

**MINUTES FOR THE REGULAR MEETING OF THE CHESTER TOWNSHIP BOARD OF ZONING APPEALS HELD MONDAY, JUNE 9, 2025, IN THE TOWN HALL MEETING ROOM. AUDIO RECORDING ON FILE.**

Chairman Barton Ziganti called the Regular June 9, 2025 Chester Township Board of Zoning Appeals meeting to order at 7:01 p.m.

**Roll Call**

Members present: Ms. Denamen/yes, Mr. Dobrzynski/yes\*, Mr. Enger/yes, Ms. Fadorsen/yes, Ms. Klemm/absent, Ms. Muehling/yes; Mr. Ziganti/yes

Zoning inspector: Mr. Alusheff

Admin present: Ms. McCarthy

\*Mr. Dobrzynski will be a voting member tonight in the absence of Ms. Klemm.

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

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

**Approval of Minutes**

Motion to approve the minutes of May 12, 2025

- Ms. Fadorsen motioned to accept the May 14, 2025, minutes as presented. Ms. Muehling seconded the motion.  
Ms. Denamen/yes, Ms. Fadorsen/yes, Ms. Klemm/absent, Ms. Muehling/yes, Mr. Ziganti/yes, Mr. Dobrzynski/abstain  
Motion passed.

**Appeals to be heard**

- ZA-2025-2 – (Continuation from March 10, 2025). The applicant, Dave Walters of Castle Energy is requesting a Use Variance for the property located at 8029 Sherman Road.
  - May 20, 2025 received request to withdraw application.  
Ms. Fadorsen motioned to accept the withdrawal; Ms. Muehling seconded  
Ms. Denamen/yes, Mr. Dobrzynski/yes, Ms. Fadorsen/yes, Ms. Muehling/yes, Mr. Ziganti/yes  
Motion passed.
- ZA-2025-3 – (Continuation from April 14, 2025). The applicant, Greg Baggott is requesting an Area Variance for his property located at 11692 Cambridge Dr.
  - June 2, 2025 received request to withdraw the portion of his request on site location of an accessory building. Continue to August 11, 2025 the location of the existing shed.
- Ms. Denamen motioned to accept the proposal to postpone to August 11<sup>th</sup>; Mr. Dobrzynski seconded.

- Ms. Denamen/yes, Mr. Dobrzynski/yes, Ms. Fadorsen/yes, Ms. Muehling/yes, Mr. Ziganti/yes
- Motion passed.

All members of the audience wishing to testify in this case were sworn in.

**APPEAL ZA-2025-4  
Sanford A. Burris  
Zoning Inspector Error  
9471 and 9473 Mayfield Road**

Mr. Alusheff - Mr. Burris is one of several owners of 9475 Mayfield Rd. where there is a single-family dwelling as well as a duplex on a 10-acre property. Their contention is that it is a pre-existing, non-conforming use. I did not agree with that as there is no zoning certificate in the file. I need some sort of documentation in the file which I think is accomplished by being examined by the BZA and it will affect all future owners of that property. A ruling by the BZA would give me clear direction on how to approach this property in the future. It has been non-conforming since 1954.

Mr. Matt Flemming (Attorney representing Mr. Burris) – Reviewed the property addresses and the testimony about to be heard. Information will be presented documenting how the property does meet the definition of a pre-existing, non-conforming use.

Mr. Chuck Burris – My family has owned the property since 1948. It was purchased by my grandfather. When he bought it, it had a single-family home and an additional dwelling on it.

Mr. Flemming – What was the additional dwelling in 1948?

Mr. Burris – It was for farm-hand help.

Mr. Flemming – County records indicate the duplex was built in 1954?

Mr. Burris – I don't think it was built there at that time. I think it was moved there. It was a residence before that.

Mr. Flemming – Did you ever go to this property [the duplex] as a child?

Mr. Burris – I lived there. I was actually born there. My parents lived in the duplex on the first floor.

Mr. Flemming – Since you lived there, has this building always been used as a duplex?

Mr. Burris – Yes.

Mr. Burris went on to name many family members and renters who have lived in the property continuously. This is an upstairs and downstairs property.

Mr. Flemming – Do you know when the property stopped being used as a farm?

Mr. Burris – It was when the barn burned down in 1963. It killed the animals and my grandfather stopped farming at that time.

Documents were submitted into the record and are included in the file. Mr. Burris went on to identify the people and/or places in the photos.

Mr. Burris – When reviewing the tax records from the county, found that 47% of the building tax is the duplex. It's almost half of the dwelling tax. It started getting taxed about 1963. No knowledge of the duplex not being continuously occupied until December 2024 when the tenant was asked to move out in response to Zoning violation.

