

MINUTES FOR THE REGULAR MEETING OF THE CHESTER TOWNSHIP BOARD OF ZONING APPEALS HELD MONDAY, MAY 13, 2024, IN THE TOWN HALL MEETING ROOM. AUDIO RECORDING ON FILE.

Chairman Barton Ziganti called the May 13, 2024, Chester Township Board of Zoning Appeals meeting to order at 7:02 p.m.

Roll Call

Members present: Ms. Denamen*, Ms. Fadorsen, Ms. Klemm, Ms. Muehling, Mr. Ziganti

*Ms. Denamen will be a voting member in the absence of Ms. Sritalapat

Members absent: Ms. Sritalapat

Admin present: Ms. McCarthy

Zoning Inspector: Mr. Chris Alusheff

Pledge of Allegiance

Mr. Ziganti led the audience in reciting the Pledge of Allegiance.

Motion to approve one-time Agenda for May 13, 2024 meeting

Ms. Muehling made a motion to approve a one-time Agenda (which was distributed and attached) for tonight's meeting, seconded by Ms. Klemm.

Ms. Klemm reviewed Robert's Rules of Order, mentioning that it was decided at the first BZA meeting of 2024 that Robert's Rules of Order would be followed, which indicates that minutes are normally at the beginning of the meeting.

Mr. Ziganti said he is not in favor of item indicating waiving of reading Form # 4 into the record. This is because Area Variance appeals include the Duncan Factors and are a factor in deciding whether or not there is a practical difficulty. This is why he does not favor following the new style agenda. Secondly, when changes to BZA procedures are suggested, these proposals should be discussed during New Business. Finally, other branches of our government here at the Township do not always follow Roberts Rules of Order. There are instances where Board of Trustees do not approve their minutes at the very beginning of their meeting. The reason we wait until the end of the meeting to approve our minutes is should any discrepancies need to be discussed; we do not keep the appellant(s) later into the evening.

Ms. Muehling said waiving the reading of Form 4 does not mean, do not discuss Form 4. It is in the discussion we get to the Duncan Factors. Usually, the reading just takes a

few minutes, but it is an extra few minutes and then we go into discussion. The discussion will not be changed, simply the reading of Form 4. Much the same way as when an amendment is being brought forward. Many times, it's a long amendment and the minutes begin with, "We will waive the reading of the Amendment.". Then they go into discussion. It's just meant to streamline the meeting a bit. As for the minutes, they should have been sent in a timely fashion for review ahead of time. I sent this agenda about three weeks ahead of this meeting so we could solidify the minutes, get them voted on and get them out of the way. That's my motion and I would like to have a vote on it.

Mr. Ziganti – We had been told by the Trustees that the Duncan Factors are looked at by a judge and they should be contained in our minutes. Previously, when we read those into the minutes, we had the discussion of the Duncan Factors included in our minutes. Number two, it is evident that the Duncan Factors were reviewed.

Ms. Fadorsen – Aren't those included in the Conclusions of Fact?

Mr. Ziganti – No, the Duncan Factors are not included in the Conclusions of Fact.

Roll call vote:

Ms. Denamen/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Mr. Ziganti/no.

Motion passed – The agenda submitted by Ms. Muehling was adopted and used.

Approval of Minutes

March 11, 2024

Mr. Ziganti made a motion to table approval of March 11, 2024, minutes until quorum was available. Ms. Muehling seconded the motion.

Ms. Denamen/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Mr. Ziganti/yes.

April 15, 2024

Ms. Fadorsen made a motion to accept the April 15, 2024, minutes be approved as written. Ms. Denamen seconded the motion.

Ms. Denamen/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Mr. Ziganti/yes. Motion passed.

Mr. Ziganti read the public hearing process of the Board of Zoning Appeals.

APPEAL ZU-2024-3
Conditional Use
Tikvat Yisrael Synagogue by Rabbi Eric D. Lakatos
9319 Mayfield Road

Mr. Alusheff gave a summary of the conditional request for Tikvat Yisrael Synagogue. They have been at that location roughly five years. They own the property and have submitted evidence of their driveway easement. Nothing has changed since they took over the property. They have no plans currently to change anything moving forward.

