

**Town of Chester
Zoning Board of Adjustment
March 19, 2019
Town Hall
7:00 pm
Approved Minutes**

Members Present:

Vice-Chair Kevin Scott
Matt Gelinas, Alternate
Chair Billie Maloney

Members Absent:

Richard Snyder, Alternate
Joseph Hagan, Selectman Liaison
Courtney Cashman
Jean Methot, Alternate
Jack Cannon
Adam Maciaszczyk

Guests:

Penny Williams, Tri-Town Times
Russell Quintal
Fran Bechtold

And other persons unknown to the minute taker

Agenda

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes – February 19, 2019**
- 3. Spring Seminar**
- 4. Rules of Procedure – Review/Update**
- 5. Hearings:**

The request for a continuance of Russell Quintal for a variance from Article 5, Section 5.3.5 (Table 1) to construct a 8'x28'6" covered porch on the front of the existing dwelling which would sit approximately 12' at the closest point from the front property line where 40' are required
On the property known as 24 Carlin Road, Map 5-71 in the R-1 zone

- 6. Adjournment**

42 **1. Call to Order/Roll Call**

43 Chair Maloney called the meeting to order at 7:02 pm. By Roll Call were present: Matt Gelinas,
44 Vice-Chair Kevin Scott, and Chair Billie Maloney.

45 Chair Maloney indicated three members were present to vote on tonight's hearing. Vice-Chair
46 Scott explained that all three members would have to vote in the affirmative to approve any
47 request.

48 Vice-Chair Scott read out loud the Public Hearing Notice as well as the 30-Day Notice.

49 **2. Approval of Minutes**

50 Chair Maloney asked if the Board had reviewed the minutes of the February 19, 2019 meeting –
51 yes; and to indicate if there were any changes – none.

52 ***Vice-Chair Scott motioned to approve the February 19, 2019 minutes, as written. Mr.***
53 ***Gelinas seconded the motion, with 3 in favor and none opposed, so moved.***

54 **3. Spring Seminar**

55 Chair Maloney advised the Administrative Assistant had spoke with the NH Office of Strategic
56 Initiatives (OSI) concerning the Spring Seminar and was told registration will begin on March 25,
57 2019 for the June 1st seminar and topics to be covered will be announced at that time.

58 Vice-Chair Scott advised he is unable to attend. Mr. Gelinas and Chair Maloney indicated they
59 could maybe attend and will wait to hear from Mr. Maciaszczyk and Mrs. Cashman.

60 **4. Rules of Procedure – Review/Update**

61 Chair Maloney indicated Town Counsel has reviewed the existing Rules of Procedure and made
62 recommendations for updates. Some of what was added were due to past experiences. Vice-
63 Chair Scott was added as a Board Member/Staff who could speak with Town Counsel directly
64 and it was agreed those written communications would be shared with Board members.

65 **5. Hearings:**

66
67 **The request of Russell Quintal for a variance from Article 5, Section 5.3.5 (Table 1)**
68 **to construct a 8'x28'6" covered porch on the front of the existing dwelling which**
69 **would sit approximately 12' at the closest point from the front property line where**
70 **40' are required**
71 **On the property known as 24 Carkin Road, Map 5-71 in the R-1 zone**
72

73 Chair Maloney advised the Board had continued this hearing from last month at the
74 applicant's request.
75

76 Chair Maloney summarized that when the application was received and reviewed, the
77 applicant stated he was thinking of going to Board of Selectmen to get an easement or
78 put forth a Warrant Article for the Town to vote to sell or grant an easement on the paper
79 cul-de-sac which was never built out. This would require the applicant wait until after
80 Town Meeting.

81 Mr. Quintal indicated that after speaking with an attorney, a letter was drafted by his
82 attorney to send to the BOS. The applicant's attorney believes at some point the
83 property should go back to the abutters if the cul-de-sac was not built out.

84 Mr. Quintal stated the plan has shown the paper cul-de-sac since 1971. Mr. Quintal
85 advised the proposed lot line change would be agreeable to his neighbor, Fran Bechtold,
86 who is here at the meeting.

87 Vice-Chair Scott asked if in the proposed lot line change, some of the property would go
88 to the neighboring abutter, the Bechtold property? Mr. Quintal answered "Yes."

89 Vice-Chair Scott read out loud the email correspondence from Attorney Beth H. Davis.
90 Mr. Quintal provided a copy for the file.

91 Mr. Quintal indicated he purchased the property at foreclosure by deed dated July 10,
92 2017, recorded with the Rockingham Registry of Deeds in Book 5834, Page 2057.

93 Mr. Quintal stated he still won't have required frontage if that lot line is adjusted in the
94 future. Vice-Chair Scott clarified the original frontage as is shown on the paper cul-de-
95 sac.

96 Vice-Chair Scott noted the hardship and uniqueness are certainly satisfied. "This is not
97 going to be taken care of quickly."

98 Mr. Quintal stated he would like a variance for the porch but his Attorney worried if he
99 got this variance, he would be conceding the Town owns the dirt.

