

**Town of Chester  
Zoning Board of Adjustment  
November 15, 2022  
Town Hall  
7:00 PM  
Approved Minutes**

**Members Present:**

Chair Billie Maloney  
Vice-Chair Kevin Scott  
William Gregsak (remotely)  
  
Jason Walsh, Alternate

**Members Absent:**

Rick Snyder, Planning Board Ex-Officio Liaison  
Jack Cannon

**Guests:**

John Kenyon  
Rebecca Warner  
Joyce Trudeau  
Eric Nojes  
Kevin Magner  
Michael Wells  
Claudia Wells

And other persons unknown to the minute taker.

**Agenda**

- 1. Call to Order/Roll Call**
- 2. Public Hearings**
- 3. Approval of October 18, 2022 Meeting Minutes**
- 4. Correspondence/Financials**
- 5. Updates**
- 6. Other Business**
- 7. Training**
- 8. Non-Public 91-A:3(II)(if needed)**
- 9. Adjournment**

## 1. Call to Order

Chair Maloney called the meeting to order at 7:00 PM. By Roll Call were present: Billie Maloney, Kevin Scott, Bill Gregsak and Jason Walsh. Chair Maloney indicated that she, Kevin Scott, Bill Gregsak, and Jason Walsh would be voting and that the affirmative vote of at least three members were needed to take any action. As there were only four members present Chair Maloney offered the applicants the opportunity to continue their applications to the next meeting when there may be a full Board. The applicants indicated they wished to proceed.

## 2. Public Hearings

### 1. The continuance of the application of Joyce Trudeau

For a Variance from Article 5, Section 5.3.5, Table 1 (Table of Dimensional Requirements) to install a second garage that is 16'x24' located ten (10') feet from the side property line where 25' are required

On the premises known as and numbered Map 009, Lot 057-000, 67 Towle Road in the Residential zoning district.

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

Chair Maloney reviewed what happened at the last meeting: the applicant presented an Appeal of Administrative Decision concerning the Building Inspector's denial on the grounds that the garage being built was within the side setback and the applicant did not agree. Mr. Gregsak, Mr. Snyder and the Administrative Assistant did a lot of research of the history of the parcels going back to the 1970s looking at deeds and plans. The Board found that the frontage and acreage of the tax maps most likely reflected the deeds, however markers were supposed to have been set. Vice-Chair Scott went out to the property and met with Mr. Nojes in an attempt to locate those markers. Vice-Chair Scott noted that he met with abutter Sandy Clark who pointed to the location where she believed the front marker had been. Mr. Nojes strung a bright red string to the corner marker. Based on that Vice-Chair Scott noted the building in question was outside of the setbacks by some 35+ feet. Vice-Chair Scott indicated that he started at the Spring Hill Farm property and the tax map showed 510' which ended at a telephone pole and didn't line up 70' where he located the Clark's diagonal paddock fence (580'). There was nothing found on the ground. Vice-Chair Scott continued to measure the Clark frontage shown as 368' on the tax map from the 70' and where Mrs. Clark thought the marker should be. Arabian Way was surveyed and measured out to Towle Road, and the tax map and Trudeau property didn't line up with anything.

Vice-Chair Scott indicated the Administrative Assistant drafted a letter to Scott Marsh at MRI, the Town's Tax Assessor to see if they would take a look at this and see what he says. Vice-Chair Scott read the proposed letter out loud. Chair Maloney requested that Mr. Gregsak's letter be added. The Administrative Assistant located and displayed the Conservation Easement plan for the Clark property (Map 9 Lot 42) and that had a 50' access right of way along the frontage of Towle Road at the boundary of the Trudeau property and was also not shown on the tax map. She will let Conservation know this should be monumented.

Mr. Nojes indicated that he found a stone with a drill mark in the center 10' toward the Trudeau property and about 35' to the setback from the building in question. Vice-Chair Scott offered to go tomorrow to verify the information and if necessary, will meet with the Building Inspector. Mr.

84 Gregsak and Mr. Walsh indicated they would like to attend also, and the Board agreed to  
85 continue the hearing until tomorrow morning at 8 AM at the premises.

86 Chair Maloney noted the Building Inspector's denial was based on the Site Plan provided to him  
87 by the applicant which was a hand drawn sketch which did not shown any dimensions. The  
88 applicant was informed that the Site Plan may need to be updated to get the permit. Chair  
89 Maloney noted the burden of proof is on the applicant but if they have found that bound and it  
90 can be measured the Board could say that she doesn't need a variance.

91 The Board voted to continue the application for a variance until the following morning at 8 AM at  
92 the premises, open to the public, and thereafter will meet to consider the application at its  
93 January meeting, if necessary. Chair Maloney indicated the ZBA has no December meeting,  
94 but that there was no rush, and she would not have to take the structure down until the Board  
95 makes a decision. Mrs. Trudeau consented to the continuance of her decision until January, if  
96 necessary. The Board agreed if the testimony were confirmed tomorrow morning it would issue  
97 a letter stating that a variance was not required.

