

**MINUTES FOR THE REGULAR MEETING OF THE CHESTER TOWNSHIP BOARD OF ZONING APPEALS HELD MONDAY, OCTOBER 13, 2025, IN THE TOWN HALL MEETING ROOM. AUDIO RECORDING ON FILE.**

Chairman Barton Ziganti called the Regular, October 13, 2025 Chester Township Board of Zoning Appeals meeting to order at 7:05 p.m.

**Roll Call**

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

\*Mr. Enger will serve as a voting member tonight in the absence of Ms. Denamen

Zoning inspector: Mr. Alusheff

Admin present: Ms. McCarthy

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

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

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

**APPEAL ZA-2025-10  
Mr. Shawn Thomas  
11329 Caves Road  
Area Variance**

Mr. Alusheff – Gave a review of this case for installing a pool. When performing a site visit at a later date, it became apparent the pool was in the legal front yard and revoked the previously issued permit via certified mail. Mr. Thomas is also requesting an Area variance allowing a pool cover in lieu of a fence.

Ms. Muehling indicated that she believes the Area variance request for the pool cover should be considered as a Use variance. A document supporting the need for a Use variance was submitted by Ms. Muehling and follows these minutes as Exhibit C.

The board discussed whether the pool cover portion of the appeal should be heard as a Use or Area variance.

Ms. Muehling made a motion that we will cover the pool cover as a Use variance and Ms. Fadorsen seconded the motion

Ms. Muehling/yes Ms. Klemm/no Ms. Fadorsen/no Ms. Enger/no Mr. Ziganti/yes  
Motion failed – Both variances will remain as an Area Variance.

(Ms. Muehling agreed to write a letter to the Zoning Commission asking them to consider allowing pool covers as a choice as well as a fence.)

Mr. Alusheff had asked the Zoning Commission approximately three months ago to consider pool covers as an acceptable method to keep unauthorized persons from accessing the pool.

Mr. Shawn Thomas (using the attached PowerPoint) stated his case for a pool cover. History of the property: his home sits at the top of the hill which was formerly Mt. Chalet Ski Resort which was opened in 1962 and closed in 1978. It's a hill and it's a rock. Should a fence be installed around the pool, it would be at an incline. Home is not visible from road for three seasons of the year. Grass cutting is difficult because of steep incline. Steep incline would make future grass cutting around a fence dangerous.

This cover meets all current Ohio Standards Codes. Key is to lock the cover. Intend to keep pools covered as much as possible for heat and chemical retention. Pool will be 14' from the home.

Pictures here shown of neighbors' homes who have swimming ponds with slides and ropes into them with no fence around the water. Mr. Thomas believes this is much more dangerous than a pool.

Letter from his insurance company presented which waives the requirement for a fence because of the child-proof automatic cover. (Exhibit B – attached).

Mr. Ziganti – Do you want these two variances to be considered separately requiring separate votes?

Mr. Thomas – I would like one vote.

Mr. McCaskey – Suggested Mr. Thomas may want to have this heard as two variances.

Mr. Thomas – That being said, I would like to have two votes.

Mr. Ziganti - OK

### **Board Review of Practical Difficulty Standards – for the pool cover**

1. Whether the property in question will yield a reasonable return and whether there can be any beneficial use of the property without the variance.

Mr. Thomas - Yes

2. Whether the variance is substantial.

Mr. Thomas – No

Ms. Muehling – Since pool covers are not mentioned in the Zoning Resolution, I consider it a 100% variance which is substantial.

3. Whether the essential character of the neighborhood would be substantially altered or whether the adjoining property owners would suffer a substantial detriment as a result of the variance.

Mr. Thomas – No

Ms. Muehling – We did not receive any information in our Staff Report about the pool itself. Is the pool in existence now?

Mr. Thomas – Yes

Ms. Muehling – Can you give me some detail about the pool itself? What kind of excavation was made? Since it is on a slope, was it backfilled? (Question deferred till second variance is heard.)

4. Whether the variance would adversely affect the delivery of governmental services;

Mr. Thomas – No, it would make it easier.

Ms. Muehling – Agrees

5. Whether the property owner purchased the property with the knowledge of the zoning restrictions.

Mr. Thomas – I was not aware of zoning restrictions.

Ms. Muehling – When did you purchase the property?

Mr. Thomas – 2018.

Ms. Muehling – and the house has been in existence since 2013?

Mr. Thomas – Correct.

Ms. Muehling – At that time, were you planning on putting in the pool?

Mr. Thomas – I was not.

6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

Mr. Thomas – I do not believe so.

Ms. Muehling - Fences can be put up on a hillside and can be maintained. You could have a fence if necessary.

Mr. Ziganti – If we look at the contour map, the pool and house are at high points. Therefore the contention that a fence around the pool would be struck by a landscaper's mower sliding into the fence is not reasonable.

7. Whether the spirit and intent behind the zoning requirement(s) would be observed and substantial justice be done by granting the variance;

Mr. Thomas – I think the spirit and intent is still observed.

