

MINUTES BZA 5/8/2023

MINUTES FOR THE REGULAR MEETING OF THE CHESTER TOWNSHIP BOARD OF ZONING APPEALS HELD MONDAY, MAY 8, 2023 IN THE TOWN HALL MEETING ROOM

Vice Chair, Deana Sritalapat called the May 8, 2023 Chester Township Board of Zoning Appeals meeting to order at 7:10 pm. All audience members present were asked to sign in at the lectern.

Roll Call

Members present: Ms. Muehling, Ms. Fadorsen, Ms. Klemm, Ms. Sritalapat

Members absent: Mr. Ziganti

Admin present: Ms. McCarthy

Zoning Inspector: Mr. Ivans

Ms. Sritalapat led the those present in reciting the Pledge of Allegiance.

Ms. Sritalapat asked all appellants if they would like a continuance as only four of the five board members were present. No continuances were requested. All those intending to present were sworn in. No additional information was offered for these cases.

Appeal Z-2023-3 Kevin Bolt 9300 Mayfield Road

The applicant is seeking a 35% Area Variance from Section 5.01.03 of the Chester Township Resolution. The garage/detached accessory building is placed 13' behind the principal building and the requirement is 20' resulting in a 35% area variance.

Mr. Kevin Bolt was present to represent himself with this application, both he and the Zoning Inspector were duly sworn in.

Mr. Bolt applied for a permit last year which he received. He then built the garage at 13' from the home not realizing it needed to be 20' from the home.

Ms. Muehling stated that according to the application, Mr. Bolt is asking for a variance to bring the lot into compliance so he will not be non-conforming. Mr. Bolt and Mr. Ivans agreed.

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Ms. Muehling asked Mr. Ivans to read Mr. Bolt's response to the Duncan Factors questions into the record which he did.

Ms. Sritalapat asked about the permit that was approved May 17, 2022 by the zoning inspector at that time. Is it a fact that key dimensions between the garage and home were not provided at that time? Was it ever brought up?

Mr. Bolt replied the dimensions were not asked for or provided at the time of application. Building of the garage was started November 2022 and finished December 2022.

Ms. Klemm explained the required distance is because of safety reasons.

There being no further questions or comments from the audience, the Board discussed the case.

Ms. Muehling – Mr. Bolt received an approved Zoning certificate. It was not until after the garage was built that it was noticed by Zoning that it did not meet the requirements as required in the Zoning Resolution. The applicant was then put in a position to have to ask for a variance that had been approved – decidedly incorrectly. His choices is to ask for a variance as the garage is already built or his property becomes non-conforming which is not a desired end result. He acted according to the original zoning approval and through no fault of his own, the error was discovered and now it's trying to be corrected as I understand the facts.

Mr. Ivans – that is exactly correct.

Ms. Sritalapat – Mr. Ivans, do applications that typically come before the Zoning Inspector typically have all the permit dimensions on them or at what level do these sketches need to be at for approval?

Mr. Ivans – they normally have the information as required and if they do not, I will ask them for the information.

Ms. Sritalapat – there being no further questions, do we want to vote?

Ms. Klemm motioned to approve a 35% area variance for placing the detached accessory building 13' behind the principal building for the property located at 9300 Mayfield Road. Ms. Fadorsen seconded.

Vote: Ms. Muehling/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Sritalapat/yes
Motion passed.

Findings of Fact for Appeal Z-2023-3

Applicant, Kevin Bolt requested an area variance for building his garage at 9300 Mayfield Road. He sought a 35% variance from 5.01.03 of the Chester Twp. Zoning Resolution. After discussion it was determined he had received approval for a Zoning Certificate when he was building his garage which he then built. Later it was discovered that the garage was out of compliance by 7 feet. Due to former approval of an incomplete application by Galina Berglund, the board found this not to be the fault of the appellant.

Vote: Ms. Muehling/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Sritalapat/yes
Motion passed.

At this point, Ms. Sritalapat read the purpose and procedures of the Chester Township Board of Zoning Appeals. (Typically, this is read earlier in the meeting but was inadvertently missed.)

