

**Town of Chester
Zoning Board of Adjustment
December 15, 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:

Corinna Reishus

Agenda

- 1. Call to Order/Roll Call**
- 2. Correspondence**
- 3. Approve Minutes for November 17, 2020**
- 4. Updates**
- 5. Hearings**
- 6. Other Business**
- 7. Adjournment**

1. Call to Order

Chair Maloney called the meeting to order at 7:01 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

Town Planner Hadik provided the Board with a link to a *Youtube* webinar entitled *From the Outskirts to Downtown: Taxes, Land Use & Value in 15 New Hampshire Communities*. Mr. Snyder noted that he viewed it and it was a good presentation, worth watching.

Ms. Hoijer provided the Board with copies of emails received tonight after office hours from Triad Winery dated December 15, 2020 at 4:01 PM and 4:33 PM requesting the Board consider changing Triad Winery's hours of operation to Friday, Saturday and Sunday until 7 PM.

3. Approval of Minutes

Public Hearing November 17, 2020

Chair Maloney recommended edits.

Mr. Gregsak motioned to approve the November 17, 2020 minutes as amended. Vice-Chair Scott seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

4. Updates

Chair Maloney asked the Administrative Assistant to follow up with Assistant Assessor Packard to see if corrections were made to the property tax cards which misidentified properties in the residential zone with commercial uses as commercially zoned. Obtaining a variance for a commercial use in the residential zone does not change the zone of the parcel to commercial. Chair Maloney noted it can be misleading to buyers who purchase property and rely on the tax card information to think they can conduct commercial activities there.

Chair Maloney asked if a response had been received to the Board's letter to Alan and Thomas Dupras, Map/Lot 13-17 informing them that their conditions of approval required them to reappear before the ZBA should the plan change. After the Board rendered their decision, the Duprases filed an application for restoration of involuntarily merged lots which if allowed by the BOS would effectively change the plan which the Board relied upon for approval and was a written condition in their decision. Ms. Hoijer indicated the Board has received no response to their letter.

Chair Maloney provided the Board with a copy of the NOD concerning the **MacLean** variance on Pulpit Rock Road, Map 2, Lot 82 dated October 17, 2018 which was conditioned upon Planning Board Approval. Chair Maloney provided the Board with a copy of the Planning Board approval dated October 23, 2018 which Mr. Gregsak noted has expired and noted the ZBA approval has now expired after two years. Chair Maloney indicated that she did not believe the applicant had implemented the variance and may have to come back to the ZBA. Mr. Gregsak asked if this was the parcel with the proposed Conservation easement that did not go through. Vice-Chair Scott noted the Board had not conditioned the decision on that easement, shame on us. Discussions broke down with the Conservation Commission and there was no easement. Vice-Chair Scott stated that he hoped the Board will find out more before the Planning Board reconditions it. Mr. Gregsak added that the applicant has to come before us anyway. Vice-Chair Scott noted he hates to describe the MacLean's application as another bite at the apple but feels the ZBA was misled concerning the Conservation easement and hopes the Planning Board will take that into consideration if it gives it another shot.

Ms. Hoijer reported the Town Planner presented the Estate's request for an extension at the last Planning Board meeting and it is her understanding they will have to return to the Planning Board for a Public Hearing as that approval expired after one year.

Chair Maloney informed the Board that on 12-11-20 the Board received a Right to Know Law Request from William & Corinna Reishus for any and all records with respect to Triad Winery applications (current and withdrawn) including but not limited to correspondence (legal and inter-office) and minutes (final and/or draft).

Chair Maloney provided the Board with a copy of her response dated 12-15-20. Vice-Chair Scott read the letter out loud to the Board.

December 15, 2020

William and Corrina Reishus

413 Lane Road
Chester, NH 03036
Re: Triad Winery

Dear Applicants:

We are in receipt of your request pursuant to RSA 91A for all Zoning Board of Adjustment records pursuant to your application for Triad Winery at 413 Lane Road, Chester.

