

**Town of Chester
Zoning Board of Adjustment
September 21, 2021
Town Hall
7:00 PM
Approved Minutes**

Members Present:

Chair Billie Maloney
Vice-Chair Kevin Scott
William Gregsak
Jack Cannon

Members Absent:

Rick Snyder, Planning Board Ex-Officio Liaison

Guests:

Kyle G. Salie
Elizabeth Salie
Royal Richardson
Erika De Beckers
Erwan De Beckers
Sean Carlson
Paul Rich
Jerry McCarthy
Victor Chouinard
Kristina Snyder
Jonathan Farr
Bonnie Farr
Ms. Maher
Royal Richardson
Jason Walsh

And other persons unknown to the minute taker

Agenda

- 1. Call to Order/Roll Call**
- 2. Approval of August 17, 2021 Meeting Minutes**
- 3. Training**
- 4. Correspondence**
- 5. Updates**
- 6. Public Hearings**
- 7. Adjournment**

43 **1. Call to Order**

44 Chair Maloney called the meeting to order at 7:03 PM. By Roll Call were present: Billie
45 Maloney, Kevin Scott, Bill Gregsak, and Jack Cannon.

46 **2. Approval of Minutes – August 17, 2021 - Tabled**

47 Chair Maloney recommended edits.

48 **3. Training**

49 Chair Maloney reviewed upcoming training which was available:

- 50 • A Look at the New Housing Appeals Board – 10-13-21 Noon to 1 PM – Webinar
- 51 • 91-A Right to Know & Records Retention – 10-14-21 9 AM to 1 PM – Virtual \$55
- 52 • 2021 Virtual Land Use Law Conference 9-18-21 9 AM to 4 PM – Virtual (by recording)

53 **4. Correspondence**

54 Ms. Hoijer provided the Board with an Abutter's Report reflecting the difficulty in receiving back
55 the certified mail cards from the Post Office lately. The return receipts are used as proof of
56 notice to the applicants and abutters of the Public Hearing.

57 **5. Updates**

58 **a. Budget**

59 Mr. Cannon will work with Finance to complete the proposed ZBA budget and circulate it.

60 **b. Alternates**

61 Ms. Hoijer reported that she has handed out a couple of volunteer applications. If anyone would
62 be interested in serving on the ZBA as an Alternate; they must be 18 years old, a resident of
63 Chester and a US resident. There is often a lot of reading material to digest so they should
64 enjoy reading. Town Administrator Doda has placed an advertisement on the Town webpage.

65 **c. Progress Report – Application Form/Survey**

66 Ms. Hoijer was pleased to report that thanks to the new application instructions form worked on
67 by Mr. Cannon, the application instructions appear to be being followed. She received two
68 applications yesterday at the PO Box as required and they were both complete.

69 **d. Recommendations to Planning Board 2022 Ordinances**

70 Chair Maloney noted one recommendation to the Planning Board is to change the number of
71 alternates the ZBA is allowed to have to five to be consistent with the RSA.

72 Vice-Chair Scott suggested Article 9 ADUs. Ms. Hoijer noted she discussed with Caroline
73 Wilson the commercial sign setback which is 50' because it is a structure. This may be too far
74 back from the road as Mr. Farr testified and should perhaps have its own ordinance separate
75 from the table of dimensions for structures.

6. Public Hearings:

1. The continuation of the application of Kyle G. Salie and Elizabeth Salie for Variances from Article 9 to permit an 28'x32' Accessory Dwelling Unit on the second floor of a proposed garage not attached to a single-family dwelling which does not meet the requirement of Subsection 9.4.1 setback requirements or Subsection 9.4.2 Interior Door and a Variance from Article 5, Subsection 5.7.8 Table 2 (buffers and setbacks in the Wetlands Conservation District) to construct the structure comprised of the unattached garage and 28'x32' ADU within 59' of wetlands where 75' are required

On the premises known as Map 002-049-001, 15 Town Farm Road in the R-1 Residential zoning district

Vice-Chair Scott read out loud the public hearing notice. Vice-Chair Scott asked if there was anyone present from the public who had not received notice last month. Ms. Maher indicated that she had received their notices two days after the hearing last month. Ms. Hoijer noted Royal Richardson who was present received his two days after as well. Vice-Chair Scott asked if they would like the applicant to go over his application from the beginning and they did not feel it needed restating.