Rev. Lakatos – This is our first-time renewing. When we bought the property five years ago, we presented here, and the Board gave us the Conditional Use Permit. Prior to our ownership, we believe the property has been used for the past 40 years as a house of worship. We have no plans of changing anything at this time.

Mr. Ziganti – Looking at the last appeal, there were concerns about the septic system. I'm having trouble reading the document about septic. Could the Zoning Inspector help me with reading Number 1 and 2?

Mr. Alusheff – It says, "Could not find distribution boxes. They may be buried."

Mr. Ziganti – Addressing Rev. Lakatos, "Would you have a septic company come out and locate those distribution boxes?"

Rev. Lakatos – Absolutely.

Ms. Klemm – Do you have an invoice from the Septic Company? That could possibly suffice. I'm not sure how the rest of the board feels about it.

Rev. Lakatos – I could absolutely find one.

Mr. Ziganti – I want them to have a company come out and find the distribution boxes to properly maintain the leach field.

Ms. Muehling – I was unclear on one thing. Do you own all three parcels?

Rev. Lakatos – Yes, all those parcels were included in our application.

Mr. Ziganti – I just realized that I forgot to swear you in.

Rev. Lakatos and Mr. Alusheff were sworn in and indicated that their preceding testimony was truthful.

Ms. Fadorsen moved to approve the Conditional Use Permit for appeal ZU-2024-3 for five years for Tikvat Yisrael Synagogue. Ms. Denamen seconded the motion.

Ms. Denamen/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Mr. Ziganti/yes. Motion passed.

APPEAL ZA-2024-4
Area Variance
Andrew and Todd Esola-Gyongyosi
12654 Ward Drive

All persons who wished to testify were sworn in.

Mr. Chris Alusheff gave a summary of this case. Appellant is looking to build a pole building in their backyard for storage of a camper or RV. It would require a higher-than-normal wall and are seeking a height variance for the building in addition to extending their driveway back to that building. That driveway would require a variance for the portion of the driveway that would not meet the 10-foot setback requirement from the side of the property. Additional information of a contour map and the legal description of the property was distributed to the board members.

Mr. Andrew Esola-Gyongyosi – This barn that we would like to build would house the camper we currently have and maybe a little bigger one down the road. Basically, we need the walls a little higher to make sure we get the RV in there. We could also have workable space on top of the RV if needed. The driveway would need to continue next to the house and once it gets past the house it will curve back to the barn. We don't want any issues with low hanging garage doors.

Ms. Fadorsen – Where do you park it right now?

Mr. Andrew Esola-Gyongyosi – Right now it is on the side of our house.

Ms. Klemm – Pretty much where you want the driveway to go?

Mr. Andrew Esola-Gyongyosi – Yes, the driveway will not move any closer to the side yard than the pad is right now.

Ms. Muehling – I did a drive by of your property, and I did a lot of research on those pavers that you have on the side of your house. Were they there when you bought the house?

Mr. Andrew Esola-Gyongyosi – I put the pavers in approximately 2010. I spruced up what the previous owners had done.

Ms. Muehling – What is the distance from your present garage to the side-line?

Mr. Andrew Esola-Gyongyosi – Approximately 14 feet.

Ms. Muehling – I’m looking at the pictures of your submitted drawing and it looks like you have a lean-to on the side of the building. According to Section 5.01.05 B. 5. a. there is a maximum height of 15 feet and that is what you are looking for. What it didn’t say is “for a completely enclosed, detached accessory building.” As long as you have a lean-to, it’s not a completely enclosed, detached accessory building. I think the first thing to ask you is if you want to adjust your plan so that it is either 32’ x 32’ or 32’ x 40’, but without a lean-to. With a lean-to, you don’t fit what the Zoning Resolution is looking for.

Mr. Andrew Esola-Gyongyosi – That makes sense, but we need something additional that is undercover and not leaving more items out that are not undercover.

Ms. Muehling – We’re not allowed to change the Zoning Resolution. The Zoning Resolution uses, “completely enclosed.” As long as you have that lean-to, it’s not completely enclosed.

Mr. Alusheff – I was counting the entire part of the enclosed structure, plus the lean-to under the roof area as being 1,280 square feet. They’re not going over their square footage based on their property size, so I’m not sure I understand. Are you saying a lean-to is not allowed per that Section of the Zoning Resolution?

