

**Town of Chester
Zoning Board of Adjustment
March 16, 2021
Town Hall
7:00 pm
Draft Minutes**

Members Present:

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

Members Absent:

Jack Cannon

Guests:

Town Administrator Debra Doda (remotely)
Triad (remotely)
Jacob Josef
Attorney Justin Pasay
James & Heather Meyers
Yvonne Vissing
Laura Thompson
Melissa Juchniewicz
Diane Crespo
Steven Moore
Jill Moore

Agenda

- 1. Call to Order/Roll Call**
- 2. Non-Public Session pursuant to 91-A:3(II)(c)**
- 3. Approval of Minutes – February 23, 2021**
- 4. Correspondence**
- 5. Updates**
- 6. Hearings**
- 7. Other Business**
- 8. Non-Public Session pursuant to 91-A:3(II)(e)**
- 9. Adjournment**

- 1. Call to Order**

Vice-Chair Scott called the meeting to order at 7:09 PM. By Roll Call were present: Billie Maloney, Kevin Scott, Bill Gregsak and Rick Snyder remotely. Vice-Chair Scott noted Alternate Rick Snyder was active.

2. Non-Public Session pursuant to 91-A:3(II)(d) acquisition of real estate

Chair Maloney motioned to go into non-public session pursuant to 91-A:3(II)(d). Vice-Chair Scott seconded the motion. A roll call vote was taken Maloney – aye, Scott – aye, Snyder – aye, and Gregsak – aye. The motion passed unanimously.

The meeting room was closed to the public at 7:09 PM.

Chair Maloney motioned to come out of non-public session and seal the minutes. Mr. Gregsak seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

The meeting room was reopened to the public at 7:30 PM.

3. Approval of Minutes - Tabled

Public Hearing February 23, 2021

4. Correspondence

Vice-Chair Scott noted a motion for rehearing had been received for the Connelly decision. Letters of Support were provided for the Crespo, Vissing and Moore applications.

5. Updates

Chair Maloney noted the Spring Planning & Zoning Conference would be online on May 15th which is unfortunately also the date of Town Meeting. Registration opens on March 25th if anyone would like to attend. Mr. Snyder asked if Ms. Hoijer could find out if the Conference would be streamed afterward.

6. Hearings

7:15 PM:

1. The application of Jacob M. Josef and Lauren R. Josef for a Variance from Article 5, Section 5.3.4 to permit limited short-term rental of the property.

On the premises known as Map/Lot 001-059-000, 87 Harantis Lake Road in the R-1 residential zone.

Vice-Chair Scott read out loud the Public Hearing Notice and advised the applicant there were four voting members present and the affirmative vote of at least three members would be needed to approve or deny the application. Vice-Chair Scott read out loud the 30-Day Notice of Appeal and provided a copy of the rehearing request and appeal procedure.

Attorney Justin Pasay appeared on behalf of the applicant and after speaking privately with the applicant stated he would prefer to continue the hearing and hope for five voting members.

Chair Maloney motioned to continue the hearing to March 22, 2021 at 7:30 PM. Mr. Snyder seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

2. The application of Yvonne M. Vissing, Trustee of the Yvonne M. Vissing Living Trust dated March 23, 2011 for a Variance from Article 5, Section 5.4.3 of the Ordinance to permit short-term rental not specifically permitted in the C-1 commercial zoning district.

On the premises known as Map/Lot 009-057-000, 726 Raymond Road in the C-1 Commercial zone.

Vice-Chair Scott read out loud the Public Hearing Notice and advised the applicant that four voting members were present and the vote of at least three were needed to approve or deny the application. Ms. Vissing indicated she would like to proceed.

Chair Maloney asked Ms. Vissing to go over the five points of her application.

Ms. Vissing explained that she purchased the property in 2006. The property was in need of repair and the land was a mess with a lot of holes. The dwelling was the original Wason home which had been located near the existing barn. Ms. Vissing noted she cleaned up the property, landscaped and renovated the dwelling's interior, exterior, house, garage and barn. The in-law apartment has been rented out for the past five years. In 2017 Ms. Vissing noted she visited Town Hall to find out if any permits were required to rent out the in-law apartment and visited several offices including the clerk and building inspector and was told there was no procedure. She has been working with Air BnB and supervises the health and safety of her guests. She has received awards for being an outstanding host. There are no signs, no additional traffic. She was notified by the Building Inspector in November that the rental was not compliant.

Vice-Chair Scott asked if the in-law apartment was existing when she purchased the property and Ms. Vissing answered yes. The in-law apartment has its own entrance, full kitchen, stove, refrigerator and full bath. There is a joint room, of one bedroom and living space and four closets.

Vice-Chair Scott asked the square footage of the in-law apartment and Ms. Vissing answered that she did not know, the house is approximately 3,500 SF.

Mr. Snyder noted that the Town will be voting in May to allow Bed and Breakfasts by Special Exception.

Vice-Chair Scott noted letters of support had been received from three neighbors.

