

**Town of Chester  
Zoning Board of Adjustment  
November 17, 2020  
Town Hall  
7:00 pm  
Approved Minutes**

**Members Present:**

Chair Billie Maloney  
William Gregsak  
Rick Snyder, Planning Board Liaison/Alternate (remotely)  
Vice-Chair Kevin Scott  
Jack Cannon

**Members Absent:**

**Guests:**

Bill Reishus  
Corinna Reishus  
Dick Trask  
Building Inspector Myrick Bunker (remotely)  
Selectman Chuck Myette (remotely)

**Agenda**

- 1. Call to Order/Roll Call**
- 2. Correspondence**
- 3. Approve Minutes for October 20, 2020**
- 4. Updates**
- 5. Budget FY21/22 - Reduced**
- 6. Training – On Hold**
- 7. Hearings**
- 8. Other Business**
- 9. Adjournment**

**1. Call to Order**

Chair Maloney called the meeting to order at 7:07 PM. By Roll Call were present: Billie Maloney, Kevin Scott, Jack Cannon, Bill Gregsak with Rick Snyder remotely. Chair Maloney noted Alternate Rick Snyder was active.

**2. Correspondence**

- PO Box Renewal

The Board agreed the PO Box should be renewed for another six months due to the rise of COVID cases projected over the winter months.

- Letter to Dupras regarding application to restore involuntarily merged lots

Chair Maloney reported a letter was sent to Alan and Thomas Dupras who obtained variances at the July hearing. Subsequently an application was filed for a restoration of involuntarily merged lots relative to Map/Lot 13-17. The letter informed the owners that in accordance with their conditions of approval they would need to appear before the ZBA to ensure that approval would not be affected prior to going before the Board of Selectmen to unmerge the lots. No response has been received.

### **3. Approval of Minutes**

#### **Public Hearing October 20, 2020**

*Mr. Snyder motioned to approve the October 20, 2020 minutes. Chair Maloney seconded the motion. A vote was taken, Scott – abstain, Cannon – abstain, Gregsak – aye, Maloney – aye and Snyder – aye. The motion passed 3-0-2.*

#### **Site Walk Public Meeting November 11, 2020**

*Vice-Chair Scott motioned to approve the Site Walk Meeting minutes of November 11, 2020. Chair Maloney seconded the motion. A vote was taken Scott – aye, Cannon – abstain, Gregsak – aye, Maloney – aye and Snyder – aye. The motion passed 4-0-1.*

### **4. Updates**

#### **5. FY 21/22 Budget – Revised**

Chair Maloney reported the ZBA FY 21 budget was reduced by \$515 in the Administrative Asst Salaries Line 1-110 and we do not know who reduced it.

### **6. Training**

Chair Maloney noted all in-person training remains on hold.

### **7. Public Hearings:**

1. The request of Richard Trask on behalf of the FORSAITH-DROWNE, Post 108, AMERICAN LEGION for an administrative appeal of the decision of the Building Inspector concerning the location of a shed setback from the alleged property line

On the premises known as Map 016-024-000, 25 Raymond Road, in the R-1 Residential zoning district.

Mr. Trask appeared and informed the Board he wished to withdraw the application for administrative appeal.

2. The request of Richard Trask on behalf of the FORSAITH-DROWNE, Post 108, AMERICAN LEGION for Variances from Section 5, Subsection 5.3.5, Table 1 (Table of Dimensional Requirements) and Section 4, Subsection 4.2.1 (expansion of a non-conforming parcel) to

78 permit a shed to be situated within the side setback where 25' are required and within the front  
79 setback where 40' are required

80  
81 On the premises known as Map 016-024-000, 25 Raymond Road, in the R-1 Residential zoning  
82 district.

83  
84 Vice-Chair Scott indicated he is a life-long member of the American Legion and recused himself.

85  
86 Chair Maloney read the Public Hearing Notice out loud.

87  
88 Mr. Trask read his application into the record and noted there was no other place to put the  
89 shed due to the septic and driveway which wraps around the building. The shed is currently  
90 being used as a donation drop box to benefit the homeless. The Board of Selectmen met with  
91 Mr. Edwards a few months ago and provided the Board with a letter in support of the variance.