Mr. Ziganti – When was the current lease terminated?

Mr. Burris – November 2024 and they moved out in December 2025.

Mr. Ziganti – So when was the duplex moved?

Mr. Burris – Somewhere between 1952 and 1954.

Mr. Matt Flemming requested testimony from a number of witnesses.

Mr. Sanford Burris – I have nothing to add to Chuck Burris's testimony. He went on to detail what his parents did for the community. Explaining Exhibit BB was his dad's application for the garage that is used by the duplex. It is my understanding that my dad tried to submit the document, but zoning said they didn't need it.

Mr. Mark Dolezal with MD Realty, Middlefield – Prepared an estimate for the property at 9475 Mayfield Road. After inspection on June 2, 2025, and using a market analysis, researched tax records and comparable sales to determine the value of the property.

Ms. Denamen – Did you find comparable sales?

Mr. Dolezal – Tough, but we found market data of other sales in Chester with 5+ acres. In the past year we've found properties to be between \$400,000 - \$600,000 and they are all single-family homes. We found one duplex on 12155 Chillicothe Rd, a one-acre, ranch home built in 1958 and sold for \$380,000. Rental income is each unit rents for \$2,800/month. My opinion of the value of 9475 Mayfield Road would be \$625,000 - \$650,000 including the duplex home with potential income of \$28,000 - \$30,000 per year. If the duplex were no longer there, it would diminish the value of the property by a minimum of 25%.

Mr. Ward Kinney – during my time as a trustee from 2012 – 2016, we found a number of instances where documents were missing or lost. Not because of malicious action, but because of floods and a number of moves. Documents had to be stored in a number of locations – police, road, fire departments... One of the things we tried to do in 2017 was a better policy on how to keep the documents.

I did meet Mrs. Burris in 2015 because she wanted to verify the burial plots the family owned in Chester Township Cemetery. We had to put together several documents from several locations to get this straightened out. We did modify the records retention in 2017.

Mr. Steven Averill – Currently, I am the Zoning Inspector for Bainbridge Twp., and I was the Zoning Inspector in Chester Twp. from 2011 – 2020. As the Zoning Inspector, one of the primary responsibilities of the Zoning Inspector was to keep the records of the Zoning Office in good order. We did have problems finding certain documents from time to time. Back then, things were done quite simply. Applications were paper copies with handwritten drawings. Now things are more updated. There were also persons who had access to the Zoning Office and that was not under my control.

Every case is obviously different, but I did have many issues when I worked in Chester. I did have the opportunity to visit a site next door to this one and I did see the multiple dwellings next door and questioned it. I did look into it when I got back into the office on the Auditor's site and I simply just turned my back on it. It was very simple for me. I did drive thru the horseshoe driveway on the property out of curiosity. I never had any complaints about this property. I

Mr. Flemming – If you had this property before you today, do you think you would decide the same way Mr. Alusheff did?

Mr. Averill – With the workload this township has, probably not. I believe this to have been a non-issue.

Ms. Denamen – Do you think that potentially having the opportunity to correct things by putting the right documentation in place is a positive thing?

Mr. Averill – I'm kind of curious how this all came about. If you just went out looking for these kinds of things in this township, you would be causing a lot of unhappy people. There's a lot of legal non-conformities. You have to use your judgement. Every case is different. You certainly can't go looking for them.

Mr. Ziganti – You're indicating you were aware of that duplex being on that property and three residences that could be rented?

Mr. Averill – No, I saw two dwellings, I looked at the tax records and that's as far as it went.

Mr. Ziganti – But you were aware that was a different situation?

Mr. Averill – Yes, it was different.

Mr. David Dietrich – I'm a Planning and Zoning Coordinator for Bainbridge Twp. I also have a Planning and Zoning Consulting Service LLC. I was the Geauga County Planning Director beginning in 1981 until 2018. I wrote the Geauga County Model Zoning Resolution. I did review the file for the property at 9475 Mayfield Road in Chester Twp.

Mr. Dietrich reviewed the documents marked Exhibit A - attached to these minutes

Ms. Denamen – Is there such a thing as a certificate for a non-conforming use so that it could be on file?

Mr. Dietrich – There is not. There is no such thing as a non-conforming use certificate.

Mr. Dietrich – There is nothing in the current zoning resolution or any zoning resolution that has ever been adopted in this township that specifies that a lawful, non-conforming use must have a zoning certificate.

