



45 **1. Call to Order**

46 Chair Maloney called the meeting to order at 7:00 PM. By Roll Call were present: Billie  
47 Maloney, Jack Cannon, Bill Gregsak, Jason Walsh and Alternate Rick Snyder who was  
48 activated for this meeting in Kevin Scott's absence. The Board agreed that Mr. Cannon would  
49 be substitute as Vice-Chair.

50 **2. Approval of Meeting Minutes**

51 **June 20, 2023**

52 ***Chair Maloney motioned to approve the June 20, 2023 meeting minutes. Mr. Cannon***  
53 ***seconded the motion. A vote was taken, all were in favor, the motion passed 5-0-0.***

54 **3. Public Hearings**

55 Ms. Hoijer announced that the Tranquillo application, M/L 12-3 Lane Road, had been withdrawn.

56 1. The application of Kevin M. Comeau and Paulena L. Lieske  
57

58 For a Variance from Article 5, Section 5.3.5, Table 1 (Table of Dimensional Requirements) of the Ordinance  
59 to construct a 24'x36' garage to the right of the existing driveway 18' from the side setback where 25' are  
60 required.

61  
62 On the premises known as Map/Lot 001-039-007, 27 Stonebridge Drive, in the R-1 Residential zoning  
63 district  
64

65 Mr. Walsh read out loud the Public Hearing Notice.

66  
67 Ms. Lieske read the application into the record.  
68

69 Chair Maloney noted the challenge with the angle of the driveway and the slope of the property.  
70 Mr. Gregsak questioned whether there would be enough room to turn into the garage. Mr.  
71 Comeau stated the property is on top of the hill and it is difficult to pull in from the other direction.  
72 Mr. Comeau indicated with their kids there were seven vehicles parked. Ms. Lieske stated that  
73 the turning radius was tight. Mr. Gregsak indicated he is an engineer, and the distance is usually  
74 34.' Mrs. Lieske indicated they had about 29' not 40.' Mr. Gregsak noted he has a pickup truck,  
75 and it would not like 36.'

76  
77 Mr. Snyder asked about the back of the property and Mr. Comeau explained the layout of the  
78 neighbor's yard. Ms. Lieske stated that it is wooded now.  
79

80 Chair Maloney opened the hearing to the public for comments and questions at 7:10 PM and  
81 being none closed the hearing to the public for deliberations.  
82

83 Chair Maloney reviewed the five criteria and stated the variance would not be contrary to public  
84 interest or the spirit of the ordinance. She noted as to substantial justice there was no benefit to  
85 the application outweighed by hardship to the general public. She did not feel values would be  
86 diminished. She noted there were special conditions of the property such as the slope of the area  
87 that would be a yes on hardship . She noted she would vote yes on all five points.  
88

89 Mr. Gregsak stated he had no issues with the variance and agreed it was not contrary to public  
90 interest and the spirit of the ordinance is being observed with trying to get something to work and

91 with 30' being tight the variance would provide substantial justice. He agreed the hardship is the  
92 slope and did not see surrounding values affected by granting this variance.

93  
94 Mr. Snyder agreed and added that the use is reasonable, to have a garage on the property and it  
95 does not appear to impact abutters.

96  
97 Mr. Walsh stated he was in agreement on all five points, that granting the variance would not be  
98 contrary to public interest or the spirit of the ordinance. There is an issue with the site and the  
99 variance would provide substantial justice and not impact the abutters. The design is in keeping  
100 with the home and would not affect the property values of others negatively. The hill and slope  
101 are a hardship unique to this property.

102  
103 Mr. Cannon noted he is always concerned with additional runoff but there are no wetlands here  
104 or impact by the structure so he would generally be in favor and is fine on all five points.

105  
106 **Mr. Cannon motioned to grant a variance from Article 5, Section 5.3.5, Table 1 (Table of**  
107 **Dimensional Requirements) of the Ordinance to construct a 24'x36' garage to the right of**  
108 **the existing driveway 18' from the side setback where 25' are required. Mr. Snyder**  
109 **seconded the motion. A vote was taken, all were in favor, the motion passed 5-0-0.**

110  
111 Mr. Walsh read out loud the 30-Day Notice of Appeal.