Vice-Chair Scott explained to the applicant that there were four members of the ZBA sitting tonight and an affirmative vote of at least three was required to approve or deny an application. He offered the applicants the opportunity to proceed or continue and hope for a full board. Mr. Salie indicated he would like to proceed with his request for a variance from the wetlands for the garage however he withdrew his application for an ADU. Mr. Salie handed out pictures of the proposed garage and indicated there will be no breezeway.

Chair Maloney asked the applicant to show where the garage would go and the Board reviewed the location of the proposed garage, existing irrigation and septic. The garage will be at an angle in the same spot. Most of the garage would be on his driveway.

The hearing was opened to the public at 7:16 PM.

Vice-Chair Scott indicated that he visited the property.

Public comment was closed at 7:18 PM.

Chair Maloney noted there were similar buildings downTown Farm Road, and it was not out of ordinary for the area.

Victor Chouinard from the Conservation Commission commented on the importance of observing the wetland setbacks. The public hearing was reopened. Vice-Chair Scott commented on culverts right up to roads and asked how the situations could be balanced and whether 75' was a good number. Mr. Chouinard indicated some roads that were built could not be built today. Vice-Chair Scott commented on the amount of road salt being dumped. Jason Walsh asked about the process for setbacks being established. Chair Maloney explained the process by which the Planning Board can bring an amendment to be voted on by the legislative body.

Mr. Richardson noted he had concerns about water. Prior to development his property flooded, and he couldn't get across. The Road Agent repaired the culvert, and he hasn't seen flooding in

years. The wetness is mitigated to the extent that his yard doesn't flood anymore. Chair Maloney noted with all the rain we have had the last couple of months you would be able to see flooding. Vice-Chair Scott noted water comes into his yard 115' out. Mr. Salie noted water streams across his property and his lawn mower gets stuck. Mr. Richardson noted water used to run across the front of the house.

The public hearing was closed at 7:26 PM for deliberations.

Chair Maloney noted there were a lot of wetlands on the property. She did not feel the application was contrary to the public interest or spirit of the ordinance, and would not alter the character of the neighborhood. Having the garage 16' closer would not threaten public health, safety or welfare provided unsafe materials were not stored. Values would not be affected. The hardship is there is nowhere else to put the garage because of the wetlands, and existing septic. The use is reasonable. Chair Maloney voted yes on all five criteria.

Mr. Cannon agreed and noted the revised plan makes good sense. He is on board with all five criteria with no reservations whatsoever.

Mr. Gregsak agreed with Mr. Cannon and stated that he had no problem with all five points.

Vice-Chair Scott stated he was on board also and would like to talk more about attached versus detached ADUs and whether the setback table of 75' feels good for wetlands or is it necessary. He discussed this with Assistant Assessor Packard, and she told him there has never been impact on a variance given for a wetland setback. He would vote yes on all five criteria also.

Vice-Chair Scott motioned to grant the application of Kyle G. Salie and Elizabeth Salie for a Variance from Article 5, Section 5.7.8 (Table 2) (buffers and setbacks in the Wetlands Conservation District) to construct an unattached 28'x32' garage within 59' of the wetlands where 75' are required. Mr. Gregsak seconded the motion. A vote was taken, all were in favor, the motion passed 4-0-0.

Vice-Chair Scott read out loud the 30-Day Notice of Appeal and passed out a handout concerning the appeal process.

The application of Sean Carlson and Amanda Carlson for a variance from Article 5, Section 5.7.8, Table 2 (Table of Dimensional Requirements) of the zoning ordinance to permit a detached garage to be within 70.5' from the wetlands where 75' are required

On the premises known as Map 002-045-000, 178 Halls Village Road in the R-1 Residential zoning district.

Vice-Chair Scott read out loud the Public Hearing Notice.

Vice-Chair Scott explained to the applicant that there were four members of the ZBA sitting tonight and an affirmative vote of at least three was required to approve or deny an application. He offered the applicants the opportunity to proceed or continue and hope for a full board. Mr. Carlson indicated he wished to proceed and read his application into the record. He noted the hardship was wetlands not found on surrounding properties and that without a variance he would have to tear down the structure and rebuild it.

Chair Maloney summarized that Mr. Carlson had been here in February for a variance for a non-conforming driveway extension to the back of his property to the proposed detached garage. When the garage foundation was built, he discovered the contractor had poured the foundation 5' short of the 75' wetland setback. The Building Inspector went out and Mr. Carlson noted a few days later the garage was not in the spot he talked about. It got moved over. He called the Building Inspector and needed a licensed survey which took about six weeks.