Ms. Muehling – Yes.

Mr. Alusheff – I don’t read it that way.

Ms. Muehling – How do you read the words, “completely enclosed”?

Mr. Alusheff – An accessory building, per 5.01.03, we can include lean-tos as part of the square footage as long as they don’t max out the ground floor square footage. I would have read it as an issue if they wanted to enclose 1,280 sq ft and then have another 400 square feet of lean-to.

Ms. Muehling – there was a lot of discussion about lean-to’s when that section was first written.

I’ve never seen anyone need more space than you do. You have .47 acres, your house is little, your lot is little, and your camper and your trailer are large. Clearly you have a problem. Nevertheless, what’s in the Zoning Resolution is in the Zoning Resolution and we can’t change that. You could solve the problem if you didn’t want the lean-to.

Mr. Todd Esola-Gyongyosi – What you’re saying is that it’s not the square footage that is an issue, it’s the lean-to on my building.

Ms. Muehling – Yes, that is not completely enclosed. What you could do is drop the lean-to off and make it 32’ x 30’ or ...

Mr. Todd Esola-Gyongyosi – If I drop the lean-to, I drop part of the roof and drop the square footage on the building. That wouldn't be covered by structure. If I enclose two sides of it, would that work?

Ms. Muehling – No, "completely" means completely. If you made your building 32' x 40', you would have more storage.

Mr. Andrew Esola-Gyongyosi – What does it mean to enclose it? If I put two sides on it and put a garage door in front, does that work?

Ms. Muehling – Yes, that would be completely enclosed.

Ms. Fadorsen – But we have approved lean-tos before.

Mr. Alusheff – Whether or not this building has a lean-to, it still needs a height variance.

Ms. Muehling – Yes, but you can't approve a height variance without having a completely enclosed detached accessory building.

Mr. Alusheff – If they made their completely enclosed detached portion of their accessory building to have a conforming height and then they ran the lean-to 30/40 feet high,

Ms. Muehling – They can't have the lean-to at all. Lean-tos are not permitted.

Mr. Alusheff – I don't see where they are expressly prohibited or permitted, and the structure is anything that requires being prohibited.

Ms. Muehling – If it's not listed as permitted, then it is prohibited.

Mr. Todd Esola-Gyongyosi – But sliding into compliance is going to make the building taller. By having to enclose the lean-to, I will have to make the roof line higher.

Mr. Ziganti – Enclosing the lean-to doesn't change the remaining part of the structure. You're already over the maximum height. That is a variance we will still have to consider.

Ms. Fadorsen – Maybe we should call the lean-to a porch.

Ms. Muehling – The definition of a porch is attached to a principal building.

Ms. Fadorsen – Then why is it listed under the definition of an accessory building in section 5.01.03? We've approved a lean-to before.

Mr. Ziganti – We've approved accessory buildings that have a shed style roof as long as the birds eye view was 1280 square feet or less. They have not been completely enclosed.

Ms. Muehling – (addressing Mr. Esola-Gyongyosi) What do you think of making an adjustment in your plan? That's the key issue.

Mr. Todd Esola-Gyongyosi – I think it's going to add an extra charge to the entire structure and ask us to spend several thousand dollars more that doesn't seem to be needed.

Ms. Muehling – If you had time, could you find maybe a different type of structure that may cost less?

Mr. Todd Esola-Gyongyosi – I chose the type of structure we did for its affordability.

Mr. Ziganti – In the meantime, we have quite a few other things to discuss here. I'm going to ask you about these pavers. Looking at the site plan, the first question has to do with the asphalt drive. Did you do the extension of the asphalt drive?

Mr. Andrew Esola-Gyongyosi – I did recently. I put down stone to avoid the mud I had been parking on.

Mr. Ziganti – What is the distance between the now existing asphalt drive extension to the property line?

Mr. Andrew Esola-Gyongyosi – I'm not sure.

Mr. Ziganti – So right now, that is out of compliance.

Ms. Muehling – They had a scale on one of the drawings that I used. I got about 8".

Mr. Ziganti – I would say it is about 3 – 4 feet.