This request is for all records with respect to Triad Winery applications (current and/or withdrawn including but not limited to correspondence (legal and/or interoffice) and minutes). Please be advised that any and all documents containing legal advice from the Board's attorney are exempt from disclosure, as confidential information, per RSA 91A:5 IV, and thus will not be supplied.

Your request for documents which do not yet exist, will be held until such time as those documents become available. When documents exist, which are responsive to your request, they will be provided, as required by RSA 91A:4 IV.

Under RSA 91A:4 IV (d), we will provide an estimate of charges for this project. We expect to have this estimate for you in approximately two weeks. Upon receipt from you of a check for the total estimated charges we will then commence copying the relevant records. We expect the copying to be another 2 weeks after we receive the check.

For your information, the Board charges \$20 per hour for the Board's administrative assistant time and \$0.50 per page for copying. There will be no charge for the estimate. The estimated periods are in line with the Governor's Executive Order 2020-23 and the part time hours of the Board's administrative assistant.

December 15, 2020

William and Corinna Reishus

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If you agree with the above please sign and return a copy of this letter to

Chester Zoning Board of Adjustment
PO Box 340
Chester, NH 03036

or you may email this to:

nhoijer@chesternh.org

Sincerely,

Billie L. Maloney Chairperson, The Zoning Board of Adjustment

cc: Chester Board of Selectmen
Ms. Deb Doda, Chester Town Administrator

Understood and agreed to by:

Corinna Reishus

William Reishus

5. Public Hearings:

1. The continuance of a 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.

Mr. Gregsak recused himself.

Chair Maloney noted at the last hearing in November the Board entered deliberations which were continued to this month. Vice-Chair Scott added that the public hearing portion was closed to consider deliberations. Mr. Snyder added "and for the Board to consider conditions."

Chair Maloney recommended that since the applicant felt they needed in their possession all the information requested under their Right to Know Request at this point in time, before we even come to a decision, the Board in order to allow time to respond to the request, should continue deliberations until next month to address all of the requests that the applicant has made.

Mr. Snyder agreed that was a wise move to make and furthermore he added that at the last meeting the Board discussed setting proper conditions as the application is for a commercial use and the Board agreed it would come up with a reasonable set of conditions and did not know if the Board has come up with those conditions yet.

Vice-Chair Scott added that the plan was that those conditions would be the topic tonight in that the public hearing is closed. The Board would discuss the merits of the application against the five points and consider conditions that might apply to this variance.

Chair Maloney noted the Board needs to address the applicant's Right to Know request. The applicant must feel they need all this information before the Board makes a decision. Mr. Snyder agreed. Mr. Cannon added that it is really his question what the applicant believes they are going to find.

Mrs. Reishus asked if she could speak. Vice-Chair Scott indicated no. Mr. Cannon noted he has a question about the Right to Know request and that he supposed he could not ask it. Chair Maloney noted that she had not yet opened up the public hearing and the Board is not in deliberations; they are just discussing the Right to Know Request. Mr. Cannon stated that he felt the Right to Know Request was a little aggressive and felt "somewhat offended by the request if you want to know the truth." Chair Maloney noted that she has been on the Board for 32 years and this is the first time the Board has ever had a request like this one, especially in the middle of deliberations when the Board has not even made a decision yet.

170 Mrs. Reishus asked if she could answer why she requested, then stated "I'm a paralegal by
171 trade, so for 25 years, you can ask anyone in the Town office, I'm the binder girl." "I just like to
172 have paperwork, that's what I do." "So it doesn't matter, have anything to do with the other
173 request which is currently on tonight." "The Right to Know Request is to have the accurate
174 information when I go to Planning next time."

175
176 Chair Maloney asked if the applicant had copies of all the applications they have sent to the
177 Board and Mrs. Reishus responded yes.

