



**MINUTES OF MEETING  
TOWN OF CHESTER ZONING BOARD OF APPEALS  
Regular Meeting  
Tuesday, December 17, 2019**

Chairman MacMillen called the meeting to order at 7:00 p.m.

**ATTENDANCE:**

Chairman John MacMillen, Christine Hayes, Arnold Jensen, Barbara Kearney, Michael Hough, Mary Clark (Alternate), Jack Bartlett (Secretary), Jeremy Little (Zoning Administrator), and Thomas Thorsen (Zoning Enforcement Officer).

**PUBLIC HEARINGS AND NEW BUSINESS:**

**#473-V:** Earnest Frederick Trinkle and RoseMary Aiken-Trinkle are requesting a 17.5 ft. front yard setback variance (after-the-fact), according to Section 4.03 of the Town of Chester Zoning Local Law, for the placement of an existing single family dwelling. Property is located at 101 Priory Rd., identified by Tax Map Parcel #: 103.1-11.4, in Zoning District Rural Use.

Arnold Jensen read the variance information to the Board. Earnest Trinkle spoke on his request for a variance, stating that his contractor built the house too close to the road and that the mistake was made by the contractor and Mr. Trinkle was left high and dry. Mr. Jensen stated that his concern is the setback from the road. Chairman MacMillen stated that the After the Fact request was not the fault of Mr. Trinkle. Mr. Jensen stated that when he visited the site that all of the houses seem to align pretty close to that of Mr. Trinkle's and you don't really notice the error. Mr. Hough asked if the APA was okay with the request. Chairman MacMillen stated that the Board had received a notice from the APA stating that a settlement had been reached. Chairman MacMillen also stated that although this is not the fault of Mr. Trinkle, the contractor in question cannot keep doing this. Mary Clark asked whose job it is to apply for a variance. Chairman MacMillen explained that it is either the job of the contractor or the property owner to request the variance.

Having been duly advertised, Chairman MacMillen opened the Public Hearing at 7:07pm.

No comments were made during the Public Hearing.

A motion was made by Christine Hayes, Seconded by Barbara Kearney to close the Public Hearing at 7:07pm. With all members in favor, the motion was carried 5-0.

A motion was made by Christine Hayes, Seconded by Arnold Jensen to approve Variance #473-V: Earnest Frederick Trinkle and RoseMary Aiken-Trinkle are requesting a 17.5 ft. front yard setback variance (after-the-fact), according to Section 4.03 of the Town of Chester Zoning Local Law, for the placement of an existing single family dwelling. Property is located at 101 Priory Rd., identified by Tax Map Parcel #: 103.1-11.4, in Zoning District Rural Use. As part of her motion, Ms. Hayes reviewed the criteria of approving a variance-

1. There was no feasible alternative to the variance that can provide the benefit if sought by the applicant.

2. There is not feasible alternative to the variance that can provide the benefit if sought by the applicant as the house is already built.
3. The requested variance is not substantial.
4. The variance would not have an adverse impact on the physical or environmental conditions in the neighborhood.
5. The alleged difficulty is self-created.

With the motion on the table, a vote was taken:

In Favor: 4

Opposed: 1

The motion carried 4-1. Barbara Kearney stated that she was opposed as she feels that the contractor should be held responsible.

**#474-V:** Butler Loop LLC (Wesley Butler) is requesting an amendment to a condition of a previously approved use variance 274V on October 20, 1992. Approval of Use Variance 274V is described as follows:

*“For a Use Variance under section 12 page 86 & section 4.1 page 25 of the Zoning Ordinance to permit a Used Car, Truck and Boat Sales & Storage along with the already existing Repair Shop on the property owned by Charles W. Redmond located on Rt. 9, Chestertown, NY Tax Map No. 64.1-26.1. We approved this application with the same decision made in our letter of recommendation sent to the Planning Board last month which reads as follows: Application 274V of Emlaw Service Center be approved to Permit a Used Car Lot limited to (8) Cars and the storage of boats with trailers, cars and trucks will be permitted while under service or repair and that there shall be no storage of wrecked or dismantled motor vehicles or other junk. Must have a Site Plan Review with the Planning Board”.*

Butler Loop LLC (Wesley Butler) is requesting an amendment to the condition of approval to allow for a total limit of fifty-five (55) vehicles on the lot, not distinguishing between sale, repair, etc. Property is located at 6249 State Route 9, identified by Tax Map Parcel #: 104-14-1-44.1, in Zoning District Hamlet.