**APPEAL Z-2023-4
Dustin Hunter
13465 Sperry Road**

The applicant is seeking a 45% Area Variance from Section 5.01.17 of the Chester Township Resolution. Per Section 5.01.17 of the Chester Township Resolution, the minimum lot width at the road for an R5A District is 250'.

Mr. Hunter was duly sworn in by Ms. Muehling.

Mr. Hunter – Prior to buying lot from previous owner, we came in and met with the Zoning Inspector. We originally planned on building two homes on the property, but he told us it was probably impossible due to the variance here. He said it was grandfathered in to one house. We dealt with a builder who pulled the permit who never mentioned there were any issues, so the house was built. After that I was contacted because we tried to put in a fence and when we applied, we found out from the new Zoning Inspector that our home is not in compliance.

Ms. Klemm – But there is just one house?

Mr. Hunter – Yes, there is just one house. We originally planned on building two homes, which is why we met with the zoning inspector but the zoning inspector did not recommend that because it would require an easement and he told us no one ever approves those anymore.

Based on his comment, we went back to the original owner of the land and made a different offer based on only being able to build one home.

Ms. Sritalapat – To make sure I understand this properly, before buying the property, you spoke with someone in the Chester Zoning Department?

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Mr. Hunter – Yes

Ms. Sritalapat – But the conversation was about building two homes on the property?

Mr. Hunter – Yes, and that is when he told us there was a 250' minimum, but because the lot was already that way, that it was grandfathered in to put a house on it. We pulled the permit, we built the house...

Ms. Muehling – Who signed the permit?

Mr. Hunter – I don't know. (Referring back to the original permit, it was identified that it was Galina Berglund, the former Zoning Inspector.)

Ms. Sritalapat – Reading some of the past notes, this lot was split back in 1999. At the time of the lot split, that 250' frontage was already in the Zoning Resolution.

Ms. Muehling asked Mr. Ivans to read the responses to the Duncan Factors questions which he did. After hearing the Duncan Factors read aloud, Ms. Muehling asked if she was correct in assuming that the basic error was that there was confusion between lot width and frontage.

Mr. Ivans believed that seemed to be the problem.

Ms. Sritalapat – Reviewed an email from JEM Construction dated December 21, 2021. This seems to document that the contractor and Zoning Department talked about the 250' width requirement even though it is a different interpretation on frontage. It looks like Galina may already have agreed to have the house pushed back thus seating the home on a wider portion of the lot.

Mr. Ivans and Mr. Hunter agreed that to probably be true.

Ms. Muehling – I'm surprised the lot split was approved, but it was. So, he has a hardship through no actions of his own. Ms. Klemm concurred.

There being no further comments from the Board, Ms. Sritalapat opened it up to the audience who offered no comments.

There being no further discussion, the vote on the motion to approve the appeal was taken.

Ms. Muehling moved that appeal Z-2023-4 be granted for a 45% Area Variance from Section 5.01.17 of the Chester Township Resolution. Per Section 5.01.17 of the Chester Township Resolution, the minimum lot width at the road for an R5A District is 250'. Ms. Klemm seconded it.

Vote: Ms. Muehling/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Sritalapat/yes
Motion passed

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Findings of Fact for Appeal Z-2023-4

Dustin Hunter requested an area variance for his residential property located at 13465 Sperry Road. Upon hearing the case, there appeared to be misinformation of the Zoning Inspector at the time. It was alluded that the 250' lot frontage requirement was misinterpreted in being a 250' lot width. We found an email chain with the contractor and then Zoning Inspector, Galina Berglund referring to the home being moved back to a wider portion of the lot. We as a board have approved the area variance due to the situation not being any fault of the homeowner. The error was discovered after the house was built as an approved building and the applicant was about to build a fence for the house.

Ms. Fadorsen made a motion to approve the Findings of Fact as stated. Ms. Klemm seconded it.