112  
113 2. The application of Bryan Walch and Erin A. Walch

114  
115 For a Variance from Article 4, Section 4.2.1 (expansion of a prior non-conforming lot) of the Ordinance to  
116 permit construction of an 18'x27' addition on the right side of the existing dwelling (the existing dwelling  
117 being grandfathered 50' from the edge of wetlands on the left side where 75' are now required)

118  
119 On the premises known as Map/Lot 013-034-008, 14 Holman Way, in the R-1 Residential zoning district.

120  
121 Mr. Walsh recused himself and sat with the public, stating that he was a friend of the applicants.

122  
123 Chair Maloney informed the applicant that there were four members present and the vote of three  
124 members would be required to take any action on the application. She offered that they could  
125 continue their application and hope for five members. The applicants agreed to proceed.

126  
127 Chair Maloney read out loud the Public Hearing Notice.

128  
129 Mr. Walch read his application into the record. He noted the addition would be set far away from  
130 the road and be screened by trees. He noted the existing home was constructed in 1991 and  
131 conformed to the then 50' setback for wetlands which is now 75.' The lot is now non-conforming,  
132 and they would need a variance to make any expansion. He noted the addition will be 486 SF.  
133 He noted the use is reasonable so that he and his wife, who work remotely from home, could  
134 have space for an office.

135  
136 Chair Maloney opened the hearing to the public for comments and questions at 7:24 PM and  
137 being none closed the hearing to the public for deliberations.

138  
139 Chair Maloney indicated that she had no problem with any of the five points. The hardship is the  
140 home was built before the ordinance changed and there is no further encroachment by the  
141 addition into the wetlands which are located on the opposite side of the home.

143 Mr. Gregsak noted he had no issues with any of the five points.  
144

145 Mr. Snyder agreed the addition is technically not encroaching but rather a technicality. Mr.  
146 Cannon agreed.  
147

148 **Mr. Cannon motioned that the Board approve the request for a Variance from Article 4,**  
149 **Section 4.2.1 (expansion of a prior non-conforming lot) of the Ordinance to permit**  
150 **construction of an 18'x27' addition on the right side of the existing dwelling (the existing**  
151 **dwelling being grandfathered 50' from the edge of wetlands on the left side where 75' are**  
152 **now required). Mr. Gregsak seconded the motion. A vote was taken, all were in favor, the**  
153 **motion passed 4-0-0.**  
154

155 Mr. Cannon read out loud the 30-Day Notice of Appeal.  
156

157 Mr. Walsh returned to the meeting table.  
158  
159

160 3. The application of Nicholas A. DiMauro and Ellen J. DiMauro  
161

162 For a Variance from Article 5, Section 5.3.5, Table 1 (Table of Dimensional Requirements) of the Ordinance  
163 to permit a 12'x18' paved parking area to be located 3' from the front property line where 40' are required  
164

165 On the premises known as Map/Lot 009-010-000, 378 Fremont Road, in the R-1 Residential zoning district  
166  
167

168 Mr. Walsh read out loud the Public Hearing Notice.  
169

170 Mr. DiMauro provided two letters of support from abutters which Chair Maloney read into the  
171 record.  
172

173 Mr. DiMauro read his application into the record and noted the home was purchased in 2015 with  
174 a dirt parking pad already there when they moved in, in 2016. Since that time they have paved  
175 the parking pad which other than resurfacing did not change the size. However it is now  
176 considered a structure under the zoning ordinance. He noted the paving is aesthetically improved  
177 and functions better than the loose gravel and spring mud mess before paving. He noted three  
178 cars regularly park at his home and the parking pad is especially useful in the winter. He noted  
179 values are not diminished since the paved parking area looks better and increases value. He  
180 noted the hardship is the hill and because of the location of the septic system this could not be  
181 moved somewhere else without cutting into the hill and blasting.  
182

183 Mr. Snyder described the rectangular parking space and asked if the drawing was to scale. Mr.  
184 DiMauro noted the space is small, just enough for one car and is the only flat spot. The parking  
185 area was already there when they purchased the home, just that it was dirt not paved and the  
186 boulders were in the same location. Mr. Gregsak noted the 12'x18' spot was not drawn to scale.  
187

188 Chair Maloney opened the hearing to the public for comments and questions at 7:37 PM and  
189 being none closed the hearing to the public for deliberations.  
190

191 Mr. Snyder noted there was minor paving on existing dirt and stated the application met all five  
192 criteria. The hardship is the slope of the land and there is no way to get it out of the setback.  
193

194 Mr. Gregsak noted he had no problem with any of the five points. It is a different surface area  
195 already used for parking. He agreed the slope and the septic location were a hardship. Chair  
196 Maloney agreed and stated she would also vote yes on all five points.

