

**Town of Chester
Zoning Board of Adjustment
April 18, 2023
Town Hall
7:00 PM
Approved Minutes**

Members Present:

Chair Billie Maloney
Vice-Chair Kevin Scott
Jack Cannon
Jason Walsh, Alternate

Members Absent:

William Gregsak
Rick Snyder, Planning Board Ex-Officio Liaison
Selectman Dick Trask, Select Board Liaison

Guests:

Mike Oleson
Steven Gallerani
Mr. Dillon
Robert Marcotte
Stacy Marcotte

And other persons unknown to the minute taker.

Agenda

1. Call to Order/Roll Call
2. Non-Public Session 91-A:3(II)(c) if needed
3. Approval of Meeting Minutes: March 21, 2023
4. Public Hearings
5. Correspondence/Financials
6. Updates
 1. New BOS Liaison
 2. Proof of Residency - ADU
 3. Mill Pine M/L 10-1 – Cease & Desist
 4. NH Planning & Land Use Regulations 2022-2023
 5. Advertising Costs
 6. Clough – Permit Issued
 7. Busche Academy – Lions MP Athletic Center 8-23
7. Other Business

44 **8. Training**

45 **1. Ordinance & Local Code – Electronic Copies Available**

46 **2. Spring Virtual Conference – Sat. April 29, 2023 8:45-3:30**

47 **9. Adjournment**

48 **1. Call to Order**

49 Chair Maloney called the meeting to order at 7:00 PM. By Roll Call were present: Billie
50 Maloney, Kevin Scott, Jack Cannon, Alternate Jason Walsh who was activated. Chair Maloney
51 indicated that she, Kevin Scott, Jack Cannon and Jason Walsh would be voting and that the
52 affirmative vote of at least three members were needed to take any action. Applicants were
53 given the option to postpone their hearing to next month.

54 **2. Approval of Meeting Minutes – March 21, 2023**

55 Mr. Cannon asked to discuss the issue raised last month concerning the process in which the
56 Building Inspector issues denials. The Board noted the process is not as thorough or complete
57 as it should be, and he has gotten feedback from residents. Mr. Cannon recommended the
58 Board draft a letter to the Town Administrator stipulating their concerns in specific detail.

59 The Board discussed over the past several months that Ms. Trudeau (Towle Road) has still not
60 received her permit and it is approaching a year. After the Board determined she did not need a
61 variance the Building Inspector informed her the structure did not meet code. The Board
62 discussed how it would have benefited the applicant who could have spent several thousand
63 dollars on a survey he requested during the variance process, and expending hundreds on the
64 variance application, only to be denied for another reason, many months afterward. There was
65 a second applicant, heard last month, who requested that he inspect the structure prior to
66 applying for a variance and was refused.

67 Ms. Hoijer noted that Ms. Trudeau may have gotten caught in a weird timeframe. The 2018
68 code that changed the windspeed and snow load requirements was adopted by the State (July
69 1, 2022) and she had been issued her first denial letter in May of 2022.

70 The Board agreed a letter would be drafted to the Town Administrator asking that the Building
71 Inspector's denial letter contain all the reasons for denial and that Chair Maloney and Vice-Chair
72 Scott will prepare that letter.

73 ***Mr. Walsh motioned to approve the March 21, 2023 meeting minutes. Vice-Chair Scott***
74 ***seconded the motion. Mr. Cannon abstained. The motion passed 3-0-1.***

75 **3. Public Hearings**

76 1. The application of Mike Oleson on behalf of Steven John Gallerani and Sally Ann Naya Gallerani
77

78 For a Special Exception in accordance with Sections 9.4 and 11.4 of the Ordinance to permit an Accessory
79 Dwelling Unit (ADU)

80
81 On the premises known as Map 005, Lot 112-002, 224 Sandown Road, Chester, NH in the R-1 Residential
82 zoning district

83
84 Vice-Chair Scott read out loud the public hearing notice.
85

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

87 Mr. Oleson presented the application on behalf of Steven and Sally Ann Gallerani for a Special
88 Exception to permit an Accessory Dwelling Unit on the premises to be constructed at 224
89 Sandown Road.

90
91 The Board reviewed the plans. Vice-Chair Scott read the definition of Accessory Dwelling Unit
92 under Article 9.3.1.