Ms. Denamen – I don't know if I agree with that. If we were able to put this in place, wouldn't it make it a non-issue for the next owner?

Mr. Flemming – Well, that's why we are here.

Ms. Denamen – That's what I want to clarify. The case is actually that he [Mr. Alusheff] is wrong – which I don't think that he is, but I don't think he had the right to do anything else differently. I want to make sure we're evaluating what the real problem is here, and the real problem is what should follow that property from today through the future.

Mr. Flemming – If we can show this property has been rented and/or lived on since they bought the property in 1948.

Ms. Denamen – That's why we want to identify what the real issue is here.

Mr. Flemming – We want it to be identified as a non-conforming use based on the testimony given.

Mr. Flemming – (Now speaking to Mr. Dietrich), In Reviewing records A – X, are these records customarily reviewed by the Zoning Inspector?

Mr. Dietrich – Yes.

Mr. Flemming – Did you offer your findings as to whether the property at 9471, 9473 Mayfield Rd was a lawful, pre-existing non-conforming use?

Mr. Dietrich – Yes, in my opinion based on information we discussed this evening, and the testimony given, it is lawfully existing. There is nothing in the Chester Zoning Resolution to prove lawful non-conformity.

Mr. Ziganti – (Addressing Mr. Dietrich) What documentation do we have that this property has been lived in continuously for this period without being vacant for two years? We have the documentation that it exists in county records as being a two-family dwelling.

Mr. Flemming – If you want to continue this case, we could try to get this documentation. A lot of it is family, but a lot of the documentation probably does not exist.

Much discussion was had about the existence of these records. The BZA board determined that providing this written documentation would not be necessary.

Mr. Joe Weiss called Mr. Alusheff to address the BZA together.

Mr. Weiss – We’ve talked about this case before in the past, isn’t that correct?

Mr. Alusheff – Yes

Mr. Weiss – Isn’t it true that one of the issues that caused us to be here was that you felt this issue needed to be brought in front of this board so they could make a decision?

Mr. Alusheff – Yes, so there could be a document in the file moving forward.

Mr. Weiss – The big issue being, they wanted to sell the property, they came to see you, and your documentation in the file wasn’t complete. So, you felt that by bringing them to this board, we could clarify the issue.

Mr. Alusheff – Yes.

Mr. Weiss – The other question I have is, isn’t it true you’ve been here how long?

Mr. Alusheff – 1 ½ years.

Mr. Weiss – And you’ve been having difficulty with other files with them being incomplete.

Mr. Alusheff – Correct.

Mr. Weiss – So it's not an uncommon thing to happen. But the biggest point is you wanted this board to hear this case and then once and for all clarify this issue so the family can move forward.

Mr. Alusheff – Yes, I didn't feel I had the authority to make that decision on my own and I wanted to provide documentation for it to the BZA so they could make the determination. I didn't dispute that the duplex has been on the property since 1954 and that people have been living there. But, this would be the proper way to document it procedurally and have something in the file so 20 years from now, that the new owner will have it documented that in 2025 the BZA established it has been occupied continuously and the new owner will only need to document residency from this point on.

Mr. Flemming – Based on the evidence you've heard, I believe this property should be considered a lawful, pre-existing, non-conforming use. We respectfully ask that the board conclude that the Zoning Inspector erred in concluding that this duplex was not a lawfully, pre-existing, non-conforming use and issue a decision to that effect.

### **Public Comments**

None

Public Comments was closed.

Ms. Denamen – I think it is a pretty clear case where the non-conforming certificate of use has been proven and I think that going forward it makes sense to sign off on this.

Ms. Fadorsen – I agree 100%. It's been there a long time.

Ms. Muehling – I thought these people have been good neighbors. They've lived there forever.

Ms. Muehling moved to approve the duplex located on PPN# 11-0752500, 9475 Mayfield Rd. constitutes a legal, pre-existing, non-conforming use, pursuant to the zoning regulations of Chester Township, Geauga County, OH.

Ms. Fadorsen seconded the motion

Ms. Denamen – Just so this is on the record, I agree with the testimony we have all heard. I don't think it is a zoning inspector error. I do think it is complicated and I think this is the right way to handle it. Putting it on the record and following the property will be a benefit to all.

Mr. Ziganti – I agree. I didn't think it was a zoning inspector error either.

Ms. Denamen/yes; Mr. Dobrzynski/yes; Ms. Fadorsen/yes; Ms. Muehling/yes; Mr. Ziganti/yes  
Motion passes

### **Findings of Fact**

Legal representation for the Burris family to secure a designation for the property at 9475 Mayfield Road to include a duplex building with an address of 9471 and 9473 Mayfield Road and deemed as a legal, non-conforming pre-existing use. Testimony was given that tenants resided in the properties as late as November, 2024. It was noted that the properties presently have 1,540 square feet of accessory buildings.