Ms. Vissing read the five points of her application into the record noting the historic home was located in the Commercial district and would not alter the essential character or lower property values of surrounding homes, in fact the improvements she has made to the property would increase surrounding values. The horse property is tree lined and not observable from the street and has plenty of on-site parking. Guests are vetted by Air BnB to be safe and supervised to be sure they act appropriately. Visitors provide revenue to the Town's businesses and restaurants which are G&P, Your Variety, the gas station, the stables and events like the Pounder and horse shows at Senator Bell. There is no additional demand on Town fire or police. Her neighbor, Phil Gladu from the Fire Department wrote a letter on her behalf. The use of the business is a reasonable one given its location in the C-1 zone. Campgrounds are allowed and are short-term rentals, RVs are allowed. Guests come back to purchase property in Chester. The property is unique and is the only one in the area with an in-law apartment.

Vice-Chair Scott opened the hearing to public comment at 8:10 PM.

Melissa Juchniewicz of 715 Raymond Road stated she lives across the street, the property is set back and she has made it lovely. You wouldn't know she had people stay. Parents stay so they can visit their kids studying at UNH. She enjoys having this business across the street.

Laura Thompson of 20 Rod & Gun Club Road stated she also wrote a letter in support and her property abuts the applicant's. There is no impact to her, her home or the neighborhood and provides a useful service to the community. No one can tell the property is rented and there are no negative issues. Old appliances were observed in the kitchen before the renovations took place so she guessed it had been an apartment for a long time.

Mr. Gregsak asked how often the property is rented and Ms. Vissing noted almost not at all in the winter months, two to three months out of the summer.

Vice-Chair Scott closed the hearing to the public for deliberations.

Mr. Gregsak noted he had no problems with the application. The existing apartment was used in the past and she is now just looking for short-term use.

Chair Maloney noted the property is in the commercial zone and is appropriate and does not alter the neighborhood or threaten public health, welfare or safety or conflict with the purpose of the ordinance. Surrounding property values are not affected. The hardship is the residence in a commercial zone which makes the property different from other residences in a residential zone. The use is reasonable. Yes, on all five points.

Mr. Snyder noted he was in total support. The use is reasonable and has been in use for some time.

Vice-Chair Scott agreed noting it was interesting the Town is preparing to vote on this as a use by Special Exception. The apartment has been in operation for some time now. Vice-Chair Scott noted he supported all five points.

Chair Maloney motioned to grant the Variance from Article 5, Section 5.4.3 of the Ordinance to permit short-term rental not specifically permitted in C-1 zone. Mr. Gregsak seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

Vice-Chair Scott read out loud the 30-Day Notice of Appeal and provided a copy of the rehearing request and appeal procedure.

3. The application of Diane Crespo on behalf of Mary A. Gesel, Trustee of the Francis X. Gesel Sr. Revocable Trust of 2009 for a Variance from Article 5, Section 5.3.4 of the Ordinance to permit a two-chair hair salon in the R-1 Residential zone

On the premises known as Map/Lot 016-009-000, 15 Chester Street in the R-1 Residential zone.

Vice-Chair Scott read out loud the Public Hearing Notice and advised the applicant there were four voting members present and the affirmative vote of at least three members were required to approve or deny the application. Ms. Crespo indicated she would like to proceed.

Ms. Crespo noted the use was not contrary, the building has had mixed uses throughout the years. The salon would be a family friendly service to the community. The history of the property is long term non-residential use and would not alter the character of the neighborhood. The hardship would be leaving the commercial space vacant. The property was once occupied for the same identical use and would have the same configuration. The business would be open Monday to Saturday, closed on Sunday. There would be another operator Wednesday to Saturday with one operator working at a time. Ms. Crespo provided two pictures of the property showing the sink hookups still in place. Most recently the 225 SF space was used as a woodworking shop. The footprint would remain the same.

Vice-Chair Scott asked about parking which would be out front and not behind.

Vice-Chair Scott opened the hearing to the public for comments and questions at 8:30 PM and being none closed the hearing to the public for deliberations.

Mr. Snyder noted the applicant was restoring the use from long ago and noted he was in support. Vice-Chair Scott indicated receipt of two letters of support and no negative responses. Mr. Gesel has worked very hard to renovate the property and the same business has existed in that spot.

Mr. Gregsak noted no concerns, the business has existed in the same space in the past.

Chair Maloney agreed there were commercial uses throughout the building and a hair salon existed in the past. Parking has been addressed.

Chair Maloney motioned to grant the variance from Article 5, Section 5.3.4 to permit a two-chair hair salon in the R-1 residential zone. Mr. Gregsak seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

Vice-Chair Scott read out loud the 30-Day Notice of Appeal and provided a copy of the rehearing request and appeal procedure.