197  
198 Mr. Walsh stated that granting the variance would not be contrary to public interest or the spirit of  
199 the ordinance. It was graveled and is now considered a structure due to paving. Substantial  
200 justice is done, the use is reasonable, and values are not diminished. It would be difficult, if at all  
201 possible, to relocate it. He stated he would vote yes on all five points.

202  
203 **Chair Maloney motioned to grant the request for a variance from Article 5, Section 5.3.5,**  
204 **Table 1 (Table of Dimensional Requirements) of the Ordinance to permit a 12'x18' paved**  
205 **parking area to be located 3' from the front property line where 40' are required. Mr.**  
206 **Cannon seconded the motion. A vote was taken, all were in favor, the motion passed 5-0-**  
207 **0.**

208  
209 Mr. Walsh read the 30-Day Notice of Appeal out loud.  
210

211 Chair Maloney asked if Mr. McBride had arrived and indicated she would move his application  
212 up as he is disabled.

213  
214 4. The application of Wayne McBride and Antoinette McBride (Abutters 7-24-23, Derry News 7-27-23  
215

216 For a Variance

217  
218 from Article 5, Section 5.3.5, Table 1 (Table of Dimensional Requirements) of the Ordinance

219  
220 to permit a 12'x20' shed which is located 30' from the front property line where 40' are required

221  
222 On the premises known as Map 009, Lot 081-025, 44 Pheasant Run Drive, in the R-1 Residential Zoning  
223 District

224  
225 Mr. Walsh read out loud the Public Hearing Notice.  
226

227 Chair Maloney clarified where the shed was located as the property is a corner lot and that the  
228 size of the shed is 12'x20' but not on the front of the house where the mailbox is. Mr. McBride  
229 stated that Assistant Assessor Packard stated that the frontage should be where the driveway  
230 and mailbox are so he now believes this is the **side** setback and he believes 30' meets the 25'  
231 side setback. Mr. Gregsak clarified that the ordinance is clearly worded that any frontage is  
232 frontage and is not yet defined in the manner Ms. Packard believes it should be, in the Town of  
233 Chester. The supporting material she provided is from other towns who have defined it differently.  
234 Ms. Hoijer reviewed the denial from the building inspector and clarified the denial was for frontage.

235  
236 Chair Maloney stated she would speak with the Building Inspector to be sure and if the variance  
237 was not required, she recommended reimbursement.  
238

239 Mr. McBride read his application into the record and provided photos to each of the members. He  
240 noted the shed matches the exterior of the home. He is disabled and would like to keep the shed  
241 in its current location so that he can access what he needs to keep his adjacent garden.  
242

243 Chair Maloney indicated there is an RSA which covers disabled variances which are the only  
244 variance that could run with the owner while he is living there, which is an option to use if the  
245 Board feels it meets the criteria of that RSA. The Board decided to go ahead with the variance  
246 presented.

247  
248 Chair Maloney opened the hearing to the public for comments and questions and being none  
249 closed the hearing to the public for deliberations.

250  
251 Mr. Snyder indicated that he had no problem with any of the five points, the use was reasonable  
252 and not encroaching on neighbors. He noted the shed partially screens the garden tractor.

253  
254 Mr. Cannon agreed that all five criteria of the standard variance application were met and the rest  
255 of the Board agreed.

256  
257 **Chair Maloney motioned to grant the request for a variance from Article 5, Section 5.3.5,**  
258 **Table 1 (Table of Dimensional Requirements) of the Ordinance to permit a 12'x20' shed**  
259 **which is located 30' from the front property line where 40' are required. Mr. Walsh**  
260 **seconded the motion. A vote was taken, all were in favor, the motion passed 5-0-0.**

261  
262 Mr. Walsh read out loud the 30-Day Notice of Appeal.

263  
264 5. The application of 192 Chester LLC  
265 For a variance from Article 5, Subsection 5.3.5, Table 1 (Table of Dimensional Requirements)  
266 of the Ordinance to permit subdivision of Map/Lot 4-58, a 17.34-acre lot with 455.03" of frontage into two  
267 lots, one with short frontage: Map 4-58, will become a 2.41-acre lot with dwelling, and 290.03' of frontage  
268 where 290' are required; and Map 4-58-1 will become a 14.93-acre lot with existing sheds, with 165' of  
269 frontage, where 290' are required (pending approval of the subdivision by the Planning Board)

270  
271 On the premises known as Map/Lot 004-058-000, 192 Chester Street, and Map/Lot 004-058-001, 8 Old  
272 Chester Turnpike, in the R-1 Residential zoning district

273  
274 Chair Maloney recused herself, stating that she is an abutter, and sat with the public.