Mr. Andrew Esola-Gyongyosi – So I am the one who added those pavers.

Mr. Ziganti – What is the dimension of these pavers going from the framed garage to the side along the property line?

Mr. Andrew Esola-Gyongyosi – 14' 6"

Mr. Ziganti – Using ReaLink from the garage to the property line, do we have that dimension?

Mr. Alusheff – I would trust the survey more than the ReaLink.

Mr. Ziganti – So the garage measures about 14' from the property line?

Mr. Alusheff – Yes.

Ms. Muehling – Are the pavers just laid there?

Mr. Andrew Esola-Gyongyosi – They are just laid there.

Ms. Muehling – What do you think the swing over is as the driveway heads toward the barn? About how many feet extension do you think you need to get the driveway back into compliance.

Mr. Andrew Esola-Gyongyosi – About 10 feet.

Ms. Muehling – With the addition of the pavers, you're looking at about 20 feet?

Mr. Ziganti – What's the length of your RV?

Mr. Andrew Esola-Gyongyosi – Just over 30 foot.

Ms. Muehling – And what about the length of your trailer?

Mr. Andrew Esola-Gyongyosi – Probably about 16 feet.

Mr. Ziganti – So you're requesting the entire area where the pavers are will be replaced with asphalt?

Mr. Andrew Esola-Gyongyosi – Right now we are keeping the pavers and beginning the new driveway after that.

Mr. Ziganti – An 86% variance will be needed for that portion of the driveway. So now, we're going to go to the Duncan Factors.

Ms. Muehling – What good would it do to get that variance if they're not in compliance with the building? We didn't settle that, did we?

Mr. Ziganti – That is all on one form. They're asking for a height and driveway variance.

Ms. Muehling – We need to decide if they are going to ask for a variance for the lean-to.

Ms. Denamen – I think we need to agree as a group, and I don't think that we do, whether that lean-to is permitted.

Ms. Fadorsen – I think that lean-to is perfectly acceptable.

Ms. Denamen – There's conflicting opinions here.

Mr. Ziganti – The driveway variance they are requesting is an 86% variance of what is required. They are indicating they want a variance as close as 2' 1" from the property

line. Presently, we don't know how far the existing pavers are from the property line. My point was that the existing asphalt driveway is not permitted. We need to somehow indicate in this appeal that the existing portion of the asphalt driveway is allowed.

Ms. Denamen – So you want to say, the existing asphalt driveway which is 18" from the property line is grandfathered in?

Mr. Ziganti – No, it's not grandfathered in.

Mr. Andrew Esola-Gyongyosi – I moved in in 2008 and that asphalt extension was there.

Mr. Ziganti – What I am trying to say is, we do not want to allow the existing driveway that goes to the street to be allowed to be expanded to within 2' 1" of the property line in the future. But there is an existing part of the existing drive that does not currently meet the Zoning Resolution. I want to incorporate the fact that the little arc section be included in what may be approved, but only that section. They cannot expand the driveway in other sections (of the property) in the future.

Mr. Ziganti reviewed the Duncan Factors as read from Form 4:

1. Does the current zoning requirement that you seek a variance for unreasonably deprive you of a permitted use of the lot? You indicated yes.

Ms. Muehling: With or without the variance, they could expect a reasonable return on their lot.

2. Will the lot in question yield a reasonable return without the variance? You indicated yes.
3. Is there any beneficial use of the lot without a variance. You answered no.
Mr. Ziganti asked if they reside in the home? They answered yes.
Mr. Ziganti - So, there indeed is a beneficial use of the lot without a variance.
4. Is the variance substantial?
Board felt that it is substantial.
5. Will the essential character of the neighborhood be altered?
Board felt that it would not be substantially altered. The building would not be visible from the road. The driveway conformity would not be visible. Some Board members indicated that the character of the property would actually be improved.
6. Government services adversely affected?
No.
7. Did the lot owner purchase with knowledge of the zoning restriction?
No.
8. Can predicament feasibly be obviated through some other method?

No.

9. Will the spirit of the Zoning Resolution be observed by granting this variance?

Yes.

10. Other criteria related to determining whether the zoning regulation is equitable.

Roof height.

Other sworn in persons who spoke during hearing.

