s)”) is proposing to replace an existing porch with a new 6’ x 6’ wood-framed porch with steps on property located at 897 Atateka Drive, identified by Tax Map Parcel Number 120.7-1-1, in Zoning District Moderate Intensity (the “Project”) and have applied to the Town of Chester Zoning Board of Appeals (“ZBA”) for a 13 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 #502-V on August 24, 2021 and closed the public hearing on August 24, 2021; 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 or be a detriment to nearby properties.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than area variances.
3. The requested area variance is not substantial.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The alleged difficulty is not self-created.

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

Duly adopted this 24th day of August, 2021 by the following vote:

AYES: Chairman John MacMillen
Arnold Jensen
Michael Hough
Barbara Kearney
James Batsford

NOES: None.

ABSENT: Mary Clark

NEW BUSINESS AND PUBLIC HEARINGS:

#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 and left the meeting at 7:10pm.

Haley & Brian Grygiel were present at the meeting and presented their request to place a Pre-Built Home from Maine on the property. Seeking to use the residence as a primary home. Ms. Grygiel stated that John Palermo (President of Jovic Development Inc.) has reviewed and approved the plans and determined that the plans are consistent with the nature of the current development. The Applicant submitted a Jurisdictional Inquiry Form to the Adirondack Park Agency and received a Determination that no permit is required for the project. The Applicant researched lot sizes and residence sizes in that area and feels that they aren't requesting anything more substantial than what is currently there. The residences in the area were aware that each lot would be for sale for homes. If the Applicant were to follow all requirements she feels she wouldn't be able to put a flag pole on her lot or any other lot in the development. Applicant stated she feels they aren't asking for anything more than what is already given to everyone. Lot has been for sale for 6 years with signage. Family has a deep connection to area and is looking to keep the heritage.

Michael Hough thanked the applicant for staking out the property.

Jim Batsford asked if the garage was sideloading if it would require additional excavation. The applicant stated it would not.

Supervisor Leggett asked what the year of the subdivision was. The applicant stated 1926 and most of the homes were developed in 1972.

Having been duly advertised, Chairman MacMillen opened the Public Hearing at 7:24pm.

Chairman MacMillen reminded all Public present either via Zoom or in person that one person was to speak at a time and if any arguments were to commence then the Board would recess for everyone to find composure.

Secretary Jack Bartlett read the letters of opposition to Board Members and Public.

Michael Price- 800 square feet to 1,400 square feet is the average home size in the Town of Chester according to the internet. The Blueprint from the applicant shows over 2,000 square feet and the request is 1,800 square feet. He is concerned for grading and flooding, he is concerned with trees falling in the area. Feels that home would be an eyesore. Feels that it is over being a three (3) bedroom home. Concerned with the home being a rental and bringing noise to the community. The development is part of the Green Mansions Association and Mr. Prince feels that there should be some sort of representation for the Association.

The Applicant stated that the square footage only includes living space and not the unfinished basement.

Stefanie Bitter- Representing Kielbiowski and Shovsky stated that her clients feel the proposal is too large, they understand the request and the area and feel that this would be a detriment to the area. They feel the Town of Chester Zoning Local Law is supposed to protect the area. The approval of this application would create a horrible precedent. Board needs to balance the factors and protect the community and would create an undesirable change. There are alternatives and this approval would have an adverse and physical impact on the community, and would set a precedence.

Christopher Kielbiowski- Footprint is about 1,400 square feet. Neighbors are offended and feel the applicant is wasting taxpayer dollars reviewing the application. Neighbors are strongly opposed. Feels other lots are for sale in the area or another size lot or the applicant could have a reasonably sized home.

Chairman MacMillen stated that the Board needs to compare "Apples to Apples" when comparing square footage so whether it is livable space or decks, unfinished basements, etc.

Michael Prince stated that the Board should compare home sizing in the area. Challenging that the applicant is not going to keep the unfinished basement unfinished.

The Applicant stated that the garage and entry space would be in the basement. They also reviewed the setback requirements for those in opposition.

Chairman MacMillen reminded the Public to not interrupt each other. The Board is aware that the existing homes would not meet the current zoning setbacks.