92  
93 Chair Maloney provided a report on the history of the parcel which was formerly occupied by the  
94 Evaporator Company. The Evaporator building burned down twice and so in 1902 the Town  
95 decided to place its firetrucks on the adjacent parcel to off some protection to the building which  
96 was of vital importance to the Town's economy at the time. However, the building burned down  
97 again. (Ref: Historic Homes of Chester by Noyes available on video with PACT) The property  
98 was sold to the DAR who in turn sold the property to the American Legion. The Board members  
99 were provided with a copy of the deed to the premises. No deed has been located for the  
100 adjacent parcel owned by the Town of Chester. The Board of Selectmen are aware of the  
101 discrepancy over the property boundary line. Neither parcel has been surveyed.

102  
103 Chair Maloney reported that on November 11, 2020 a Site Walk meeting was conducted on the  
104 premises. Measurements were taken in reliance of the tax map which shows a .3-acre lot with  
105 frontage of 110' and measurements were taken in reliance upon the deed measurements which  
106 show a half-acre lot with frontage of 10 2/3 rods which is approximately 175.' A large tree was  
107 located over the line which the Board could not legally determine was the lot line but made  
108 sense. Measurements were then taken of the existing shed to the proposed boundary and it  
109 was determined to be in the side setback regardless and required a variance.

110  
111 Mr. Snyder stated there was no dispute of ownership or location of the property lines.

112  
113 Mr. Gregsak stated the Board had a fairly good idea where the property line would be and the  
114 general area was a consensus all around.

115  
116 Mr. Trask noted relative to the front setback he measured from the shed to the curb and it was  
117 42.' Ms. Hoijer noted the ROW is usually measured from the center line of the roadway and  
118 while it changes from time to time is usually 25' on either side. The Board agreed the shed was  
119 located within the front setback as well.

120  
121 Mr. Cannon stated he was surprised this was not resolved five-six years ago. Chair Maloney  
122 asked the applicant if he ever provided a copy of the deed to the Board of Selectmen and he  
123 noted that he did.

Mr. Snyder asked the applicant to describe the current use and the proposed future use. Mr. Trask indicated now it is a clothing donation shed which takes anything the Clothes Closet doesn't want and provides little income to the struggling 501c3. In the future use may be to store a lawnmower but currently they do not own one. Mr. Cannon noted the Board denied a proposed use on the spot years ago for a food vending service.

Mr. Trask noted the shed was approximately 8'x12' and had no utility hookups, water, gas or electricity.

Mr. Snyder noted that if a variance was granted any expansion on that use would require the applicant to come back before the ZBA.

Chair Maloney opened the hearing to the public for comment and questions.

Selectman Myette noted there are two issues, one is the setback of the shed and the second is the use of the property next to the facility. The Board of Selectmen has allowed them to use that property and had no objection. The location is far enough back from the road and pushed back from the driveway. The Board of Selectmen have discussed the matter and have no objections. The garage is not used much if it encroached on the setback also.

Chair Maloney closed the hearing to the public for deliberations at 7:26 PM.

Mr. Gregsak noted this is a housekeeping issue and he has no problems with a clothes drop or a lawn mower. The site is the most logical place. It is not contrary to the public interest, the spirit of the ordinance would be observed. The lot was created prior to zoning and is a non-conforming half acre lot. Substantial Justice would be the continued use and the public location near Route 102. The Values would not be diminished as the adjacent properties are occupied by the salt shed, the ballfield and the firehouse. There is an unnecessary hardship. This is an old lot created before zoning.

Mr. Cannon noted it is in the public interest. The location would allow clothing donations while the spirit of the ordinance is not being ignored. The lot line issue clouds the entire matter. Values would not be diminished in anyway. The old salt shed is an eye sore. There would be an unnecessary hardship were the Board not to grant the variance for the clothing bin. Mr. Cannon stated he had no objection to supporting granting the variance and getting rid of the problem for the last time.

Mr. Snyder noted he supported the granting of the variance. The salient fact is the owner lot encroached upon is the Town and the BOS have granted permission to the applicant to utilize that property as they see fit which relieves it of any objection of that encroachment. Someone can invest in research later but that is not productive now. Granting the variance will not diminish values. Supporting it is in the best interest of the Town. Hardship was created years and years ago before zoning and now is a substandard lot with a lot line we don't know the existence of. The Town owns the other side and has granted permission. All five conditions have been met.

