



**MINUTES OF MEETING
TOWN OF CHESTER ZONING BOARD OF APPEALS
Regular Meeting
Tuesday, July 28, 2020**

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

ATTENDANCE:

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

PUBLIC HEARINGS AND NEW BUSINESS:

#481-V: Anthony F. and Linda T. Taverni are requesting a 13'-9" side yard setback variance and 10' rear yard setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to replace a storage shed that was demolished pursuant to issued permits with a structure of same size (232 sf. ±) in existing footprint. Property is located at 826 Atateka Dr., identified by Tax Map Parcel #: 120.11-1-4, in Zoning District Moderate Intensity.

This request was tabled until later in the meeting.

#482-V: Beadland Park LLC (Andy Beadnell) is requesting a variance for the use of existing sign area to install a 22.68 sq. ft. sign where 16 sq. ft. is required at a 7 ft. distance from the right-of-way of State Route 9, according to Section 7.04(F)(10) of the Town of Chester Zoning Local Law. Property is located at 8015 State Route 9, identified by Tax Map Parcel #: 36.3-1-13, in Zoning District Hamlet.

Chairman MacMillen read the request for a variance. Tod Beadnell representing Beadland Park LLC was present at the meeting and spoke on their request for a Variance and general background information for the property.

Chairman MacMillen asked if they would be using the existing sign footprint. Mr. Beadnell responded that they would be using the sign that was previously there from Café Adirondack. Mary Clark asked if the sign would be the same size. Mr. Beadnell responded that it would be. Arnold Jensen asked if the request for a Variance was based on the size or the location and inquired if moving the sign farther away from the roadway would help cure the need for a variance. Chairman MacMillen stated that the sign is already existing and not anything new.

Having been duly advertised, Chairman MacMillen opened the Public Hearing at 7:06pm.

No comments were made during the Public Hearing.

A motion to close the Public Hearing at 7:06pm by Arnold Jensen, Seconded by Mary Clark. A Roll Call Vote was called by Secretary Bartlett-

Mr. Hough- Yes, Ms. Kearney- Yes, Mr. Jensen- Yes, Ms. Clark- Yes, Chairman MacMillen- Yes

The motion carried 5-0.

Arnold Jensen asked if the sign could be moved back and if it was, would it be a hardship to the applicant. Mr. Beadnell stated that he didn't really want to mess with the historical structure that was the sign. Mary Clark stated that the sign has been there for as long as she can remember and she felt that sign doesn't need to be moved.

A motion to Approve Variance #482-V was made by Mary Clark with the following Criteria to Approve a Variance-

1. There was no undesirable change produced to change the character of the neighborhood or be a detriment to nearby properties.
2. There is not a feasible alternative to the variance that can provide a benefit if sought by the applicant.
3. The requested variance is substantial.
4. The variance would not have an adverse impact on the physical or environmental conditions in the neighborhood.
5. The Board agrees that the alleged difficulty is self-created.

The motion was seconded by Barbara Kearney. A Roll Call Vote was called by Secretary Bartlett-

Mr. Hough- Yes, Ms. Kearney- Yes, Mr. Jensen- Yes, Ms. Clark- Yes, Chairman MacMillen- Yes

The motion carried 5-0.

#483-V: William C. Graves is requesting a 35 ft. front yard setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order for placement of an 18' x 30' metal car port. Property is located at 5478 State Route 8, identified by Tax Map Parcel #: 103.-2-2, in Zoning District Moderate Intensity.

Chairman MacMillen read the Variance request. William Graves was present at the meeting and spoke on his request for a Variance and the alternatives that he had considered. Arnold Jensen asked why the car port could not be placed in an alternative location. A lengthy discussion took place regarding alternatives for Mr. Graves that would appease the Board and provide a Feasible Alternative for the applicant and allow for approval of the Variance Request. Following the discussion, Barbara Kearney reminded the applicant to be mindful of the Side Yard Setbacks. Board suggested moving the structure 15 ft. further from the proposed location towards the dwelling away from the State Route 9. If moved 15 ft. further back, the request would be for a 20 ft. front yard setback variance instead of the requested 35 ft.

Having been duly advertised, Chairman MacMillen opened the Public Hearing at 7:31pm-

No comments were made during the Public Hearing.

A motion to close the Public Hearing at 7:31pm by Mary Clark, Seconded by Michael Hough. A Roll Call Vote was called by Secretary Bartlett-

Mr. Hough- Yes, Ms. Kearney- Yes, Mr. Jensen- Yes, Ms. Clark- Yes, Chairman MacMillen- Yes

The motion carried 5-0.

A Motion to approve Variance #483-V by Arnold Jensen with the following Criteria to Approve a 20 ft. front yard setback variance -

1. There was no undesirable change produced to change the character of the neighborhood or be a detriment to nearby properties.
2. There is not a feasible alternative to the variance that can provide a benefit if sought by the applicant.
3. The requested variance is substantial, however, it is a reasonable request.
4. The variance would not have an adverse impact on the physical or environmental conditions in the neighborhood.
5. The Board agrees that the alleged difficulty is self-created as there was no prior existing structure.