The public hearing was open at 7:37 PM.

Mr. Cannon asked if the garage was existing, and Mr. Carlson noted it was just framed so far. Mr. Cannon noted he doesn't know how these issues are not discovered. He noted it was not the applicant's fault. He has been in business 45 years and has seen it happen. Chair Maloney noted he found the error and was honest and told the Building Inspector, paid for a variance and survey which cost a lot of money. Vice-Chair Scott agreed and noted it was not the first time he has seen it.

The public hearing was closed at 7:44 PM.

Chair Maloney noted he meets all five criteria and commended him for picking up the mistake and being honest. She voted yes on all five points.

Mr. Cannon agreed and was hard pressed to find a reason to deny it.

Mr. Gregsak agreed denial would do more harm than good and has no problem approving it.

Vice-Chair Scott motioned to approve the application of Sean Carlson and Amanda Carlson for a variance from Article 5, Section 5.7.8., Table 2 to permit a detached garage to be within 70.5' from the wetlands where 75' are required. Chair Maloney 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 passed out a handout concerning the appeal process.

The application of Paul J. Rich for a variance from Article 5, Section 5.7.8, Table 2 (Table of Dimensional Requirements) of the zoning ordinance to permit a garage to be built 65' from wetlands where 75' are required

On the premises known as Map 011-014-206, 23 Birch Road in the R-1 Residential zoning district.

Vice-Chair Scott read out loud the Public Hearing Notice.

Vice-Chair Scott explained to the applicant that there were four members of the ZBA sitting tonight and an affirmative vote of at least three was required to approve or deny an application. He offered the applicants the opportunity to proceed or continue and hope for a full board. Mr. Rich indicated he wished to proceed and read his application into the record.

Mr. Rich described the wetland and small culvert under the road. He noted he was the only one in the neighborhood without a garage. He noted the septic and small mound disturbed in the swamp in the back and vernal pool. It is not feasible to locate the garage elsewhere on the property.

Jerry McCarthy of 17 Birch Road stated he is an abutter and voiced no objection. He stated that he supported the application noting it would add value to his house.

The public hearing was closed at 7:58 for deliberations.

Mr. Gregsak noted the house was built 30 years ago and the garage will be in the same area as the existing driveway. He voted yes on all five and had no problems with the application as proposed.

Chair Maloney noted it was in the public interest, not contrary to the ordinance, did not alter the character of the neighborhood or affect value. There are special conditions of the property. It is a reasonable use. She would vote yes on all five criteria.

Mr. Cannon stated he would vote yes as the way the water is managed is adequate and the garage would not place any additional burden.

Vice-Chair Scott noted he viewed the property today and found Mr. Rich's testimony accurate and agreed the water is being managed. He had no problem with any of the five criteria.

Vice-Chair Scott motioned to approve the application of Paul J. Rich for a variance from Article 5, Section 5.7.8., Table 2 to permit a garage to be built 65' from wetlands where 75' are required as depicted on the plan presented. Chair Maloney 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 passed out a handout concerning the appeal process.

The application of Edsel Barred Properties, LLC d/b/a Farr Automotive Repair for a variance from Article 5, Section 5.4.4 Table 1 (Table of Dimension Requirements) of the zoning ordinance to permit a sign with 0' setback from the side property line where 50' are required

On the premises known as Map 009-063-000, 680 Raymond Road in the C1 Commercial zoning district

Vice-Chair Scott read out loud the Public Hearing Notice.

Vice-Chair Scott explained to the applicant that there were four members of the ZBA sitting tonight and an affirmative vote of at least three was required to approve or deny an application. He offered the applicants the opportunity to proceed or continue and hope for a full board. Mr. Farr indicated he wished to proceed and read his application into the record.

Mr. Farr noted the sign location would make his business easier to find and safer for those visiting it. Customers have to turn onto Shaker Heights now. The hardship is there is no spot on the land that complies with the zoning ordinance. The sign has to be readable given the speeds on Route 102. There is also a lot of underground dig safe activity, and he doesn't want to cut down more trees. The curve on 102 was changed by the state who straightened it without a lot line adjustment.

Chair Maloney reviewed the proposed size of the sign – 6.5' x 4' high, 30SF. She asked how he calculated 0' and he explained it is the post on the property line. He pointed out the direction of

the telephone pole and auxiliary pole close to the condominiums. The pole to the fence is the property line. This is the pole closest to Route 102.