Ms. Amy MacLellan – I am the neighbor to the north at 12644 Ward Drive. We ask that you remember the neighbors believe this look would be a bit nicer. We would rather look at a pole barn rather than the stuff in the driveway. This would make their front yard even nicer.

The appellants, Zoning Inspector, and Board agreed that the height variance would be a 26% variance.

Discussion resumed amongst board members regarding the definition of porch and lean-to and how it applies to an accessory building.

Definition of a porch – “PORCH” means an open-sided accessory structure with a roof attached to the principal dwelling that adjoins an entrance. Placement of the porch shall not violate any other provisions of this resolution.

Group discussion surrounding opinions of porches and how they are applied.

Ms. Muehling feels strongly they need a variance to allow a lean-to or change the dimensions of the requested pole barn. A variance would allow them to have their lean-to, but it would prevent others from using it in larger situations.

Ms. Fadorsen moved to approve Appeal # ZA-2024-4 with the plans as presented in the file. Ms. Klemm seconded the motion.

Ms. Denamen/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/no; Mr. Ziganti/yes. Motion passed.

The Public portion of the meeting was closed. Disagreement amongst the Board members on how to proceed.

Ms. Denamen moved that Case # ZA-2024-4 be finished before moving to the next appeal. Ms. Fadorsen seconded the motion.

Ms. Denamen/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Mr. Ziganti/abstain. Motion passed.

Ms. Fadorsen moved to approve Appeal # ZA-2024-4 as presented. Ms. Denamen seconded the motion.

Ms. Fadorsen – I think they have indicated practical difficulty on where to store their RV.

Ms. Denamen – I think the size of the lot has lent itself to needing the additional storage space.

Ms. Muehling – I would want it known that the property is in an “R” District; the contiguous property owner was present and didn’t have any issue with the project; the proposed structure is located approximately 216’ from Ward Dr; the variance requests are 27% for the proposed building height and 87% for the extension of the driveway; the structure would not be visible from the road; the property would yield a reasonable return with or without the variance; I think all the variances are substantial; the essential character of the neighborhood would not be substantially altered; the extension of the pre-existing driveway non-conformity is necessary for access and would not be visible; I think the variance would not adversely affect delivery of government services; I think no evidence was presented that the property owner was aware of the zoning restriction; given the size of the lot and the placement of the garage and living areas, there does not seem to be a compliant area in which to locate the accessory building and they need several variances; I think the spirit and intent of the zoning requirement would be observed if the variances were granted.

Mr. Ziganti – I’ll say I am not in favor of the overall height. I don’t think a building that is built for a maintenance consideration when the vast majority of the discussion was based on a need for storing it. It is because of the desire to do maintenance while it is in the structure is what is causing the need for a height variance. The building could just be built for storage. I am not for the height variance, and I wish we would do variances singularly so I could vote on each variance request individually. The thing that makes me think this should go forward is the fact that the neighbor was here to express they did not object.

Ms. Denamen – I feel fine with the height based on the 14’ average door size plus the additional 1 ½ ft for the garage operating unit – and it is behind the house and won’t be visible from the street.

Ms. Denamen/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Mr. Ziganti/yes. Motion passed.

Conclusions of Fact

Todd and Andrew Esola-Gyongyosi request building a 1,200 square foot structure to the rear of their property maintaining all required setbacks. The First variance request is for an 86% variance on the driveway to the north of the existing garage to approach within 2 feet, 1” of the northern property line. This applies to the installed pavers. The pre-existing non-conforming asphalt drive to the front of the house, allowing access to Ward Drive, has a radius (arced) section of asphalt drive that begins 27 feet from the front of

the residence and the attached framed garage which will now be permitted to remain, and approach within 2 feet, 1" distance from the northern property line. The existing driveway shall not be expanded further or closer to the northern property line. The proposed driveway extending west, past the rear line of the framed garage, will have a radius that will begin 2 feet, 1" from the northern property line and within that 10 feet distance to the west of the garage will end at least 10 feet from the northern property line. The proposed driveway will remain 10 feet or more from the northern property line as it extends back (west) to the proposed accessory building. The proposed accessory building requires a 26% variance of 3 foot, 8" to be constructed as shown in the drawings. The northern neighbor (or driveway side) of the property voiced their approval for the variances being requested.