4. The application of Steven J. Moore and Jill E. Moore for Variances from Article 9, Section 4.7 of the Ordinance to permit a 1,846 SF Accessory Dwelling Unit (ADU) where the maximum square footage allowed is 1,000 SF and from Article 3, Section 3.1 of the Ordinance to permit an ADU to omit a sprinkler system required per Chester Building Code which is not required by State Building Code RSA 674:51 and a Special Exception permitted by Article 9.4 and 11, Section 4 of the Ordinance to create an attached Accessory Dwelling Unit

On the premises known as Map/Lot 002-063-000, 38 Hart Roberts Road in the R-1 Residential zoning district

Vice-Chair Scott read out loud the Public Hearing Notice and advised the applicant that four voting members were present and the votes of at least three members in the affirmative would be required to approve or deny their application. Ms. Moore indicated she would like to proceed.

Ms. Moore noted the ADU would comply with setbacks and area requirements and not add to the existing footprint. An interior door exists, parking is adequate, septic was signed off on by Mr. Hamm, the owner will occupy the premises, the area is at least 600 SF, no change to the interior, one bedroom, and the NOLO will be filed at the Registry of Deeds upon completion of the project. Ms. Moore noted her daughter currently lives with them and the ADU is for her.

Ms. Moore responded affirmatively to the conditions of Section 11.4 as read by Vice-Chair Scott. The Board addressed the requirement of a sprinkler which conflicted with the State ordinance and required a variance. Legislation is on the ballot for Town Meeting to remove the requirement.

Mr. Snyder motioned to grant a variance to waive the requirement for a sprinkler system for the ADU. Chair Maloney seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

The Board addressed the request to exceed the 1,000 SF maximum. Ms. Moore noted the space already exists within the current structure. There is 921 SF on the first floor and 550 SF on the second floor. The Board noted the square footage calculated by the Building Inspector doesn't add up to 1,846 SF.

Mr. and Mrs. Moore noted the entire dwelling would have to be structurally remodeled to make an ADU of less than 1,000 SF. The home is a large home to begin with, of over 7,800 SF. The space already exists. Values of surrounding properties would not be affected. There are only two homes on the street. The use is reasonable. There is no place to put an addition in the yard without interfering with the easement and there is a hill which would be expensive to excavate. The ADU is for use by family and not to generate income.

Discussion followed as to why 1,800+ SF was being requested. The applicant explained that a lot of the SF resulted from a large staircase, balcony area to the second floor where the bedroom is located. The area around the staircase on the first floor is very open and the windows are two-stories high. To make the ADU smaller, the windows and major structures would have to be removed.

Vice-Chair Scott noted the home was one of the largest in Chester. Mr. Snyder noted he could see the point of the applicant the way the house is configured and the unique size of the home.

Chair Maloney noted she inquired about the premises being a two-family and a fire wall would need to be put in when the home was built. The home is very large and unique and is not unreasonable to grant an ADU in a dwelling this size but is not something she would do on a regular basis. It is a unique situation. Chair Maloney voted yes on all five points.

Mr. Snyder agreed but questioned the accuracy of the square footage indicated by the Building Inspector.

Vice-Chair Scott voted yes on all five but noted he too would like to have the accuracy of the square footage resolved and continue the hearing until Monday's meeting on the 22nd. Vice-Chair Scott asked if the Building Inspector had come out and taken measurements and Mrs. Moore indicated no, she believed he used an existing floor plan he had on file in the office. Vice-Chair Scott will follow up with the Building Inspector tomorrow.

Mr. Gregsak motioned to continue the hearing to Monday, March 22, 2021 at 8:00 PM in deliberations. Chair Maloney seconded the motion A vote was taken, all were in favor, the motion passed unanimously.

7. Other Business

The Board scheduled consideration of the Motion for Re-Hearing for Connelly/Field to Ford Farm, 522 Haverhill Road, Map/Lot 002-091-000 to Monday, March 22, 2021 at 6:30 PM

Meeting Dates:

- March 22, 2021 – Meeting only – consideration of Motions for Rehearing – 6-6:30 PM
- March 22, 2021 – Public Hearing – Continuances: MacLean, Moore & Josef - 7 PM
- March 24, 2021 – MacLean Family Trust Public Hearing with the Planning Board

8. Non-Public Session pursuant to 91-A:3(II)(e) consideration of advice of legal Counsel

Vice-Chair Scott motioned to go into non-public session pursuant to 91-A:3(II)(e) consideration of legal advice. Chair Maloney seconded the motion. A roll call vote was taken Scott – aye, Maloney – aye, Gregsak – aye and Snyder – aye. The motion passed unanimously.

The meeting was closed to the public at 9:42 PM.

Chair Maloney motioned to come out of non-public session and seal the minutes. Vice-Chair Scott seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

The meeting was reopened to the public at 10:00 PM.

9. Adjournment

Chair Maloney motioned to adjourn the meeting at 10:00 PM. Mr. Gregsak seconded the motion. A vote was taken, all were in favor, so moved.

Respectfully submitted,

Nancy J. Hoijer,
Recording Secretary