Arnold Jensen read the variance information to the Board. Zach Monroe representing Wesley Butler presented the request to the Board. An updated Map was provided to the Board Members and Zoning Administrator Little presenting what the property owner was requesting to do on the site with the parking of vehicles, storage buildings, and an addition of a fence along the Foster Flatts Road entrance on the property. Christine Hayes asked for clarification on the request by the applicant if they were looking for a Repair Center or a Service Center in the Hamlet. Mr. Monroe responded that with the Use Variance 274V that Emlaw was here for a used car sale and not the repair center. Chairman MacMillen stated that the Repair Center preexisted our Zoning Law. Ms. Hayes read the definitions of a Repair Center and Service Center from the Zoning Local Law. Thomas Thorsen, Zoning Enforcement Officer stated that the Use Variance carries through to present according to the Attorney for the Town. Mr. Monroe stated that they are looking to put an overall limit to the number of cars on the lot. Enforcement Officer Thorsen stated that they are looking to have 55 vehicles no matter if they are being serviced or if they are being sold. Barbara Kearney asked what the definition of a vehicle is. Chairman MacMillen responded that any motorized vehicle or trailer is counted as a vehicle. A discussion took place regarding the storage of junk or junk automobiles and the Board agreed

that common sense would need to be used as to what is junk and what is being worked on and might be waiting on parts. Ms. Kearney recommended that a 15-30 day limit be set for the removal of junk materials. Mr. Jensen stated that the community is concerned with a junk yard being created in the hamlet. Ms. Hayes pointed out that there was a discrepancy between the Minutes from 1992 and the Resolution and that there was a limit of 8 vehicles period. Mr. Monroe asked what holds the Minutes or the Resolution? Enforcement Officer Thorsen stated that the Minutes and Resolution are irrelevant to the Board's decision. A discussion took place that if the Board was to approve this variance if it would set precedence for the future. Mr. Butler stated that he is trying to provide a service to the community by repairing vehicles and selling low cost vehicles to the public. He doesn't feel that he will have 50 cars on the property at one time; however, wants to be able to have the ability to do so if needed. Mr. Monroe stated that they are asking for 55 vehicles as that is the maximum that can sit on the lot so that the applicant does not get in trouble in the future. Chairman MacMillen stated that he feels that the Board would be more comfortable with less cars. Mr. Jensen stated that the property always looks presentable and he is concerned that with all of those cars that it no longer will. Ms. Kearney agreed with Mr. Jensen and added that she is concerned with coming down Route 9 and entering Chestertown and seeing such a heavy load of vehicles. The applicant stated that for a Used Car Dealership to work you're going to want cars to be in the front so that people can see them and want to buy them. Ms. Kearney asked what the Planning Board decided on the request. Zoning Administrator Little stated that a Public Hearing has been set for next month.

Having been duly advertised, Chairman MacMillen opened the Public Hearing at 7:43pm-

Charlie Redmond, owner of Red Mountain Storage on State Route 9, stated that he was the original property and building owner. He gave a history of the building and the 8 car limit from 1992. He would like the Board to consider this service that is so unique to the community and make the variance flexible and feels that exposure for the vehicles for sale is a great thing.

Mary Clark, Alternate stated that she is concerned with the amount of vehicles on the property and how it will look. The property does not look pretty and is concerned with what people coming into Chestertown will think when they see this. It could disrupt the tourist economy.

Daren Harvey of State Route 9 stated that limiting the amount of cars that the Board allows with the variance will put the Board's foot in their mouth if a Ford Dealership was to return to Chestertown. He feels that Wesley does a good business and is anyone going to police what he is doing.