275  
276 Mr. Cannon, acting as Chair, read the Public Hearing Notice out loud.

277  
278 Chris Hickey from Keach Nordstrom read the application into the record.

279  
280 Ms. Ragnarsson indicated there was a letter of support from an abutter which Mr. Cannon  
281 acknowledged the Board had been provided with.

282  
283 Mr. Hickey indicated the applicant was here a few months ago with a plan that tried to make use  
284 of the existing stone wall as the property line to subdivide the 17-acre parcel into two lots, one  
285 with short frontage. He noted the plan was revised and the existing frontage clarified to match  
286 the survey. He noted it would have a neutral effect on the values of surrounding properties. He  
287 reviewed sections a, part i and ii and section b of the hardship section of the application. He  
288 noted the hardship was the disproportionality of the subject 17.34-acre tract they were dividing  
289 into two unequal lots. He noted the use was permitted in the residential zone and therefore  
290 reasonable. For section b he indicated the disproportionality was different from other owners in  
291 the vicinity.

292  
293 Mr. Gregsak stated that he did not believe denial would create an unnecessary hardship.

294

295 Mr. Snyder praised the new plan but recommended setting conditions which Ms. Ragnarsson was  
296 in agreement with. He proposed language that would limit the newly created large lot to a single-  
297 family dwelling and that there be no further subdivision of the lot which would reduce the frontage  
298 more.

299  
300 Mr. Snyder noted he would vote affirmatively.

301  
302 Mr. Cannon opened the hearing to the public for comments and questions at 9:09 PM.

303  
304 Karen and John Avery approached the meeting table and sat down to discuss their concerns with  
305 the boundary markers, the deed distances not in agreement with the survey, especially frontage  
306 and the lot being in very close proximity to them. She described the peace and quiet of living in  
307 a rural town that she enjoyed as a resident of the area.

308  
309 Mr. Cannon closed the hearing to the public for deliberations.

310  
311 Mr. Cannon indicated he believed granting the variance would alter the essential character of the  
312 neighborhood and would vote no on point one. He indicated that he would also vote no on point  
313 four as he believed surrounding property values could be in jeopardy and that Old Chester  
314 Turnpike would need a lot of work to sustain an adjacent lot. He indicated he would vote no on  
315 the application.

316  
317 Mr. Walsh agreed the variance would be contrary to the character of the area and stated that he  
318 was in agreement with Mr. Cannon on points one and four as granting this variance could have  
319 impact on surrounding property values.

320  
321 Mr. Gregsak stated that he liked the proposal and would be in agreement on all five points so long  
322 as there were conditions imposed that Mr. Snyder had recommended. He stated he did not want  
323 to see the applicant develop a cluster subdivision instead.

324  
325 Mr. Snyder agreed that he was concerned about seeing the lot broken up like that and respected  
326 that the applicant did not do a cluster subdivision. He stated that he hasn't changed his mind that  
327 it was a peaceful property he would like to protect and is in favor of all five points with the  
328 conditions he recommended which would provide some protections against the concerns raised  
329 by the other board members.

330  
331 Mr. Walsh agreed that the conditions would make a difference in protecting his concerns and said  
332 he would vote affirmatively provided those conditions were imposed to protect the frontage of the  
333 14-acre lot.

334  
335 Mr. Cannon recommended the total frontage be corrected to read 455.'

336  
337 **Mr. Snyder motioned to grant the request for a variance from Article 5, Subsection 5.3.5,**  
338 **Table 1 (Table of Dimensional Requirements) of the Ordinance to permit subdivision of**  
339 **Map/Lot 4-58, a 17.34-acre lot with 455' of frontage into two lots, one with short frontage:**  
340 **Map 4-58, will become a 2.41 acre lot with dwelling, and 290.03' of frontage where 290' are**  
341 **required; and Map 4-58-1 will become a 14.93-acre lot with existing sheds, with 165' of**  
342 **frontage, where 290' are required (pending approval of the subdivision by the Planning**  
343 **Board) subject to the following conditions:**

344

345 **1. The use of the newly created 14.3-acre lot shall be restricted to no more than a single-**  
346 **family dwelling to be in compliance with the Chester zoning ordinance in effect at the time**  
347 **of application for such use; and**

348  
349 **2. No further subdivision of the newly created 14.3-acre lot shall be permitted (that would**  
350 **further reduce the frontage).**

351  
352 **Mr. Gregsak seconded the motion. A vote was taken, Mr. Gregsak voted aye, Mr. Snyder**  
353 **voted aye, Mr. Walsh voted aye and Mr. Cannon voted nay. The motion passed 3-1-0.**

354  
355 Mr. Walsh read out loud the 30-Day Notice of Appeal.