100 Mr. Quintal showed on the plan that the stairs would be within the paper cul-de-sac.
101 "This part of the addition was built in 1996." "Both the addition and garage were
102 permitted." "The existing porch comes to 12' of the paper cul-de-sac."

103 Vice-Chair Scott asked whether the Town was provided notice. Ms. Hoijer indicated the
104 Town was notified.

105 Mr. Quintal indicated he missed this when bought property, a plot plan was done after
106 and he was worried the Town would make him take the garage down although it was
107 permitted.

108 Chair Maloney asked what the applicant wanted to do. Mr. Quintal responded he wants
109 to proceed with the variance for the front porch so he can go back to the Building
110 Inspector and be able to hire a contractor to get situated for work to be done in August or
111 September.

112 Chair Maloney asked the applicant if he wished to request an Equitable Waiver for the
113 garage since it qualifies and has been more than ten years as required in the statute.

114 Vice-Chair Scott read out loud the application for the variance and the denial letter of the
115 Building Inspector.

116 Vice-Chair Scott asked about the porch that is there. "Is that coming off, and a new
117 porch is going on?" "Are you moving from a porch already in the setback to being a bit
118 closer which may or may not exist after BOS make their determination what to do with
119 the paper cul-de-sac?" "The paper cul-de-sac is not used as a cul-de-sac, it's just an

old plan which was never done." "There is no safety concern to public, no noise, no additional traffic moving to their homes, nothing will change. It is not contrary to public interest, or the spirit of the ordinance." "The setbacks are important if approved, will be a non-issue as to the spirit of the ordinance." "It will do substantial justice." "Doing your roof all at one time makes sense." "Values would not be impacted, improved, not diminished." "It is a hardship, has uniqueness written all over it." "Vote in favor on all five."

Chair Maloney stated "Yes, to public interest, it does not alter the essential character, or threaten public health safety or welfare." "Substantial justice is done, values are not affected." "There is a hardship because of special conditions of the property." "This definitely is different from any other one in the area, because of the cul-de-sac on paper only, that exists in your front yard, and was never built by the Town." "The Town claims to own it." "It has existed on paper for 50 years." "It is a reasonable use." "In favor of granting a variance to fix the porch, with frontage less than required to the non-existent paper cul-de-sac property line." "Yes."

Mr. Gelinas stated it is not contrary. "It is already there." "It will be replacing and making the situation better." "The spirit of ordinance: there is no threat to public health safety or welfare or injuring rights." "Yes, I agree that is upheld." "There is no harm to general public, and as for substantial justice, values will rise or maintain but will not be diminished." "Yes, on four and on hardship - you purchased it without the knowledge of the special condition of the cul-de-sac." "It would certainly be a hardship if not granted, so Yes, agree should grant you a variance."

Vice-Chair Scott asked Ms. Bechtold if she or any other member of the public would like to speak. Ms. Bechtold stated she never knew and be there 30 years in August. It was never brought up and never saw it on any plot plan given to her. "I've been maintaining that." "The Town has never plowed or maintained or cut grass, water and seeded, or replaced driveway or improved part of it." Ms. Bechtold stated it is 30' to get into her driveway. Ms. Bechtold worries if she had to sell the house, would this affect her ability to do that.

Vice-Chair Scott closed the hearing to the public at 7:55 PM.

Vice-Chair Scott moved to grant the request of Russell Quintal for a variance from Article 5, Section 5.3.5, Table 1 to allow the building of a porch of 8'x28.6' on front of existing dwelling that will put it 10' from closest property line shown as a paper cul-de-sac. Mr. Gelinas seconded the motion, with all in favor, so moved.

Chair Maloney read the conditions of Article 11.6 conditions required to grant an equitable waiver for the garage. It was not noticed by the owner or any municipal official until substantially complete. "It was not out of ignorance of the law or the ordinance." "It was a good faith error, not a nuisance, it will not diminish values of abutters or interfere with future uses, the cost outweighs any public gain from denying." "The violation has existed ten years or more according to the state statute with no written notice of the violation."

161 Ms. Bechtold indicated she was okay with it, it is not near her property line. Mr. Quintal
162 has been keeping the property up and repairing those dangerous steps. Vice-Chair
163 Scott clarified this was for the garage, not the porch.

164 ***Vice-Chair Scott moved to grant an Equitable Waiver pursuant to Article 11.6 for***
165 ***the corner of the garage which sits 1.6' into the paper cul-de-sac. Mr. Gelinas***
166 ***seconded the motion, with all in favor, so moved.***

167 Vice-Chair Scott read out loud the 30-day notice of appeal.

168

169 **6. Adjournment**

170 ***Vice-Chair Scott motioned to adjourn the meeting at 8:15 pm. Chair Maloney***
171 ***seconded the motion, with all in favor, so moved.***

172 Respectfully submitted,

173

174

175 Nancy J. Hoijer,
176 Recording Secretary