We the board incorporate into these Findings of Fact the applications, exhibits of the appeal including all corrections, clarifications and additions.

The board did not know how to handle Conclusions of Law and the zoning inspector was asked to contact our APA on how to handle this situation.

It was the conclusion of four board members that there was not an error of the current zoning inspector. This appeal was scheduled so the appellant could appear before the BZA to secure that the duplex residents would be determined to be a legal, non-conforming, pre-existing structure.

**APPEAL ZA-2025-5  
Dylan Francis/Jemm Construction  
for Daniel Potter  
Area Variance  
PPN # 11-319300**

All persons intending to testify were sworn in.

Mr. Alusheff – Mr. Potter was in front of the BZA roughly two years ago. Looking at the site plan that was presented then as compared to this site plan today, I consider it substantially different which gives them the right to come back and appeal.

Looking at the property itself, this is an approved sub-lot in a platted sub-division. The lot was intended to have a home on it at some point. On the Staff Report Summary, the long narrow strip shown on the first page represents the buildable area with all the applicable setbacks. It's 30 feet wide by 340+ feet deep and not conducive to building a home.

Mr. Potter used the feedback from the BZA at the last hearing and did everything he could to increase the conforming position of the house, but with the unique shape of the lot, he had no choice but to come back to the BZA again.

Mr. Ziganti – Before it was an 84% variance and now it is a 60% variance. What were the suggestions that are incorporated with this present plan?

Mr. Alusheff – The garage was moved and one of the garages was removed. It suggested that no variance would be required if this was done.

Mr. Ziganti – In summation, this is a side yard variance of about 50 feet?

Mr. Alusheff – Yes

Ms. Muehling – It's a matter of res judicata. I've never been in a case where an area variance is requested where he is putting a house and we denied it. Res judicata says that it has to be substantially different, and since I didn't know what substantially different means, I wonder if we can hear this case.

If the case is to be heard again, it is to be heard as a new case. That case is over and done with. Do you agree with that?

Mr. Alusheff and Mr. Ziganti agreed with that.

Ms. Muehling – I just wanted to make sure the issue was brought up.

Ms. Denamen brought up that she and Mr. Dobrzynski have not heard this case before.

Mr. Potter – The last house we presented was similar in floor plan. The first house had a three-car garage. In the previous meeting, it was mentioned that no variance would be required if we removed the third garage. So, we removed the garage and moved forward. Now all the plans have been done in the assumption that we could move forward with no variance. The floor plan, without that garage is now two feet smaller.

Ms. Muehling – I hate to be a stickler, but when you came here in 2023, you were aware of the Duncan Factors?

Mr. Potter – What are the Duncan Factors?

Mr. Ziganti – Explained what the Duncan Factors are.

Ms. Muehling – He [Mr. Potter] should know that. In other words, you must prove that you have a practical difficulty before we can grant you a variance.

Mr. Ziganti – Reviewed each of the individual Duncan Factors for Mr. Potter. After your testimony, each of the board members will give their answer to how well each of these points were covered.

Ms. Denamen – Having not been here before, in order to avoid a variance altogether, I want to confirm that this house has to be 16 feet wide.

Mr. Alusheff – Yes.

Mr. Potter – The reason we are requesting a variance, we find those dimensions not to be realistic. I calculated it to be 15 feet wide. The only way to use this as a residential lot, which it is zoned to be, is to build a house that needs a variance on it.

What we took into account from the last meeting we had, and we put on the site plan, we think this is a reasonable size home to put on this lot.

We feel that this lot would not have use unless there is a house on it. We do not feel the variance is substantial and is the lowest request we can make for a reasonable house to be built. I believe that building a house on that property would only up the value of the houses around it. Government services delivery will not be affected. We thought we were complying with the zoning regulations when we bought the property. I don't believe building on this property can be done without receiving a variance.

This property was not owned by us when we came here two years ago. It was then owned by my wife's grandmother and since that time, we have purchased the property so we can be next door to my wife's grandmother. Since that time, we've come up with site plans, purchased the lot and done a lot of other things preparing the lot to be built on.

Ms. Muehling – The first time you came, you did not own the land?

Mr. Potter – Correct.

Ms. Muehling – Now you own the land? When did you buy it?

Mr. Potter – May, 2025.