356  
357 Chair Maloney rejoined the members at the meeting table.

358  
359 **4. Correspondence - Review of Assessors Email to Building Inspector regarding**  
360 **frontage – Chair Maloney**

361 Chair Maloney reviewed the email provided to the Board in their meeting packets from Assistant  
362 Assessor Jean Packard to Building Inspector Bunker concerning frontage. Ms. Packard  
363 provided extensive research and information on how other Towns define frontage. Chair  
364 Maloney discussed the need for the Ordinance to better define frontage, especially with corner  
365 lots, which Mr. Gregsak noted are required to have frontage on both streets. Chair Maloney will  
366 discuss the need for a zoning amendment with Mr. Bunker and the Town Planner.

367 **5. Updates**

368  
369 Ms. Hoijer provided an update on the status of Ms. Trudeau’s building permit.

370  
371 Financials were provided for the month of July. Ms. Hoijer reported on advertising costs with  
372 the Derry News, approximately \$60 for posting one hearing and \$150 for the other four. She  
373 recommended the Rules of Procedure be updated, when Vice-Chair Scott was able to be  
374 present, if the Board wanted to substitute the Derry News for the Tri-Town Times.

375  
376 Ms. Hoijer reported the training video for the Spring Conference was posted and had good  
377 presentations by Attorney Chris Boldt. The Board sent notices by regular mail this month to  
378 those abutters the Board was notified by the Post Office had not picked up their certified notice.  
379 This was a new recommendation made in the training video.

380  
381 Ms. Hoijer reported there were no new applications for September but requested to extend the  
382 October deadline by two days as it falls on the Labor Day holiday. The Board agreed.

383  
384 Chair Maloney recommended sending unwanted paperwork from the Board’s hearing packets to  
385 the office shredder to improve security for applicant’s redacted information, (phone numbers  
386 and email addresses), as the trash goes to the transfer station and is not secure.

387  
388 The Board reviewed and approved the minor plan revisions for the Bologna ADU submitted by  
389 Mike Oleson for M/L 10-10, 769 Fremont Road.

390  
391

392 **6. Other Business – Exparte Communications – Chair Maloney**

393

394 Chair Maloney referenced a handout provided at an earlier meeting on Exparte Communication  
395 and reviewed how much contact, if any, the Board members *and* Select Board Liaison should  
396 have with applicants. She reminded everyone to be careful during site visits, to be clear to the  
397 homeowners they are there to look, not to discuss the application outside the hearing with the  
398 applicants or abutters who may be present. However if new information is obtained it must be  
399 disclosed to the other Board members at the hearing, so they are on equal ground when  
400 establishing findings and deliberating on the application.

401

402 Chair Maloney discussed the duty to assist and the boundaries under the law. Ms. Hoijer noted  
403 that the office is happy to assist applicants, however applicants must now first make every effort  
404 to fill out their application on their own prior to coming in for appointment help rather than  
405 coming in with blank forms expecting for the answers to be provided, which the office, members  
406 and liaisons cannot do for them under the law. She noted once a complete application is  
407 received, the office will happily direct the applicants to RSAs and provide the handout  
408 concerning the five criteria and answer general questions about the hearing process.

409

410 Chair Maloney stated that she hoped our Liaison, Dick Trask, would be at the meeting because  
411 she wanted to discuss with him his assisting an applicant with their application and going over  
412 Ms. Hoijer’s head when he was told he shouldn’t be doing that.

413

414 **7. Adjournment**

415 ***Mr. Snyder motioned to adjourn the meeting at 9:41 PM. Mr. Gregsak seconded the***  
416 ***motion. A vote was taken, all were in favor, the motion passed 5-0-0.***

417 Respectfully submitted,

418 Nancy J. Hoijer,

419 Recording Secretary