Christine Hayes stated that with each variance she looks at the Property that the Variance is requested on and that she does not look at who the property owner is.

Jessica MacMillen of Landon Hill Road stated that she feels that Mr. Butler has done all of the work for the variance. She wants to see small business in Chestertown and feels that this is ridiculous that we are going through this. She also stated that Mr. Butler does not know how long a car will sit on his lot.

A motion to close the Public Hearing at 7:52pm was made by Arnold Jensen, Seconded by Christine Hayes. With all Board Members in favor, the motion was carried 5-0.

Chairman MacMillen stated that he is for this variance and is Pro-Business. He does not feel that the lot will lock down; however, he is concerned with the amount. Arnold Jensen stated that there is a concern about this in the town. He feels that putting a fence up will help alleviate

concerns of other property owners. Barbara Kearney asked about Emergency Vehicle access to the property with the proposed. Chairman MacMillen responded that Fire Apparatus will be able to maneuver the property. A discussion took place that the property could be sold tomorrow and that the Board will need to set conditions that could be enforced if this was to happen. Michael Hough stated that 55 cars is not obsessive due to the type of business.

Chairman MacMillen stated that we did receive one letter of opposition from a neighboring property owner June Maxam.

Wesley Butler stated that he is good with requesting 50 vehicles. A discussion took place that vehicles would also include lawn mowers, ATVs, etc. A discussion also took place on potential conditions if the Board was to approve this variance.

A motion was made by Arnold Jensen, seconded by Michael Hough to approve the amendment to a condition of a previously approved Use Variance 274V from October 20, 1992 and further approve for Butler Loop LLC (Wesley Butler) is requesting an amendment to the condition of approval to allow for a total limit of fifty (50) vehicles on the lot, not distinguishing between sale, repair, etc. Property is located at 6249 State Route 9, identified by Tax Map Parcel #: 104-14-1-44.1, in Zoning District Hamlet. This amendment allows for fifty (50) vehicles or motorized vehicles, while limiting junk vehicles as described in the previously approved Use Variance 274V. The definition of a vehicle includes Automobiles, Trucks, Trailers, Boats, ATVs, Snowmobiles, Lawn Mowers, Campers, or other similar items. This Variance does not limit the 50 vehicles between Sale or Repair. With all Board Members in favor, non-opposed, the motion was carried 5-0.

### **MINUTES:**

A motion was made by Christine Hayes, Seconded by Barbara Kearney to approve the minutes from the Regular Meeting on November 26, 2019. With all members in favor, non-opposed, the motion was carried 5-0.

### **CORRESPONDENCE:**

- Zoning Administrator's Activity Report for November 2019.
- E-mail from Town Zoning Enforcement Officer dated November 26, 2019 RE: "Village Auto-Wes Butler".
- Letter from Town Zoning Enforcement Officer dated December 2, 2019 RE: "Request for amendment to decisions made by each Board in 1992".
- Letter from the Adirondack Park Agency dated December 3, 2019, received by the Zoning Office on December 3, 2019 RE: Approval of the Town of Chester Zoning Law Revisions.
- Copy of E-mail/Letter from June Maxam dated December 0, 2019, received by the Zoning Office on December 12, 2019 RE: "Butler Zoning/Planning Applications".
- Warren County Planning Department Project Review and Referral form, reviewed by the Department on December 9, 2019 for #474-V. Forms received by Zoning Office on December 12, 2019.

### **PUBLIC PRIVILEGE:**

Councilwoman DuRose thanked the members of the Board and stated that it is a thankless job.

**BOARD PRIVILEGE:**

No Business took place during Board Privilege.

**ADJOURNMENT:**

A motion was made by Christine Hayes, Seconded by Barbara Kearney to adjourn the meeting at 8:17pm. With all Board Members in favor, non-opposed, the motion was carried 5-0.

Respectfully submitted,

Jack D. Bartlett  
Secretary  
Zoning Board of Appeals