

MINUTES BZA 8/14/2023

MINUTES FOR THE REGULAR MEETING OF THE CHESTER TOWNSHIP BOARD OF ZONING APPEALS HELD MONDAY AUGUST 14, 2023 IN THE TOWN HALL MEETING ROOM

Chairman, Barton Ziganti called the August 14, 2023, Chester Township Board of Zoning Appeals meeting to order at 7:04 pm.

Roll Call

Members present: Ms. Fadorsen, Ms. Muehling, Ms. Sritalapat, Mr. Ziganti

Members absent: Ms. Klemm

Admin present: Ms. McCarthy

Zoning Inspector: Mr. Ivans and Mr. Purchase

Mr. Ziganti led those present in reciting the Pledge of Allegiance. He also asked all adults present to sign in at the lectern with their name and address.

Mr. Ziganti read the public hearing process of the Board of Zoning Appeals. He then asked Mr. Potter and Ms. Smith if they wanted to proceed with the hearing given that there were only four board members present. They both wanted to proceed with the hearing.

Appeal Z-2023-9 Daniel Potter and Marsha Smith Parcel #: 11-319300

The applicant, Daniel Potter is requesting an Area Variance for the property located at the corner of Mulberry and Lyman (Parcel #11-319300). He proposes building a home closer to Lyman Road than 70' from the right-of-way required for corner lots. This is an 89% variance from Section 5.01.17 of the Chester Township Resolution

Mr. Purchase introduced the signed and dated Form 4a reflecting only one variance request being needed. At that time, the BZA Board members reviewed the application packet with the Zoning Inspector to make sure all members understood where the side yard is located and whether the right-of-way or center of the road was being used. It was agreed that 4a, Section 2 needed to be changed to show the correct variance % was changed to 89%. This change was made and initialed by Mr. Potter.

All persons planning to testify in this case were sworn in by Mr. Ziganti.

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Ms. McCarthy read form 4a into the record. Mr. Potter and Ms. Smith agreed with what was read into the record.

Mr. Potter began his testimony explaining that this variance has been filed to make sure he and his wife could build the house they wanted on this lot before they bought the lot from Ms. Smith. The structure that is 1.66 ft from the right-of-way of Lyman Rd. is a single car garage, attached to the home on the side of the driveway. That's the summary unless you have any questions.

Ms. Muehling asked Mr. Potter about question #4 – Does the current zoning requirement that you seek a variance for unreasonably deprive you of use of the lot and you replied yes. What are you being deprived of?

Mr. Potter replied, when we originally thought we needed 150' on the front and side yard, the home to be built could only have been 15' wide and that would have required some sort of variance.

Ms. Muehling asked for clarification of the footprint of the home Mr. and Mrs. Potter are planning to build. I see it looks like 88.3' by "what"?

Mr. Potter said he could get that information.

Ms. Muehling asked, if the single car garage was eliminated, would you still need a variance or a minimal variance.

Mr. Potter agreed that it would only need a 6" variance. He also let the board know that the dimensions of the proposed home plan would be 57' wide x 88.33' long.

Mr. Ziganti asked about Form #1, Section 3 which indicates a garage is already present on this property.

Mr. Potter explained that it was for a proposed garage. Form #1, Section 3 was changed to include the word "proposed" before garage.

Mr. Ziganti asked why the proposed home couldn't be moved back from Mulberry and the proposed, attached single-car garage could be moved to the front of the home and integrated into the planned attached two-car garage? This could reduce the variance to less than 1%.

Mr. Potter said it would negatively impact the design of the home inside.

Ms. Sritalapat indicated that the home across the street had changed the positioning of the home on the lot and asked Mr. Potter if he had considered changing the position of the proposed home?

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Mr. Potter explained the proposed position was recommended by the builder based on the lot and generally having a larger back yard. Windows facing the back of the lot would give us more privacy also.

Ms. Sritalapat asked if there were any takeaways from the Soil Report that was included in the packet.

Mr. Potter said there were no problems indicated about the soil.

Mr. Ziganti asked if this would be an on-site septic?

Mr. Potter said yes.

Mr. Ziganti asked if there were any sworn in members of the audience who wanted to comment on this case.

Mr. Schermaier of Lyman Rd. My question is where the driveway comes from. Is it Mulberry or Lyman Rd.

Mr. Potter – Mulberry.

Mr. Schermaier said, can you tell me the approximate location of the driveway from Mulberry Rd?

Mr. Potter said, without the apron at the end it's approximately 100' from Mulberry.

Mr. Schermaier wanted to know which trees may be removed to build the home. Mr. Potter let him know some trees would be removed, but the willows would stay.

Mr. Ziganti closed the audience participation portion of the meeting.

Mr. Ziganti asked the appellant if he would consider moving his garage to the front of the house, would that be reasonable? This was after discussing the objective of minimizing the number and size of requested variances of the BZA.