The Motion was seconded by Michael Hough. A Roll Call Vote was called by Secretary Bartlett-

Mr. Hough- Yes, Ms. Kearney- Yes, Mr. Jensen- Yes, Ms. Clark- Yes, Chairman MacMillen- Yes

The motion carried 5-0.

Public Privilege-

- Colin Mangan from Eric and Eric Inc., representing Vincent O'Connor at 4 Kingsley Court – Discussion RE: Change of structure from approved enclosed space (kitchen addition, rear deck and stairs) to an open deck addition with stairs, in connection with Variance #447-V approved on August 28, 2018 with no conditions. Open deck addition with stairs to be constructed within approved footprint.

Chairman MacMillen explained the request of the O'Connors. Colin Mangan from Eric & Eric Construction explained the circumstances for the request and that the proposed changes would be in the originally requested footprint approved, and may even be smaller. The applicants did not just want to make the changes without speaking with the Board. Chairman MacMillen asked if there was any comments from the Public.

A motion was made to approve the Amendment to #447-V by Mary Clark, Seconded by Arnold Jensen. A Roll Call Vote was called by Secretary Bartlett-

Mr. Hough- Yes, Ms. Kearney- Yes, Mr. Jensen- Yes, Ms. Clark- Yes, Chairman MacMillen- Yes

The motion carried 5-0.

Chairman MacMillen spoke to the Members of the Public in attendance and advised them that everyone would have the chance to speak and no personal attacks would be tolerated by the Board.

#481-V: Anthony F. and Linda T. Taverni are requesting a 13'-9" side yard setback variance and 10' rear yard setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to replace a storage shed that was demolished pursuant to issued permits with a structure of same size (232 sf. ±) in existing footprint. Property is located at 826 Atateka Dr., identified by Tax Map Parcel #: 120.11-1-4, in Zoning District Moderate Intensity.

Chairman MacMillen read the request for a Variance. Linda Taverni was present and explained the request for a Variance and the historical aspects of the storage shed on the property. Ms. Taverni had also explained that the letters received by the Board were solicited and not based on the application. A Letter had been received by the Taverni's to halt their project by the Zoning Enforcement Officer. Ms. Taverni stated that the applicants feel that they have been denied due process by the Board and that the Board's duty is to serve the applicants and the Town of Chester. If the Board denied their request for a variance, it would not allow them the full use of their property. The proposed project would allow a safer structure and would follow all Town of Chester Codes.

Mary Clark asked about any alternative locations. Ms. Taverni stated that they have a State Ordered easement that would be lost if the structure was no longer there. Chairman MacMillen stated he was confused on the easement. Ms. Taverni stated that the driveway on the right of the property allows access to their easement. Michael Hough asked if the easement was lost, what effect would it have on the applicant. Ms. Taverni stated that a valuable property right would be lost without compensation. Arnold Jensen stated that he wants to make it known that he is friends with the applicant and considered recusing himself, however, he feels that he could make a proper decision.

Ms. Taverni stated that they don't want to move the shed as they would lose the easement. They were just trying to knock the shed down and rebuild it. Mary Clark stated that the permit that the Taverni's stated that they had received was issued by the previous Zoning Administrator and asked Zoning Administrator Little how long a permit is good for. Zoning Administrator Little stated that a permit expires within two years if work is not undertaken. Ms. Clark stated that she feels that the Attorney for the Town may need to take a look into this.

Zoning Enforcement Officer Thorsen feels guilty about how this has played out. He explained how when he became the Enforcement Officer that he felt that an inaccurate approval had been made and he had a different interpretation. He stated that if he had had the information that he has now, that he would not have issued a Stop Work Order at the time.

Chairman MacMillen stated that he would like to have the Town Attorney present before this Variance Request moves forward more. Mr. Taverni stated that he would not like this to be held up from month to month. Barbara Kearney stated that she feels that the Taverni's are not replacing with a like structure. Michael Hough asked how much work has already been completed. A discussion took place in regards to the work completed and whether or not the Public Hearing should be opened.

Having Been duly advertised, Chairman MacMillen opened the Public Hearing at 8:18pm-

Russel Langly- Attorney representing the Broderick's stated that he would not be able to attend the meeting on August 25th so may need to request an adjournment.

Jill Broderick stated that she is the neighboring property owner and she opposed the application. She believes that the application is missing documentation to allow the Board to make a decision. She gave specifics regarding the Party Wall which is owned by the Broderick's, the County Permit is for alteration of an existing structure. Ms. Broderick presented that the request for #450-V was pulled in writing in August 2018, a Stop Work Order was issued in August 2019, a Feasible Alternative has been proposed, the Request for the Variance is substantial, and she has a real issue with the proposed structure being right on top of her structure. The Easement comes from a 1960 Sub Division and she did not solicit letters for the Board. She stated that the Taverni's lost their right to the shed when they received ill gotten work orders and the larger issue is that there seems to be a ton of missing documentation.