We the Board of Zoning Appeals incorporate into these Conclusions of Fact the application forms, documents, and exhibits including all corrections, clarifications and additions discussed or presented at this hearing.

Ms. Klemm made a motion to approve the Conclusions of Fact; Ms. Fadorsen seconded the motion.

Ms. Denamen/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Mr. Ziganti/yes. Motion passed.

APPEAL ZA-2024-5
Area Variance
Andrew J Carcioppolo
11680 Cambridge Dr.

Those wishing to testify were sworn in.

Mr. Alusheff – Mr. Carcioppolo is seeking to place a detached accessory building to the side and slightly in front of his existing home. This is in violation of Section 5.01.03. The rear line of the proposed building will be even with the rear line of the existing home while maintaining the 20-foot distance between the home and accessory building.

Ms. Muehling – What yard will it be in?

Mr. Alusheff – The side yard and partially extending into the front yard of the house. The required front setback is 70 feet from the right of way, so I think there is a difference between the front yard and the required front yard.

Ms. Muehling – Would you read the definition of a front yard and a yard?

Mr. Alusheff – "YARD" means an open space on a lot unoccupied and unobstructed by any building, structure or part thereof, except as otherwise provided by this resolution.

Ms. Muehling had Mr. Alusheff read the definition of front yard.

Mr. Alusheff – “FRONT YARD” means a yard extending along the full length of the front lot line between the side lot lines, and from the front lot line to the front of the principal building. However, in Section 5.01.17 – the Minimum Front Yard is “70 feet from right-of-way or 100 feet from centerline, whichever is greater.”

Ms. Muehling – Well he exceeds that, but he is still in the front yard. He’s got a front yard variance.

Mr. Alusheff – Yes, but there is a difference between a “required front yard” and a “front yard”.

Ms. Muehling – A required front yard is as unobstructed as any front yard. There is not a difference.

Mr. Alusheff – In terms of an accessory building, yes. It’s not allowed to be located in a front yard. I agree with you, except in Section 5.01.03, structure shall not be located to the...

Ms. Muehling – I strongly disagree with the interpretation the Zoning Inspector makes on the front yard. I’ve been in Zoning since 1990. Every Zoning Inspector during that time has read, there shall be no buildings in the front yard. The word required was meant to state that there was a required front yard. If you’ve got a good argument, go for it.

Mr. Alusheff – The fact that the appellant is standing before the BZA based on the fact that his application was denied by the Zoning Inspector, lends itself to the fact that I agree with your interpretation that an accessory building is not permitted in the front yard. Had I disagreed with your interpretation, I would have approved the application – erroneously or otherwise.

Ms. Muehling – OK, I am done.

Mr. Carcioppolo – My name is Andrew Carcioppolo, 11680 Cambridge Drive. My wife and three children are requesting a variance to construct a pole style building across from my current garage in place of a shed that is there today and would be torn down. My request is based on the fact that I cannot put the building to the rear of my home. Which is why I am requesting this variance. The variance is requested as we have more stuff to store as our family has grown as well as lawn equipment.

At first I tried to find a location so I would not require a variance. Current drainage lines make some of those choices not possible. Using slide presentation (attached to these minutes), topography of the property was displayed showing difficulties with placement of the garage.

Mr. Ziganti – So, where is the septic field?

Mr. Carcioppolo – Using the attached PowerPoint presentation indicated where the septic field is.

Members of the BZA spent some time reviewing the PowerPoint presentation while Mr. Carcioppolo narrated the slides.

Mr. Ziganti – Let's go over the Duncan Factors.