The Applicant stated that they are looking for what everyone else is already receiving. They have met all Department of Health Regulations in regards to septic and wells. Looking at how the lots can be pruned and make the property aesthetically matching to the area.

Chairman MacMillen stated that the removal of trees can happen on a vacant lot as well.

The Applicant stated that they are concerned with the "I get mine, you can't have yours" mentality from the neighbors. Building permits would not be issued without the applicant meeting code.

The Homeowner at 47 Grove Avenue stated that they feel the house is oversized for the lot. Feels the Applicant could scale back a little bit. The neighbors would love to welcome the Applicant; however, Zoning was created for safety.

Agnes Kielbiowski stated that she feels a smaller home would be more suitable for the lot. She stated that the neighbors' objections are not personal and they would love to welcome the Applicant to the community.

Mr. Prince stated that he feels if home is an eyesore that it would bring down the values of the neighboring homes.

Greg Smith stated that Zoning Laws have changed over time and current Zoning Laws don't fit what is being requested.

Chairman MacMillen stated that each applicant for a Variance has a right to come before the Zoning Board of Appeals.

Stefanie Bitter asked if the applicant had tried to purchase the adjacent land as she believes it is vacant.

Greg Smith asked when is too many variances? The Chairman replied that everyone has a right to apply for variances.

Supervisor Leggett referred to the Adirondack Park Agency classification map. This Development was Pre-APA and the lot in question was a Pre-Existing Non-Conforming Lot. The Town of Chester has approved the Land Use Plan as the Zoning Code is stringent. Setbacks should use footprints to be in comparison.

Arnold Jensen read from the Criteria to Approve a Variance and stated that Unsold lots are building lots and are currently being taxed by the Town as Building Lots. The lots pre-existed the current Zoning Local Law.

Greg Smith asked if the Applicant could be looking for something that fits the property.

The Applicant stated that the proposed lot coverage of the entire structure, driveway was 12.19% and the Town of Chester allows up to 15% coverage.

Mr. Prince asked why 12.19% needs so many variances? Feels that the proposed home is double the size.

Michael Hough asked if a Landscaping Plan had been completed. The applicant stated that it has not yet been completed.

Chairman MacMillen stated that he would like to leave the Public Hearing open, consult with the Town Attorney, and do further research.

The Board requested that the Applicant provide more contour lines.

The Public Hearing remained open and the Board will reconvene in September.

Board Member Barbara Kearney rejoined the meeting at 8:29pm

MINUTES:

A motion was made by Arnold Jensen, Seconded by Michael Hough to approve the June 22, 2021 and July 27, 2021 Minutes of the Zoning Board of Appeals. With all Board Members in favor, the motion was carried 5-0.

CORRESPONDENCE:

- Zoning Administrator's Activity Report for July 2021;
- Warren County Planning Department Project Review and Referral Form, reviewed by Department on August 10, 2021 for Variance #503-V. Form received by the Zoning Office on August 12, 2021;
- Letter from David S. Uerz received by the Zoning Office via e-mail on August 20, 2021 RE #503-V (Mrazek, Grygiel);
- E-mail from Alina and Lenny Shovsky dated August 20, 2021 and received by the Zoning Office on August 20, 2021 RE #503-V (Mrazek, Grygiel);
- Last Revised 8/24/2021 11:05 AM E-mail from Agnes Brandin Kielbiowski and Chris Kielbiowski dated August 20, 2021 and received by the Zoning Office on August 20, 2021 RE #503-V (Mrazek, Grygiel);
- E-mail from Gregory Smith dated August 22, 2021 and received by the Zoning Office on August 23, 2021 RE #503-V (Mrazek, Grygiel).

PUBLIC PRIVILEGE:

None.

BOARD PRIVILEGE:

Chairman MacMillen welcomed Alternate Board Member Jim Batsford.

ADJOURNMENT:

A motion was made by Barbara Kearney, seconded by Jim Batsford to adjourn the meeting at 8:30pm. With all Board Members in favor, the motion was carried 5-0.

Respectfully submitted,

Jack D. Bartlett
Secretary
Zoning Board of Appeals