Vote: Ms. Muehling/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Sritalapat/yes
Motion passed

APPEAL 2023-5 John Romah 12455 Eugene Drive

The applicant is requesting an Area Variance for his residential property. Per Section 5.01.03 of the Chester Township Resolution, the minimum distance from a detached accessory building to any dwelling shall not be less than 20'. Proposed drawing indicates accessory building/pool house is 6' behind dwelling requiring a 70% area variance.

Mr. Anthony Angelotta presented a notarized letter from Mr. Romah to represent his case. Mr. Angelotta was sworn in.

Mr. Angelotta spoke about the severe grade drop near the existing pool and pool equipment which prohibits the pool house being built 20' behind the home.

Pictures of the property were distributed and displayed on the monitor. Mr. Angelotta indicated the 6' and 8' grade drops. There is approximately another 10-15' drop to the bottom of the grade. He was asked by the board to show the pool equipment that is currently in place which he did using the display monitor. Also, where we propose putting the pool house, existing trees will help keep neighbors from seeing it.

Ms. Klemm – What type of building are you proposing?

Mr. Angelotta – A pole building. It will be a pole building with a concrete floor.

Ms. Klemm asked what was planned to be stored in this building?

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Mr. Angelotta – Everything they have for the pool. Chairs, cushions – things like that.

Ms. Muehling – will it be the same elevation as the house?

Mr. Angelotta – Yes. It's the same elevation as the garage floor. Not quite the elevation of the home. Also, because of the Homeowners Association, the building cannot have doors facing the street.

Ms. Sritalapat – where do they currently house their pool furniture?

Mr. Angelotta – They have a screened in veranda that is currently holding the furniture.

How tall is the building going to be?

Mr. Angelotta – it will be the height of the garage. It will not be higher than the house which is a 2-story home.

Ms. Klemm – why couldn't they put it on the other side of the driveway? So it's a pool house/entertainment type of building?

Mr. Angelotta – Yes

Ms. Klemm – Will it integrate any of the pool equipment?

Mr. Angelotta – That is not really in the plan. They don't run a pool in the winter.

Ms. Klemm – has the fire inspector looked at these plans? The concern is that the building will be so close to the house. We're concerned because of the gas and electrical lines that will be run.

Mr. Angelotta – I would imagine they did.

Ms. Sritalapat – How long ago was the home built?

Mr. Angelotta – Maybe eight years ago?

Ms. Muehling – Is your company the company that maintains the pool?

Mr. Angelotta – No, he has another company for that.

Ms. Muehling – So he has professionals maintaining the entire pool?

Mr. Angelotta – Yes, they come out once every two weeks I believe.

Ms. Muehling – Do they have a pool cover?

Mr. Angelotta – Yes, they do. It goes on over the winter.

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Ms. Muehling – When they winterize the pool, what do they do? Do they drain it?

Mr. Angelotta – They do not drain it. They put the big tarp on it. One that you could actually walk on if you wanted to. They put their pool furniture in the veranda which they prefer not to do, but it is the only place the furniture can go at this point.

Ms. Muehling – Who installed the pool?

Mr. Angelotta – American Pools, I think. I don't really remember.

Ms. Klemm – When I look at these pictures, it looks like they have a little tiki type of bar in there. They could build something smaller right on the patio that could hold furniture. I think they want this building for parties.

Mr. Angelotta then described the furniture that needs to be stored and how it is difficult to manage.

Ms. Sritalapat – How large is their current garage?

Mr. Angelotta – They have a three-car garage. Each bay is holding a vehicle.

Ms. Sritalapat asked if there are any more questions from the Board and then opened it up to the audience members.

Question asked to confirm size of the accessory building as 24' x 24' and intent is to use it only for furniture storage and not a garage?

Mr. Angelotta answered that garage doors are not permitted to face the street. Doors will be facing the pool.

Public questions segment was closed and Board held additional discussion.

Ms. Sritalapat asked Mr. Ivans to read the Duncan Factors which he did.

Ms. Klemm asked Mr. Ivans if a Zoning Permit needs to be issued in order to receive a building a permit.