{Reference Section 4- Area Variance, of Form No, 4 for the written responses of the appellant.}

1. Does the current zoning requirement that you seek a variance for unreasonably deprive you of a permitted use of the lot? Appellant answer Yes. There were no further questions from the board.
2. Will the lot in question yield a reasonable return without the variance? Appellant answered Yes. There were no questions from the board.
3. Is there any beneficial use of the lot without a variance? Appellant answered Yes.
4. Is the variance substantial? Appellant answered No. No questions from the board.
5. Will the essential character of the neighborhood be substantially altered or will adjoining lots suffer a substantial detriment as a result of the variance? Appellant answered No. No questions from the board.
6. Will the variance adversely affect the delivery of governmental services? Appellant answered No. No questions from the board.
7. Did the lot owner purchase the lot with knowledge of the zoning restriction? Appellant answered No. No questions from the board.
8. Can the lot owner's predicament feasibly be obviated through some method other than a variance? Appellant answered No.
9. Will the spirit and intent behind the zoning requirement be observed and substantial justice done by granting the variance? Appellant answered Yes.

Ms. Denamen – I have a question about your neighbors. At least those that have an accessory building. Are they all visible from the street?

Mr. Carcioppolo – Very much so. My neighbor to the north, his entire structure is in front of his home. He planted trees to block the view. That is what my plan is as well. If this variance is granted, we will be planting trees as well as indicated on slide 12. Across the street, on the corner, you'll see their garage is very visible from the street. Their accessory building is behind their dwelling. I talked to both of them, and they were both very supportive of what we are trying to do.

Mr. Ziganti –

10. Other criteria that is related to determining whether the zoning regulation is equitable. (Mr. Carcioppolo's response was read aloud.)

Mr. Ziganti – I saw there were some different dimensions you have for this proposed garage. Is that the dimension, 42' x 30'?

Mr. Carcioppolo – That was a rough dimension. That includes the overhang. The building is approximately 38' x 34'. It comes to approximately 1, 230 square feet. I was trying to be conservative.

Mr. Ziganti – So, because of the odd shape it comes to approximately 1,230 square feet?

Mr. Carcioppolo – Yes. The only thing for clarity, as I read it, you are most concerned about the footprint, not the overhang.

Mr. Ziganti – Yes, as long as the overhangs of the structure do not extend into the area of the required setbacks.

Ms. Muehling – what R district are you in?

Mr. Carcioppolo – A 3-acre district. R3A.

Ms. Muehling – You said the building will be used to store lawn equipment, vehicles, cars and boats? Additionally for ingress and regress?

Mr. Carcioppolo – Yes

Ms. Muehling – What is the height of your proposed building?

Mr. Carcioppolo – Total height would be 15'. The proposal was for 10' side walls which put us at 15' height. As drawn, the site view was originally for a 12' wall. I was thinking if I were to ever own a RV, I could use that, but I do not own one today and it it's going to present any challenges tonight, I didn't want to go down that path.

Mr. Ziganti – So what is your intention to build?

Mr. Carcioppolo – It would have been that, but as drawn it was a 10' sidewall with an 8' door.

Mr. Ziganti – So you are proposing a 10' sidewall with an 8' door?

Mr. Carcioppolo – Yes, it's different from the drawing in front of you.

The architectural Elevation drawing D1 of the proposed accessory building was marked to indicate a 10-foot sidewall with 8 foot overhead doors.

Ms. Muehling – Speaking of the drawing, I noticed you have an 8' stairway. What's the purpose of the stairway?

Mr. Carcioppolo – It's designed with attic trusses so I would be able to walk on the interior floor space.

Ms. Muehling – Are you perfectly clear that it is forbidden to use the upper floor as living space or office space nor in the future?

Mr. Carcioppolo – Yes.

Mr. Carcioppolo went to the Framing Plan slide of the Site Plan to indicate to the Board where bump outs are and to discuss truss sizes.

Mr. Ziganti – Do you plan on having utilities to the building?

Mr. Carcioppolo – Not water, just electric.

Mr. Ziganti – Looking at the contour lines from ReaLink does not support what you are saying about drop-off.

Mr. Carcioppolo – I've been filling in some of the low-lying area because the picture that is there was taken a few weeks ago in preparation for this hearing. The contour lines you are seeing may be different.

Mr. Ziganti – The reason I ask is because if the structure could be moved further back so that it's not actually sitting in front of the front line of your house, normally an accessory building has to sit behind the rear line of your house. Right now, your existing shed is sitting behind the front line of your house and you're asking to become even less compliant. The question is, could the front of your proposed accessory building be no further forward than the front line of your house?