93
94 Chair Maloney reviewed each and every criteria in section 9.4 and Vice-Chair Scott reviewed
95 each and every criteria that applied in section 11.4.1 with Mr. Oleson who answered affirmatively
96 to each of the questions. The Board discussed annual proof of residency provided to the Tax
97 Assessor and the requirements for the Notice of Limited Occupancy to be provided for signature
98 to the Building Inspector, recorded at the applicant's expense at the Registry of Deeds with a copy
99 provided to the ZBA.

100
101 Vice-Chair Scott stated that the applicant should be sure to understand all of the affirmations
102 made by Mr. Oleson on their behalf.

103
104 Chair Maloney opened the hearing to the public for comments and questions and Mr. Dillon who
105 identified himself as an abutter stated that he had no objection to the application as presented.

106
107 Chair Maloney closed the hearing to the public for deliberations.

108
109 ***Vice-Chair Scott motioned that the applicant has responded affirmatively to all of the***
110 ***requirements under Articles 9.4 and 11.4.1 of the Ordinance and moves to approve the***
111 ***request of Steven Gallerani and Sally Ann Gallerani for an attached Accessory Dwelling***
112 ***Unit at 224 Sandown Road. Mr. Cannon seconded the motion. A vote was taken, all were***
113 ***in favor, the motion passed unanimously.***

114
115 Vice-Chair Scott read out loud the 30-Day Notice of Appeal.

116
117 Mr. Oleson asked how long the approval is good for as work may not begin for a year. Vice-Chair
118 Scott and Chair Maloney explained the requirements for the variance to be considered
119 implemented within two years.

120
121 2. The application of Mike Oleson on behalf of Vincenzo Bologna and Laura Q. Stack Bologna, Trustees
122 of the Vincenzo Bologna Revocable Trust u/d/t dated May 17, 2017

123
124 For a Special Exception in accordance with Section 9.4 and 11.4 of the Ordinance to permit an Accessory
125 Dwelling Unit (ADU)

126
127 On the premises known as Map 010, Lot 010, 769 Fremont Road, Chester, NH in the R-1 Residential zoning
128 district

129
130 Vice-Chair Scott read out loud the Public Hearing Notice.

131
132 Mr. Oleson presented the application on behalf of the Trustees of the Vincent Bologna Revocable
133 Trust for a Special Exception to permit an Accessory Dwelling Unit on the premises to be
134 constructed at 769 Fremont Road. He noted the existing structure would be demolished.

135
136 The Board reviewed the plans.

Mr. Walsh reviewed each and every criteria in section 9.4 and Mr. Cannon reviewed each requirement that applied in section 11.4.1 with Mr. Oleson who answered affirmatively to each of the questions. The septic approval was shown to the Administrative Assistant. Mr. Oleson agreed to provide a copy. The Board discussed annual proof of residency provided to the Tax Assessor and the requirements for the Notice of Limited Occupancy to be provided for signature to the Building Inspector, recorded at the applicant's expense at the Registry of Deeds with a copy provided to the ZBA.

Vice-Chair Scott stated that the applicant should be sure to understand all of the affirmations made by Mr. Oleson on their behalf.

Chair Maloney opened the hearing to the public for comments and questions and being none closed the hearing to the public for deliberations.

Vice-Chair Scott motioned that the applicant provided affirmative responses to the criteria of sections 9.4 and 11.4.1 and approves the request of the Trustees of the Bologna Revocable Trust for a Special Exception to permit an attached Accessory Dwelling Unit on the premises to be constructed at 769 Fremont Road. Mr. Cannon seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

3. The application of Robert J. Marcotte and Stacy J. Marcotte

For a Variance from Section 5, Subsection 5.7.8 Table 2 (Table of Dimensional Requirements – Wetlands) to permit a 18'x30' freeform, in-ground pool with an approximately 20'x30' deck to be located 55' from the edge of wetlands where 75' are required

On the premises known as Map 008, Lot 008-111, 17 Hemlock Lane, Chester, NH in the R-1 Residential zoning district

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

Mrs. Marcotte read her application for a variance for a pool and deck to be located 55' from the edge of wetlands where 75' are required. She indicated the hardship unique to the property was the wetlands in the backyard and slopes all around the house.

Chair Maloney asked about the response that wetlands had already been altered; and if the structure would be in any other setbacks. Mrs. Marcotte indicated that ground had been cleared by the developer when building. She noted the structures would not encroach on other setbacks.

Chair Maloney asked about the pool being partly in-ground and partly above. She explained the requirement for a fence if the portion above ground is not higher than four feet. Ms. Hoijer explained that the Board did not want them to have to come back for another variance for the fence.