98 ***Vice-Chair Scott motioned to continue the hearing until January 17, 2023 at 7:00 PM. Mr.***  
99 ***Gregsak seconded the motion. A vote was taken, all were in favor, the motion passed***  
100 ***unanimously.***

101  
102 2. The application of Kevin M. Magner

103  
104 For a Special Exception pursuant to Section 9 and 11.4 of the Ordinance

105  
106 To allow an attached Accessory Dwelling Unit

107  
108 On the premises known as and numbered Map 8, Lot 21, 37 Lane Road, in the R-1 Residential zoning  
109 district

110  
111 Vice-Chair Scott read out loud the Public Hearing Notice.

112 Mr. Magner read his application into the record and answered the questions read out loud by  
113 Vice-Chair Scott concerning the requirements for an attached ADU by Special Exception found  
114 in the Ordinance under Articles 9 and 11.4. Mr. Magner answered affirmatively and provided his  
115 septic plan. Mr. Magner was provided with a copy and notified that the Notice of Limited  
116 Occupancy would be provided to the Building Inspector upon completion and recorded at the  
117 Registry of Deeds.

118 Chair Maloney asked if the ADU was connected to the house by a breezeway and Mr. Magner  
119 described the connecting breezeway as an extension of his living room, weather tight, finished  
120 with exterior shingles and window. He indicated it was not a walkway with a cover.

121 Chair Maloney opened the hearing to the public at 7:28 PM for comments and questions and  
122 being none closed the hearing to the public for deliberations.

123 The Board indicated he met all the requirements.

124 ***Chair Maloney motioned to grant the application of Kevin Magner for an attached***  
125 ***Accessory Dwelling Unit. Mr. Gregsak seconded the motion. A vote was taken, all were***  
126 ***in favor, the motion passed unanimously.***

127 Vice-Chair Scott read out loud the 30-Day Notice of Appeal.  
128  
129 3. The application of Michael H. Wells and Claudia M. Wells, Trustees of the Wells Family Revocable Trust  
130  
131 For a Variance from Section 5, Subsection 5.3.5 Table 1 (Table of Dimensional Requirements) of the  
132 Ordinance to install an approximately 252 SF parking area to the right of the existing driveway within the  
133 40' front setback  
134  
135 On the premises known as and numbered Map 013, Lot 034-003, 23 Holman Way, in the R-1 Residential  
136 zoning district  
137  
138 Vice-Chair Scott read out loud the Public Hearing Notice.

139 Mr. Wells read his application into the record indicating that there was no other place to put the  
140 parking pad that would comply with the setbacks and challenges of the ledge and slope and two  
141 front setbacks of the corner lot. He indicated the camper is in the driveway now. The corner  
142 has a high elevation and ledge. The use is reasonable and would not interfere with anyone.  
143 Parking the camper on grass would lead to it becoming rusty underneath. The camper is a pull-  
144 behind and there would be no leaking fuels or automotive chemicals. The current size of the  
145 driveway makes it difficult to navigate the two-car garage, blocking one side and makes snow  
146 removal difficult in the winter.

147 Vice-Chair Scott indicated he visited the property today.

148 Chair Maloney asked how big the lot was and Mr. Wells indicated two acres.

149 Mr. Walsh asked about the excavation and any landscaping to support it and Mr. Wells  
150 indicated it would be graded.

151 Chair Maloney opened the hearing to the public for comments and questions and noted there  
152 was no public present other than the other applicants.

153 Chair Maloney asked if the other neighbors minded the camper and Mrs. Wells noted there was  
154 no one here in opposition to the application. Vice-Chair Scott noted other campers parked in  
155 the neighborhood as well as a school bus 100' yards away.

156 Vice-Chair Scott noted there would be no expansion of the driveway permit required. The  
157 application was well written, accurate and noted he had to park on the road himself when he  
158 visited the site as he couldn't park in the driveway. Vice-Chair Scott noted he has plowed snow  
159 for years and wouldn't want to do that driveway, it's tough, pitched on both sides.

160 Mr. Gregsak noted he went out there today and described the pad as being similar to an area to  
161 back up your car. He noted he doesn't see any detriment to the neighborhood, values or  
162 character and saw other campers in the neighborhood. He agreed with the applicant's answers  
163 and confirmed there is a hardship in the shape of the corner lot with 40' frontages on both sides.  
164 The pad will alleviate the need to park cars on the road and help with snow plowing.

165 Mr. Walsh indicated the applicant covered the five points very well and felt the application was  
166 not contrary to the public interest and a better option than keeping vehicles on the road. The  
167 hardship is the ledge on one side, the corner lot eats into the usable space. He thanked Mrs.  
168 Wells for drawing a picture of the driveway and parking pad to show its location. He agreed the

169 neighbors would be here tonight if they had an issue. He indicated he would have no issue with  
170 any of the five points.

171 Chair Maloney indicated she would vote yes on all five points and did not think the proposal  
172 would decrease values. The hardship was the corner lot with 40' front setbacks on both sides  
173 and the special conditions of the property stated. The use is reasonable.