Mr. Carcioppolo – My answer would be no for the following reason. The further I go back, the wetter that property is. Since I'm building a pole building, it's better for the building not to start in a wet area. It's also better for the ingress/regress for me. If I go further back, that would be closer to the home I would have to build.

Mr. Ziganti – So your testimony is that you will be planting live trees to help obscure the view of your building for your neighbors. You would maintain this live screening while you own the property?

Mr. Carcioppolo – Yes, there are already trees planted there.

Ms. Denamen – Is this drawing of the septic pipe accurate that it runs perpendicular to the road?

Mr. Carcioppolo – Actually, that is the drain tiles with all the water emptying into the ravine behind the house.

Ms. Denamen – So that’s why you can’t build it in the back of the house.

Mr. Carcioppolo – Yes.

(There were no sworn in members in the audience that may ask questions.)

Ms. Muehling – Moving it back would put it all in the side yard?

Mr. Carcioppolo – It would.

Ms. Muehling – How would that hamper your plan?

Mr. Carcioppolo – It would require that I move the building even further back from the home. That would allow me further clearance. I don’t want to move it further west or north. While the area is flat, it is still very wet. I’m trying to get it to the highest point on the property.

Ms. Fadorsen made a motion to approve ZA-2024-5 case as presented. Ms. Klemm seconded the motion.

Discussion:

Ms. Klem – I did drive by and there is a lot of distance between the proposed building and the street. I also noticed other structures similar to this on the street.

Ms. Fadorsen – My opinion is, if that is where he can put it, I don’t think the variance is that excessive for what he wants to do.

Ms. Muehling – We give variances based on practical difficulty – not convenience.

Ms. Fadorsen – But he does have a practical difficulty because of the wet area on his property. Also, I don’t think the variance is substantial as only part of the building is out of compliance.

Ms. Denamen – There is a difference between “can’t” and “don’t want to”.

Ms. Muehling – If he got it totally in the side yard, would he need a variance at all?

Mr. Ziganti- Yes, because it would not be behind the back of the house, but it would minimize the impact to the property.

Ms. Muehling – But it would still be 100% variance.

Mr. Ziganti- I think it could be moved further north so that it could be behind the front property line. The further north it went, he would have room to move trailers, so that is not the issue. He definitely has a practical difficulty where I agree it probably could not

be placed behind the principal dwelling. In his favor, it would be 176 feet back from the street.

Ms. Denamen/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Mr. Ziganti/yes. Motion passed.

Conclusions of Fact

Andrew J Carcioppolo of 11680 Cambridge Dr. requests building an accessory building to replace an existing shed presently located in the side yard of his property. The proposed building totals 1,230 square feet. It's eastern wall to be located no closer than 176 sq ft from Cambridge Drive, not to exceed 12 feet in front of the front most section of the dwelling and 48 feet from attached garage of principal dwelling. The proposed accessory building will have a 10 ft side wall with 8 ft high overhead doors. The front elevation gable is 11/12 pitch and side gables of 9/12. Applicant has testified that the second story will not be used as a living space and/or office space but will be used for storage only. The appellant indicated that electric and gas utilities will be run to the proposed accessory building, but not water. The variance request is substantial at 100%. The applicant indicated that the need to locate the proposed structure forward (east) of the front line of the residence was due to the drop in grade and water saturation of the yard behind the rear line of the residence. . The applicant indicated that live screening of evergreen trees will be maintained to screen the proposed building as viewed by the neighbor to the north and traffic on Cambridge Drive.

We the Board of Zoning Appeals incorporate into these Conclusions of Fact the application forms, documents, and exhibits including all corrections, clarifications and additions discussed or presented at this hearing.

Ms. Fadorsen made a motion to approve the Conclusions of Fact for ZA-2024-5; Ms. Denamen seconded the motion.

Ms. Denamen/yes; Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Mr. Ziganti/yes. Motion passed.

Secretary's note:

Form 18 and 19 were signed by all voting members at this meeting for all three cases heard at this meeting.

Meeting closed at 10:52 p.m.

Approval Date June 10, 2024

Kathleen McCarthy, Admin. Assistant

Barton Ziganti, Chairman

Absent

Deana Sritalapat, Vice-Chair

Mindy Denamen

Kathy Fadorsen

Christina Klemm

Margaret Muehling