Mr. Potter felt that may be reasonable. The plan that was used tonight is simply what the builder had recommended.

Mr. and Mrs. Potter had a private discussion and then determined they would not want to move the garage.

Group discussion talking about the possibility of a detached third car garage.

Ms. Muehling pointed out that this lot, on the east side yard, lines up with the neighbor's lot who has a house of a similar size with no variances. It would behoove him to think about the neighborhood a bit and blending in with your neighbors. The single car

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garage butting out that close to the road doesn't seem to add to the character of the neighborhood.

Mr. Ziganti explained that approving an 89% variance, when there are other choices that he believes are reasonable, is difficult to approve. He believes that some other choices that were presented are reasonable and should be considered.

Mr. Potter said that putting a garage in the front would make a sidewalk going to the front door a bit cumbersome and awkward.

Mr. Ziganti asked about eliminating the single-car garage? He also suggested the offer of continuing the hearing.

Mr. Potter said, the preference is a three-car garage and he felt the plans as presented were the best option and he would ask for a decision be put in front of the board tonight.

Mr. Purchase asked Mr. Potter what was the purpose of the single-car garage?

Mr. Potter said it is mostly for storage now and as the kids get older, would like to house a potential third car.

Mr. Purchase asked if there is a downside to detaching the garage and moving it back which could reduce the amount of the variance?

Mr. Ziganti let Mr. Potter know that should he need to return to the BZA with another variance request, it would have to be substantially different from the one being presented here and now.

Mr. Potter wanted it to remain attached to the house where it is proposed.

Mr. Ziganti asked for any other questions or comments. There being none, he closed this portion of the meeting.

Ms. Sritalapat moved to approve an 89% variance to build the proposed home to be built on vacant lot, parcel # 11-319300 as shown on drawing. Ms. Fadorsen seconded the motion.

Ms. Muehling saw that no variance would be required if the single-car garage were to be eliminated. Also, there were several viable suggestions on alternative placements of the single-car garage. This makes me reluctant to approve such a large variance.

Ms. Sritalapat asked for clarification of what the alternatives were that Ms. Muehling saw.

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Ms. Muehling mentioned three alternatives. First, not to have a third car garage. Second, to move the whole house back on the lot and place the single car garage on the front of the house. Third, to have a detached garage.

Ms. Sritalapat said that even if the single-car garage was removed, there would still be a rather large concrete pad. This orientation of the house makes a lot of sense. She agreed that a two-car garage would be more compliant than what has been shown tonight. Programmatically, all the objectives of building a typical residence seem to be able to be accomplished without seeking a hardship.

Ms. Fadorsen agreed with all the discussion that had been said.

Mr. Ziganti agreed with the points made. He felt that if the variance request is not approved, there are ways for the Potter's to build a home quite similar to the one being proposed minus the second garage. They would have the option in the future to add an accessory building for storage if that was what they required. I'm not in favor of proposing such a large variance.

There being no further comments, the vote was taken to approve the 89% variance request to build the proposed home on parcel # 11-319300.

Roll Call vote:

Ms. Fadorsen/no; Ms. Sritalapat/no; Ms. Muehling/no; Mr. Ziganti/no

Motion was not passed.

Findings of Fact for Appeal Z-2023-9

Mr. Daniel Potter, applied for an Area Variance to build a proposed residence on an empty lot, property of Marsha Smith who is present for this appeal. The variance request is being sought prior to the Potter's purchasing the lot from Marsha Smith. The area variance was to site the proposed residence to within 1.66' of the Lyman Road right-of-way which required approximately an 89% variance.

The Board discussed with the appellant several options to minimize the requested variance including eliminating a secondary garage and therefore any need for a variance. The appellant indicated they were not in support of the proposed suggestion.

Options to practically eliminate the need for a variance were presented to the appellant; rotate the proposed residence to conform to the residence directly across Lyman Road. Modify the plan for the proposed residence and expand the proposed primary garage to house three vehicles. Build a detached garage to go 20 feet to the proposed residence.

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Another option included building a detached garage located 20' to the south of the proposed residence and located an appropriate distance from the road right of way so that no variance would be required.

We the Board incorporate into these Findings of Fact the application forms and exhibits of the appeal including all corrections, clarifications and additions.

Vote to approve the Findings of Fact:

Ms. Fadorsen/yes; Ms. Muehling/yes; Ms. Sritalapat/yes; Mr. Ziganti/yes

Review of July 10, 2023 Meeting Minutes

Ms. Fadorsen moved approval of the July 10, 2023 meeting minutes as modified; Ms. Sritalapat seconded.

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

Motion passed.

New Business

None

Meeting was closed at 9:00 p.m.

Approval Date August 14, 2023

Kathleen McCarthy, Admin. Assistant

Barton Ziganti, Chairman

AUDIO RECORDING ON FILE