178
179 Chair Maloney stated you have copies of all of the minutes, copies of all abutters, copies of
180 most everything. Mrs. Reishus responded, "it's anything else that I may not have."

181
182 Chair Maloney informed the applicant that under the RSAs we have a certain time that we now
183 have to respond to because you officially sent a Right to Know request. Now we have to legally
184 respond.

185
186 Mr. Snyder noted it is kind of like a Pandora's box, once you open it you have to suffer the
187 consequences and if we've been requested to provide documentation, we have to do it. Chair
188 Maloney recommended continuing the hearing until next month to get all the information.

189
190 ***Mr. Snyder motioned to continue the public hearing for Triad Winery to January 19, 2021***
191 ***at 7:15 PM. Mr. Cannon seconded the motion. A vote was taken, all were in favor, the***
192 ***motion passed unanimously.***

193
194 Chair Maloney informed the applicant that once the Board receives the letter of approval for
195 costs signed by both her and her husband the Board will provide the Reishuses with an
196 estimate of costs within two weeks. As soon as the check for those costs is received by the
197 Board during office hours, we will begin copying the requested items. Chair Maloney added that
198 the Board only has eight hours per week to do work and a lot of that work is applications coming
199 in so we can't spend all of that eight hours doing copying. It is going to take two weeks. The
200 Board should have everything to the applicants by the time the Board meets again in January.

201
202 Mrs. Reishus asked the Board what the Right to Know Request had to do with this hearing.
203 "You continued our hearing to today from the last meeting. What does a Right to Know Request
204 have to do with another?"

205
206 Chair Maloney informed the applicant that a request was received, and the applicant must feel
207 that it is important to get all of that information. The Board has to do it legally and will provide
208 the information to the applicant before continuing with their hearing.

209
210 Mrs. Reishus stated that she understood that.

211
212 Mr. Snyder added that the information provided could affect the process of deliberation.

213
214 Vice-Chair Scott indicated he felt more comfortable complying with the freedom of information
215 request before deliberating as we have voted. Vice-Chair Scott stated that he could not help but

think there is a reason for it. "It is the first time the Board has experienced it" and Vice-Chair Scott stated he would like to address the request and get it done.

Chair Maloney stated that from this point next month we will take up our deliberations so that at this point the meeting has already been closed to the public so the Board cannot legally take in anymore information to consider in making its decision.

Chair Maloney clarified that any change of statement request from the application that has to do with the Board's decision has to be presented during the public hearing and once the public hearing has been closed to the public and we are in deliberations as we are now, the Board cannot take any more new information.

Vice-Chair Scott added that if there are found to be any glaring mistakes the Board would hope to correct them.

6. Other Business

Mr. Snyder asked about ZBA meetings and hearings in the future utilizing the Zoom format. The Board discussed the request and decided that Mr. Snyder could continue remotely, and the Board was in favor of continuing to meet with protocols, in person.

Chair Maloney stated that meeting in person is more personable and the Board can understand the applicant much better. Mr. Cannon added that he does a lot of Zoom meetings on other Boards, but he personally attends the ZBA meetings out of respect to the applicants. "When you are making decisions that could significantly affect applicants one way or another, I think it is respectful to look them in the eye when you make those decisions." Vice-Chair Scott shared an impersonable experience he had with a judge and the difficulty he had letting the judge know what he wanted to do. Chair Maloney added that she has spoken with a lot of applicants this year. They stated to her that they are very happy to come in here and be able to talk to us. A lot of these people aren't very computer savvy and Zoom kind of scares them.

Chair Maloney extended her thanks to the Board for coming to meetings this year and serving the Town the way they do and wished the Board a healthy and better New Year.

7. Adjournment

Vice-Chair Scott motioned to adjourn the meeting at 7:30 PM. Chair Maloney seconded the motion. A vote was taken, all were in favor, so moved.

Respectfully submitted,

Nancy J. Hoijer,
Recording Secretary