Vice-Chair Scott asked if the area was backfilled to the pool. Mrs. Marcotte stated no and explained the pool is a radiant pool and constructed with panels that fit together.

Mr. Walsh indicated that he went by and the structure would not be visible from the street. Vice-Chair Scott indicated there was no other place to put it. Mrs. Marcotte discussed the sloping on the sides of the house. Vice-Chair Scott agreed there were considerable contours and this was the flattest and highest. Vice-Chair Scott noted the swale appeared dry.

Chair Maloney opened the hearing to comments and questions from the public at 7:49 PM and being none closed the hearing to the public for deliberations.

Mr. Cannon noted that he sees no adversity to adding the pool and agreed the applicant has satisfied the five points.

Mr. Walsh noted he could see no impact to the wetlands or the neighborhood and would agree with the five points.

Chair Maloney noted that public interest and spirit of the ordinance are met. She noted substantial justice – there is no harm to the general public, values of surrounding property are not impacted. The hardship is the special condition of the property – the sloping all around the house and this being the only place for it. The use is reasonable. She noted she would vote yes on all five points.

Vice-Chair Scott agreed that all five points had been satisfied and further that the state only requires 50.’ Chair Maloney clarified that although what the state requires cannot be a consideration to approve the application.

Vice-Chair Scott motioned to approve the request of Robert and Stacy Marcotte for a variance from Article 5, Section 5.7.8, Table 2 (Table of Dimensional Requirements – Wetlands) to permit an 18’x30’ freeform, pool, and an approximately 20’x30’ deck to be located 55’ from the edge of wetlands where 75’ are required on the premises at 17 Hemlock Lane. 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.

4. Correspondence/Financials

Ms. Hoijer provided financials for the month of March.

5. Updates

1. New BOS Liaison

Ms. Hoijer informed the Board that their new BOS liaison is Dick Trask.

2. Proof of Residency – ADU

Ms. Hoijer informed the Board that she left a note with the Asst. Assessor, Jean Packard, asking if proof of residency is being provided to the Assessor in accordance with the Ordinance.

233 **3. Mill Pine M/L 10-1 – Cease & Desist**

234
235 Ms. Hoijer provided a copy of the Cease & Desist letter to Mill Pine Village, and their
236 response, in their packets for review.

237
238 **4. NH Planning & Land Use Regulations 2022-2023**

239
240 Ms. Hoijer provided the members who were present with their 2022-2023 NH Planning
241 and Land Use Regulation books.

242
243 **5. Advertising Costs**

244
245 Ms. Hoijer provided the Board with a copy of the Union Leader invoice for this month's
246 meeting in their packets to discuss at the next meeting whether to continue using what
247 she understands is the more circulated paper, at double the budget and possibly raise
248 the application fee next year or go with the Derry News as recommended at the Dept.
249 Head's meeting. A disclaimer could be put on the webpage letting residents know where
250 the Board will be advertising now that the Tri-Town Times is no longer publishing in
251 Chester.

252
253 The Board asked Ms. Hoijer to contact both papers and find out what their circulation is
254 in the Town of Chester.

255
256 **6. Clough – Permit Issued**

257
258 Ms. Hoijer reported that Ms. Clough received her building permit.

259
260 **7. Busche Academy – Lions MP Athletic Center 8-23**

261
262 Ms. Hoijer provided a copy of the handout received concerning the Lions Multi-Purpose
263 Athletic Center coming in August of 2023 at the Busche Academy location. Ms. Hoijer
264 noted concerns about enrollment and whether the sports plex would be their primary use
265 rather than secondary to operation as a school.

266
267 **6. Training**

268 **Handouts**

269
270 **1. Ordinance & Local Code Updates – Electronic Copies available**

271 Ms. Hoijer provided the Board with updated copies of the recent zoning amendments
272 and a list of version dates of ordinances, and local regulations which are available
273 online.

274
275 **2. Spring Virtual Conference on Sat April 29 8:45 AM to 3:30 PM Registration 3-17-23**

276 Ms. Hoijer provided the Board with handouts in their packets, on the above-referenced
277 topics, to review. She noted the Virtual Conference will be recorded and can be viewed
278 at a different time.

279 **7. Adjournment**

280 ***Mr. Cannon motioned to adjourn the meeting at 8 PM. Vice-Chair Scott seconded the***
281 ***motion. A vote was taken, all were in favor, so moved.***

282 Respectfully submitted,
283 Nancy J. Hoijer,
284 Recording Secretary