Ms. Muehling – You thought the variance was going to be 60%. Shouldn't it be a 71.9% variance? (The group agreed it should be a 71.9% variance.)

Ms. Denamen asked if the other homes on the street were single wide trailers?

Mr. Reed [the backyard neighbor] said there are no single wide trailers on the street.

Mr. Ziganti – asked if there are other houses on the street that have variances on them.

Mr. Alusheff – I believe the house across the street has a variance on it.

Ms. Muehling – Looking at the proposed home site plan, this variance runs to the end of the property? She indicated that Mr. Potter's backyard is the front yard of the rest of the

street. He has the right to put up a 25 x 25 ft x 21 ft high building in this lot that would be viewed from the front yard of all the other people on the street.

Ms. Denamen – I understand what you are saying, but I feel like this is two different issues. One, can he build the house and two, do you want to put parameters on his lot for restrictions on what he can build in the future?

Ms. Muehling – The Duncan Factors say, will the neighborhood be affected?

Board discussion concluded that the variance will stop at the end of the house.

Mr. Potter – I just don't know how you can build a house with today's standards, here without asking for a substantial variance.

Ms. Muehling – I disagree with your [Mr. Potter] understanding that you purchased property without the understanding of the zoning regulations.

Mr. Potter – That was said in the prior hearing. We understood a variance would not be needed if we took out the one-car garage. We didn't know we needed a variance at all. It wasn't until our builder told us we would have to come in and get another variance that we found out we had a problem.

Mr. Ziganti – any other questions from the audience that have been sworn in?

Mr. Reed – I just came to hear what was going on.

Mr. Purchase – That lot was a buildable lot in 1954. Chris and I talked about other corner lots in the township and they would have the same problem as Mr. Potter. In fact, we've asked the Zoning Commission to take a look at these. Trying to put that side yard setback on a corner lot is just not possible.

Dan did come with that first drawing. Back then, I would have approved it had that third garage not been on the end because I would have applied a 15 foot side-yard setback. When we left that meeting, that was the plan. Get rid of that third garage to comply with setbacks.

I think it is key to look in the Zoning Resolution and you won't find language that talks about side yard setbacks on corner lots. You'll only find it on the chart. That is the only place it appears.

Ms. Fadorsen moved to grant an area variance of 71% to Mr. Potter for his parcel # 11-319300. Ms. Denamen seconded.

Ms. Muehling – The property does have some value whether you put a house on there or not. A small house can be put on there. The variance is substantial at 71%. I do think the character of the neighborhood would be substantially altered because of the

rear yard layout. The variance would not adversely affect the delivery of services. I do think they knew they would need a variance before this hearing.

Ms. Denamen – I don't think the neighborhood would be substantially altered.

Ms. Fadorsen – I don't think the neighborhood would be impacted negatively to have a house on this property.

Mr. Dobrzynski – I drove it, I see it's an open lot now. The only question I have is the structure near Mulberry Road.

Mr. Potter – It's an old septic system structure. It's on the neighbor's property.

Mr. Dobrzynski – I think you are trying to be as creative as you can maximizing the space you have on that property.

Mr. Ziganti – I don't believe the property owner purchased this property with knowledge that they would have an issue with zoning. I think it's a substantial variance request, but that's just because of the property itself.

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

Motion passes

### **Findings of Fact**

Mr. Potter purchased the property at the corner of Lyman and Mulberry and brought forth plans to build a 2,400 square foot residence on the property. Due to the size of the property, there were issues with siting a typical residence on the property without a setback of 19.67 feet resulting in a 71.9% variance request.

It was noted the owner came before the board with a substantially altered plan in order to reduce the variance request required to build the residence. For clarification, the house will be located 19.67 feet from the west right-of-way to Lyman Road. This setback refers only to the residence itself.

We the board incorporate into these Findings of Fact the applications, exhibits of the appeal including all corrections, clarifications and additions.

**Old Business**

- Sheet 1 – Zoning Information Sheet – Review for suggested changes
- BZA Bylaws review

Both items were tabled to next meeting

Meeting closed at : 9:35 p.m.

Approval Date June 9, 2025

\_\_\_\_\_  
Kathleen McCarthy, Admin. Assistant

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Barton Ziganti, Chairman

\_\_\_\_\_  
Mindy Denamen, Vice-Chair

Alternate  
\_\_\_\_\_  
Mark Dobrzynski

Alternate  
\_\_\_\_\_  
Justin Enger

\_\_\_\_\_  
Kathy Fadorsen

\_\_\_\_\_  
Christina Klemm

\_\_\_\_\_  
Margaret Muehling