174 ***Vice-Chair Scott motioned to approve the application of Michael Wells and Claudia Wells***  
175 ***for a variance from Section 5, Subsection 5.3.5, Table 1 (Table of Dimensional***  
176 ***Requirements) to install a 252' parking area to the right of the existing driveway within***  
177 ***the 40' setback. Chair Maloney seconded the motion. A roll call vote was taken Walsh –***  
178 ***aye, Gregsak – aye, Maloney – aye and Scott – aye. The motion passed unanimously in***  
179 ***favor.***

180 Vice-Chair Scott read out loud the 30-Day Notice of Appeal.

181  
182 4. The application of Rebecca Marie Warner

183  
184 For a Variance from Section 5, Subsection 5.7.8, Table 2 (Table of Dimensional Requirements – Wetlands)

185  
186 To erect a 120'x4' retaining wall 55' from wetlands where 75' are required

187  
188 On the premises known as and numbered Map 008, Lot 008-112 in the R-1 Residential zoning district

189

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

191 Ms. Warner read her application into the record. She noted the retaining wall would be  
192 aesthetically pleasing and noted the hardship unique to the property was the wetlands and  
193 steep incline of the side yard and described the reasonable use of the property. Mr. Kenyon  
194 passed out pictures.

195 Mr. Gregsak asked about the drainage swale shown on the plan submitted by the applicant. He  
196 asked if there was an associated easement. Ms. Hoijer indicated there was none shown on the  
197 subdivision plan, but she could follow up on that. Mr. Gregsak indicated he would like to know  
198 the limit of the easement and noted the 3:1 slope to the swale. Ms. Warner noted the swale will  
199 remain and described the culvert under the driveway and berm. She noted she has a perimeter  
200 drain that goes to the swale and the wall will not make that go away. The pipe comes out  
201 between the crest of the hill. The swale is 30.'

202 Chair Maloney asked if the wall would change drainage and Mr. Gregsak explained their  
203 concerns with changing the character or slope to the drainage easement. Mr. Kenyon indicated  
204 the wall would be 10-15' away.

205 Mr. Gregsak asked if 55' was the closest to wetlands and she indicated yes. Vice-Chair Scott  
206 noted the denial did not reference the easement. He questioned whether the slope would allow  
207 less runoff. Chair Maloney indicated the approval could be conditions on the wall not affecting  
208 the easement.

209 Chair Maloney opened the hearing to the public at 8:10 PM and noted there was no one present  
210 other than the applicant and Mr. Kenyon. She noted the wall was beautiful and so long as it did

211 not interfere with the drainage, she would vote yes on all five points. The use was reasonable,  
212 and she could see no harm to the neighborhood.

213 Vice-Chair Scott stated the application was good and he looked at the site. The site is very  
214 steep. The wall will enhance the walk and provide emergency access/egress if necessary. The  
215 plan is sound, and he was happy with all five answers.

216 Mr. Walsh agreed and stated he had no issue with any of the five points. The yard needs the  
217 wall. It enhances the values; the use is reasonable.

218 Mr. Gregsak stated he was good with all five responses and that it enhanced the land, the spirit  
219 was observed and there is only a small area of the wall within the 75' wetlands setback as it  
220 comes back to a point. He stated substantial justice would be done and values would not be  
221 diminished. The lay of the land is the hardship. He would vote yes so long as the condition  
222 concerning the drainage easement is considered.

223 Vice-Chair Scott agreed the wall is 120' long but the entire wall is not in the setback, and it  
224 would be hard to locate it somewhere else.

225 ***Chair Maloney motioned to grant a variance to Rebecca Warner from Section 5,***  
226 ***Subsection 5.7.8, Table 2 (Table of Dimensional Requirements – Wetlands) to permit a***  
227 ***120'x4' retaining wall 55' where 75' are required with the condition that the wall not***  
228 ***impinge on any easement that exists. Vice-Chair Scott seconded the motion. A roll call***  
229 ***vote was taken Walsh – aye, Gregsak – aye, Maloney – aye and Scott – aye. The motion***  
230 ***passed unanimously in favor.***

231 Vice-Chair Scott read out loud the 30-Day Notice of Appeal.  
232

### 233 **3. Approval of Minutes – October 18, 2022 – TABLED**

234 Chair Maloney requested more time to review the edits and requested that Ms. Trudeau's  
235 permission to continue according to the new legislative requirements be noted in the minutes of  
236 both meetings. Approval of the minutes were tabled to the next meeting.

### 237 **4. Correspondence/Financials**

238 Vice-Chair Scott asked the Administrative Assistant if any correspondence had been received  
239 and she indicated that none had been received and all certified mail receipts had been received  
240 back in the office.

### 241 **5. Other Business**

### 242 **6. Training**

### 243 **7. Non-Public Session pursuant to 91-A:3(II) if needed**

244

245 **8. Adjournment**

246 ***Vice-Chair Scott motioned to adjourn the meeting at 8:20 PM. Chair Maloney seconded***  
247 ***the motion. A vote was taken, all were in favor, so moved.***

248 Respectfully submitted,  
249 Nancy J. Hoijer,  
250 Recording Secretary