Chair Maloney noted the public interest and spirit of the ordinance have a benefit to a clothing shed in that spot. It doesn't threaten public safety or welfare and the benefit is not outweighed by harm to the public. It will have no effect on surrounding properties. There are special conditions of the property that warrant hardship. It is a very old building, a half-acre lot with a driveway around the building. There is no other suitable place to put it. The use is reasonable. A condition can be placed on approval that it be for storage only. Mr. Cannon agreed.

**Chair Maloney motioned to grant a Variance to Section 5, Subsection 5.3.5, Table 1 and Section 4, Subsection 4.2.1 of the Ordinance to permit an 8'x'12 shed to be situated within the side setback and front setback for storage only. Mr. Cannon seconded the motion.**

**Mr. Snyder amended the motion to add storage exclude hazardous materials.**

The Board discussed the proposed amendment to the motion. Mr. Snyder noted hazardous materials could include but not be limited to oil, gas, and cleaning products. Vice-Chair Scott pointed out that the adjacent property has held salt for half a century. Mr. Cannon noted he approved. Mr. Gregsak asked to allow a lawnmower or five-gallon can of gas which the Board agreed was no problem. Mr. Snyder noted 50 gallons of gas would be a problem. The applicant noted he was okay with that.

**Chair Maloney accepted the amendment to her motion and Mr. Cannon seconded the amendment. A vote was taken Cannon – aye, Gregsak – aye, Maloney – aye and Snyder – aye. The motion passed 4-0-0.**

Vice-Chair Scott read out loud the 30-day Notice of Appeal period.

Chair Maloney advised the applicant the Building Inspector would like an updated site plan.

3. The request of William W. Reishus and Corinna L. Reishus d/b/a Triad Winery for a Special Exception as specified within the Special Exception criteria specified in Article 11, Section 11.5 to permit a wine tasting area

On the premises known as Map 011-054-002, 413 Lane Road, in the R-1 Residential zoning district.

Mr. and Mrs. Reishus appeared and informed the Board they wished to withdraw the application for a Special Exception.

4. The request of William W. Reishus and Corinna L. Reishus d/b/a Triad Winery for a Variance from Section 5.3.4 of the Ordinance (Prohibited Uses in the R-1 zoning district) to permit a commercial use in Zone R-1. Said use would allow construction of an approximately 12'x16' building on the premises with outdoor seating for a wine tasting area with ancillary uses, the sale of wine products, including the sale of bottles of wine for off-site consumption

On the premises known as Map 011-054-002, 413 Lane Road, in the R-1 Residential zoning district.