The Zoom Meeting Froze. Barbara Kearney and Mr. Langly were able to reconnect via Cell Phone.

Russel Langly stated that he would hold comments until after the Board is advised by the Town Attorney, however, there is issues with the easement and it should not remain in the deed. The Valuable Property right with the easement was shown no evidence that there is a material price for an easement. The easement has been used in an abusive way. Mr. Langly provided examples from the Local Zoning Law, asked for copies of permits that were never properly issued. There was no appeal to the Stop Work Order and the time to appeal has since expired. The use of the easement ended two years ago. The new proposed structure is not all that similar. The New Application is in violation of Town Law and there is an alternative to build the shed on their own property. Mr. Langly urges the Board after consulting with the Town Attorney to not approve this request.

A motion was made to Table #481-V until further consultation is completed by the Town Attorney and to keep the public hearing open. The motion was made by Mary Clark, Seconded by Arnold Jensen. A Roll Call Vote was called by Secretary Bartlett-

Mr. Hough- Yes, Ms. Kearney- Yes, Mr. Jensen- Yes, Ms. Clark- Yes, Chairman MacMillen- Yes

The motion carried 5-0.

The Board requests that the following documentation be provided to the Town Attorney-

- Application
- Any Permits
- Court Ordered Easement
- Minutes from the July 2020 Meeting

Chairman MacMillen stated that the Photo's displayed at the meeting were not provided in the application and they were provided to the Board for Visual Purposes.

MINUTES:

A motion to approve the minutes of the June 23, 2020 Meeting of the Zoning Board of Appeals was made by Michael Hough, Seconded by Mary Clark. A Roll Call Vote was called by Secretary Bartlett-

Mr. Hough- Yes, Ms. Kearney- Yes, Mr. Jensen- Yes, Ms. Clark- Yes, Chairman MacMillen- Yes

The motion carried 5-0.

CORRESPONDENCE:

- Zoning Administrator's Activity Report for June 2020;
- Letter from Charles Liddle received by the Zoning Office on July 22, 2020 RE: #481-V;
- Letter from Frank Gabriel dated July 28, 2020 and received by the Zoning Office on July 23, 2020 RE: #481-V;
- Letter from Thomas Thorsen (Zoning Enforcement Officer) dated July 23, 2020 with attached 2018-10-09 letter, received by the Zoning Office on July 23, 2020 RE: #481-V;
- E-mail from Jill Broderick dated July 24, 2020 and received by the Zoning Office on July 24, 2020 RE: #481-V.
- Letter from Margo Broderick received by the Zoning Office on July 27, 2020 RE: 481-V. Last Revised 7/28/2020 3:17 PM
- Letter from Nancy and Matthew Liddle dated July 24, 2020 and received by the Zoning Office on July 27, 2020 RE: #481-V.
- E-mail from Vin Forbes dated July 24, 2020 and received by the Zoning Office on July 27, 2020 RE: #481-V.
- Letter from Bernard T. McCann dated July 27, 2020 and received by the Zoning Office on July 27, 2020 RE: #481-V.
- Letter from Hannah and Mason Kreider dated July 27, 2020 and received by the Zoning Office on July 27, 2020 RE: #481-V.
- Letter from Lawrence and Ronda Fein received by the Zoning Office on July 27, 2020 RE: #481-V.
- E-mail with attachment from Jill Broderick dated July 28, 2020 and received by the Zoning Office on July 28, 2020 RE: #481-V.
- Letter from John H. Shafer dated July 28, 2020 and received by the Zoning Office on July 28, 2020 RE: #481-V.
- E-mail from Leigh Cobb with attachment "Site Plan.docx" dated July 28, 2020 and received by the Zoning Office on July 28, 2020 RE: #481-V.
- Warren County Planning Department Project Review and Referral Form Reviewed by Depart

PUBLIC PRIVILEGE: None

BOARD PRIVILEGE:

Mary Clark asked who checks the Stipulations that the Board places on a Variance. Zoning Administrator Little stated that it would be the Zoning Enforcement Officer if there was a

complaint filed. Ms. Clark stated that it should be followed up on. Chairman MacMillen stated that Ms. Clark should bring this to the Town Board and Town Supervisor for further action.

ADJOURNMENT:

A motion was made by Arnold Jensen, seconded by Mary Clark to adjourn the meeting at 8:51pm. A Roll Call Vote was called by Secretary Bartlett-

Mr. Hough- Yes, Ms. Kearney- Yes, Mr. Jensen- Yes, Ms. Clark- Yes, Chairman MacMillen- Yes

The motion carried 5-0.

Respectfully submitted,

Jack D. Bartlett
Secretary
Zoning Board of Appeals