Vice-Chair Scott noted E&D's sign is 15' further. The application is accurately described and well written. It is the only reasonable spot. Visitors have to be able to see the sign traveling 40 MPH. He would vote in the affirmative.

Mr. Cannon noted the business was operating for a year now and he has been by and wondered why there is no sign. He noted he would support the application.

The public hearing was closed at 8:18 PM for deliberations.

Chair Maloney noted it passed all five points. Mr. Cannon noted he had no complaints.

Vice-Chair Scott motioned to approve the application of Edsel Barred Properties, LLC d/b/a Farr Automotive Repair for a variance from Article 5, Section 5.4.4 Table 1 (Table of Dimensional Requirements) of the zoning ordinance to permit a sign with 0' setback from the side property line where 50' are required to meet all other Town standards. Mr. Cannon 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 passed out a handout concerning the appeal process.

The application of Erika De Beckers and Erwan De Beckers d/b/a Ark Animal Homecare, PLLC on behalf of Paul Faxon and Darlene J. Faxon for a variance from Article 5, Section 5.3.4 (Prohibited Uses in the R-1 zone) to operate a commercial veterinary practice on the premises in addition to three mobile veterinary vans which will be parked on-site and utilized as part of the veterinary practice

On the premises known as Map 005-045-000, 10 Edwards Mill Road in the R-1 Residential zoning district.

Vice-Chair Scott read out loud the Public Hearing Notice.

Vice-Chair Scott explained to the applicant that there were four members of the ZBA sitting tonight and an affirmative vote of at least three was required to approve or deny an application. He offered the applicants the opportunity to proceed or continue and hope for a full board. Mrs. De Beckers indicated she wished to proceed and read her application into the record.

Mrs. De Beckers noted she would like to move her current operation from 112 Towle Road so she could have ample parking and employees. Mr. De Beckers reviewed the site plan noting they would remove pavement and replace it with crushed stone to decrease impervious surface. The State suggested the new driveway to have a perpendicular entrance. There is space in the back for a pool. The Town needs a veterinary service. The new location would enhance safety. The use is reasonable.

The hearing was closed to the public at 8:54 PM for deliberations.

Vice-Chair Scott noted a couple of months ago this site was suggested by a non-board member but had been under agreement at the time. He stated that he can't think of a more appropriate location for this business and is totally in favor of the application.

Mr. Cannon supports the application and service to the Town. They have held vaccination clinics. Towle Road is more problematic to make these kinds of improvements. There would be no more new traffic. He has no issue. The five points meet the criteria.

Chair Maloney agreed there is a good line of sight. It does not affect the character of the neighborhood; threaten public health, safety or welfare. The benefit of granting to the applicant is not outweighed by any harm to the public to deny. The values of surrounding property won't be affected. The hardship is the business which has existed for many years on this property. It is a reasonable use. She would vote yes on all five criteria.

Mr. Gregsak is in agreement with the ideal location and is in favor on all five points.

Vice-Chair Scott motioned to approve the application of Erika De Beckers and Erwan De Beckers d/b/a Ark Animal Hospital, PLLC on behalf of Paul Faxon and Darlene J. Faxon for a variance from Article 5, Section 5.3.4 (Prohibited Uses in the R-1 zoning district) to permit operation of a commercial veterinary practice on the premises in addition to their mobile veterinary vans which will be parked on-site and utilized as part of the veterinary practice. Chair Maloney 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 passed out a handout concerning the appeal process.

7. Other Business

Rules of Procedure Amendment

Chair Maloney recommended revising the Rules of Procedure so that the Administrative Assistant will contact legal after consulting with either herself or Vice-Chair Scott. She provided written edits. The Board will sign at the next meeting.

Vice-Chair Scott motioned to amend the Rules of Procedure and sign at the next meeting. Mr. Cannon seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

Appointment Times

Vice-Chair Scott proposed that appointment times be left off the Public Hearing Notice in the event that applications conclude sooner than expected so that the public, abutters and interested parties will not miss the hearing.

8. Adjournment

Vice-Chair Scott motioned to adjourn the meeting at 9:10 PM. Mr. Cannon seconded the motion. A vote was taken, all were in favor, so moved.

Respectfully submitted,

Nancy J. Hoijer,
Recording Secretary