218 Mr. Gregsak recused himself.  
219  
220 Vice-Chair Scott read out loud the Public Hearing Notice.  
221  
222 Mrs. Reishus provided the Board with a letter of support from the Mitchells who own the abutting  
223 property on Lane Road. Chair Maloney read the letter into the record.  
224  
225 Mr. Reishus read his application into the record noting it would provide tourism to the Town and  
226 benefit the applicant. The spirit of the ordinance would be observed. They are not looking to  
227 have massive outdoor functions and are a small boutique winery similar to Apollo Vineyards in  
228 Derry, NH. Substantial justice will allow visitors to see how the wine is made and an agricultural  
229 product made in Town can be sold. Values will not be diminished. Mr. Reishus noted the lot  
230 was previously full of dying trees. They will be planting grass and an erosion hill. It will look  
231 nicer than before.  
232  
233 Mr. Reishus noted due to current zoning as R-1 they are unable to open their tasting room.  
234 Marketing and selling exists under RSA 23:34 but they can not sell without a variance. Mrs.  
235 Reishus noted the size of the building is 12'x18'.  
236  
237 Mr. Cannon asked about ancillary uses and Mrs. Reishus noted they would sell wine slushies  
238 and slushie kits that purchasers could bring home. There will be other NH made products sold  
239 such as cork crafts and jewelry, bottle openers, crackers and are not looking to become a  
240 restaurant. Mr. Cannon noted wine slushies are beyond wine tasting. The Board discussed  
241 with the applicants RSA 178 governing the sampling of wine on the premises, the sizes that  
242 would be allowed and offered. Mr. Reishus noted the samples would be 1 oz and no more than  
243 4-5 offered. Mr. Reishus noted he was not guaranteeing 4-5 1 oz samples. Chair Maloney  
244 noted RSA 178 allows with food, two five oz. glasses. Vice-Chair Scott noted the State also has  
245 a wetland setback that is different than that which the Town is allowed to regulate.  
246  
247 Vice-Chair Scott noted he would like to ensure the proposed use is small and manageable.  
248 Mrs. Reishus noted there are no non-family employees, just themselves and their daughter.  
249 Vice-Chair Scott noted the new landscaping is now shown on the plan.  
250  
251 Vice-Chair Scott requested the applicants again clarify how owing to the special conditions of  
252 the property a hardship exists. Mr. Reishus noted they will have vines growing that people will  
253 be able to see.  
254  
255 Chair Maloney asked the scope of the proposal and how many people you expect and Mr.  
256 Reishus noted just weekends, Saturdays from 12-6 and Sundays from 12-5. Mrs. Reishus  
257 added and Friday evenings. The limit of people depends on the weather and would probably be  
258 100 people per day. The average tasting takes about 20 minutes and then there may be a tour.  
259  
260 Chair Maloney asked if there would be wine festivals and the applicant answered no.  
261  
262 Chair Maloney noted large gatherings, festivals, and bands would alter the character of the  
263 neighborhood and create a nuisance. Mr. Reishus noted they were not looking to do events but

would like to offer acoustic music such as guitar playing, but not amps or speakers. The season would be until Thanksgiving.

Chair Maloney asked if the parking lot filled up and Mrs. Reishus noted they would then go to a reservation system. Mr. Snyder noted patrons would not be allowed to park on Lane Road. Mrs. Reishus added or Laurel Hill.

Mr. Snyder noted the applicants will be returning to the Planning Board for Site Plan review.

Mr. and Mrs. Reishus noted in the future there could be pergolas with wild grapes growing on them for the guests to sit under.

Chair Maloney opened the hearing to the public for comments and questions at 8:10 PM and being none closed the hearing to the public for deliberations.

Mr. Cannon noted he had minimal concerns there would be crowds and the impact to the neighborhood should be minimal and he is generally in favor of granting.

Vice-Chair Scott questioned the ability to expand and increase the number of employees.

Chair Maloney noted she did not want to see it get out of hand or become too loud or noisy or a disturbance to the neighbors. No festivals should be allowed, no bands or loud music. That would take away the rights of the neighbors to enjoy their property. Chair Maloney questioned how it would be monitored and enforced? Vice-Chair Scott agreed if the parking lot gets full how would they handle it, there is no room for expansion and can see that becoming a problem down the road. Mr. Snyder agreed. Onsite parking and the number of employees will be established conservatively. The Planning Board will set their conditions as well.

Vice-Chair Scott recommended to continue deliberations on conditions until the next meeting and noted the Board has entered deliberations and public comment is closed. Mr. Snyder agreed legal guidance should be obtained. Mr. Cannon noted he would support continuing to establish conditions and to see how those conditions could be enforced and by whom.

Chair Maloney noted conditions could be Site Plan Review by the Planning Board, no on-street parking and no festivals or loud music. Vice-Chair Scott added hours of operation, Saturdays from 12-6 and Sundays from 12-5 seasonally from Memorial Day to Columbus Day, all wine bottles to be sold for off-site consumption.

Mrs. Reishus noted they would like a decision by the end of the year to submit to the marketing brochure before the deadline.

Mr. Snyder noted it is acceptable to have overlapping conditions with the Planning Board.

***Vice-Chair Scott motioned to continue the application to December 15, 2020 at 6:30 PM. Mr. Snyder seconded the motion. A vote was taken, all were in favor, the motion passed unanimously 4-0-0.***

311 **8. Other Business**

312 **9. Adjournment**

313 ***Chair Maloney motioned to adjourn the meeting at 8:35 PM. Vice-Chair Scott seconded***  
314 ***the motion, with all in favor, so moved.***

315 Respectfully submitted,

316

317

318 Nancy J. Hoijer,  
319 Recording Secretary