Mr. Ivans – Correct

Ms. Klemm – At what point does the Building Department consult the Fire Department about the accessory building being so close to the home?

Mr. Ivans – I am not sure, but I take it for granted the Building Department probably does check on that type of information.

Ms. Klemm – I would like to think that would be the case.

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Ms. Muehling – Suggested asking if they wanted a continuance to ask the Fire Department to offer an opinion on the safety of the accessory building.

Mr. Angelotta – Isn't the problem if there is a lot of house the Fire Department would have to get to? There's nowhere in the back that the Fire Department would have to get to. I've seen lots of pool houses and it doesn't seem to be a problem. This pool house is going to be very safe.

Ms. Sritalapat – This is up to you. You may approach the Fire Marshall and see if it would be safe in their eyes or you could request a vote without doing that.

Mr. Angelotta – Is there a stipulation that could be put in place where we have to get approval from the Fire Marshall?

Group did not know.

Ms. Muehling – Amateurs are not taking care of this pool. You're getting a professional opinion. Whether that is sufficient remains to be seen. I think we should take into consideration that professionals are in charge here.

Mr. Angelotta confirmed his wishes to proceed with a vote tonight.

Ms. Fadorsen – I do think he has a practical difficulty that has to be addressed. I also feel that a pool house keeps the pool safer for kids.

Ms. Sritalapat – I think it is a substantial ask, 70%. I'm also concerned about the Fire safety aspect of it. In my professional opinion, there have to be fire ratings of certain walls and although this is residential it may not be held to the same standards.

Ms. Muehling asked Mr. Angelotta to describe the connections again. Mr. Angelotta confirmed that the connections will not be enclosed.

Ms. Fadorsen moved approval of Z-2023-5, for a 70% Area Variance from Section 5.01.03 of the Chester Township Resolution, the minimum distance from a detached accessory building to any dwelling shall not be less than 20'. Ms. Klemm seconded the motion.

Vote: Ms. Muehling/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Sritalapat/no
Motion passed

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Findings of Fact for Appeal Z-2023-5

John Romah requested a 70% area variance for his residential property located at 12455 Eugene Drive. Mr. Anthony Angelotta served as his notarized agent for this hearing. The appellant showed steep topography across the site and indicated the only feasible place for the accessory building is 6' behind the dwelling adjacent to the pool. The appellant will be using the building for storage of pool furniture. The Board voted to approve the area variance given the topography of the site. There was concern expressed about how close the actual accessory building is to the adjacent structure of the garage in terms of being too close for fire protection and access. The appellant had the option for a continuance to speak with the fire marshal to get their opinion on the location of the accessory building which was declined. The Board assumes if there are any code violations, that would be caught by the due diligence process of applying for Building permits. Professionals are handling the maintenance of the pool equipment.

Ms. Klemm made a motion to approve the Findings of Fact as stated. Ms. Fadorsen seconded it.

Vote: Ms. Muehling/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Sritalapat/yes
Motion passed

New Business

- Email dated 4/21/23 from Linda Crombie distributed regarding Sub HB 23.
- Geauga County Model Zoning wording change distributed regarding type of supplementary conditions, a township BZA could place on a variance.
- Ms. Klemm suggested that if Mr. Dinardo has legal counsel available at the hearing on June 12th, the Board of Zoning Appeals should also have legal representation available as well. (BZA Admin will send request to Board of Trustees requesting representation.) Ms. Muehling also suggested we have our own set of experts for any experts Mr. Dinardo may have.

Mr. Ziganti arrived at 9:10 p.m.

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Ms. Fadorsen moved approval of the March 27, 2023 minutes as presented, Ms. Sritalapat seconded.

Vote: Ms. Muehling/abstain; Ms. Fadorsen/yes; Ms. Klemm/abstain; Ms. Sritalapat/yes;
Mr. Ziganti/yes

Motion passed

Meeting was closed at 9:14 p.m.

Approval Date June 12, 2023

Kathleen McCarthy, Admin. Assistant

Barton Ziganti, Chairman