Ms. Muehling – I think the spirit and intent would not be observed. One of the purposes of zoning is to bring conditions into compliance. I'm reluctant to approve this plan as presented.

Mr. Ziganti invited Mr. McCaskey to present other information he had intended to present.

Mr. McCaskey – There are a lot of other communities that approve automatic pool covers. There are so many ways to get around and through fencing. With an automated pool cover, no one in this room can get through this cover.

Also, there is a keypad that can only open and close the cover while someone is physically at the keypad. It cannot be done through an app on your phone. The person must be present at the pool cover. He submitted the pool brochure as Attachment A, which also mentioned the ASTM Standards.

Strengths and possible weaknesses of the possible pool cover were discussed.

Mr. Ziganti – Looking at the contour lines as presented, I do not see a practical difficulty. The Zoning Resolution requires a 4' fence. The only thing you have presented as a practical difficulty is it would be difficult to cut grass.

Mr. Thomas – I don't want to monitor a fence that may get propped open by workers that may forget to close the fence.

Ms. Fadorsen – If a pool cover has the same purpose as a pool fence, which is to make the neighborhood safer, what difference does it make?

Ms. Klemm – These barriers reduce the chances of accidents happening, but unfortunately, accidents happen – regardless of all the measures taken to protect entry from unauthorized persons.

Public Comments was closed

Ms. Fadorsen made a motion to approve the Area Variance for ZA-2025-10 for an automated pool cover in lieu of a fence on the presently constructed pool located at 11329 Caves Road to be approved. Ms. Klemm seconded the motion.

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

Motion passes

**The second area variance - Permit to construct pool at this location – Pool is located in the front yard per the location of the house.**

Mr. Alusheff – While considering the site plan as shown on the Staff Summary, the pool appears to meet the location requirements of a pool. It wasn't identified until well after the initial certificate was granted - by using a zoomed out view - that the pool was actually in the front yard of the home as defined in our Zoning Resolution. By the time this was realized, the pool was in the ground.

Mr. Ziganti – Could we consider this a non-conforming structure rather than granting an Area variance which would go into perpetuity? Board discussion followed.

Ms. Fadorsen made a motion to consider this as an Area variance for the location of the pool and to approve the Area variance. Mr. Enger seconded the motion.

Ms. Muehling – I'm still not clear on the path. If we vote on this motion, we proceed as an Area variance and the pool is there forever?

Mr. Alusheff – They applied for an Area variance. You can't just decide we're not going to hear this as an Area variance and instead consider this a non-conforming structure.

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

1. Whether the property in question will yield a reasonable return and whether there can be any beneficial use of the property without the variance.

Mr. Thomas - Yes

2. Whether the variance is substantial.

Mr. Thomas – No

Ms. Fadorsen – Actually, it is substantial. It is 100% non-complying. Ms. Muehling agreed.

3. Whether the essential character of the neighborhood would be substantially altered or whether the adjoining property owners would suffer a substantial detriment as a result of the variance.

Mr. Thomas – No

4. Whether the variance would adversely affect the delivery of governmental services.

Mr. Thomas – No, it would not.

Ms. Muehling – Agrees

5. Whether the property owner purchased the property with the knowledge of the zoning restrictions.

Mr. Thomas – I was not aware of zoning restrictions.

6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

Mr. Thomas – It cannot.

7. Whether the spirit and intent behind the zoning requirement(s) would be observed and substantial justice be done by granting the variance;

Mr. Thomas – I think the spirit and intent would be observed.

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

Motion passes

### **Findings of Fact**

#### **ZA-2025-10**

Mr. Shawn Thomas of 11329 Caves Road came before the board with two Area variance requests. The first, an Area variance for maintaining the location of an established pool in an area not permitted by Section 5.01.13 (A). The reason the pool was sited improperly is due to a misunderstanding of a layout of the residence relative to Caves Road. The second area variance request had to do with substituting a pool cover manufactured by Automatic Pool Covers Inc. and meeting the current American Society for testing and materials (ASTM Standard F-1346-91) requirements for the required fencing as listed in the Zoning Resolution as 5.01.13 (5). A number of board members recognized the automatic pool cover to be a structure that prevents unauthorized access to the pool. Testimony was presented by the applicant and contractor indicating the safety features associated with said automatic pool cover. The board affirmed both variance requests.

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

**Approval of Minutes**

- Ms. Fadorsen motioned to accept the September 8, 2025, minutes as modified; Mr. Enger seconded the motion.  
Ms. Denamen/absent, Ms. Fadorsen/yes, Ms. Klemm/yes, Mr. Dobrzynski/absent, Mr. Ziganti/yes  
Motion passed.

Meeting closed at: 9:15 p.m.

Approval Date November 10, 2025

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Kathleen McCarthy, Admin. Assistant

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Barton Ziganti, Chairman

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Mindy Denamen, Vice-Chair

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Mark Dobrzynski

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Justin Enger

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Kathy Fadorsen

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Christina Klemm

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Margaret Muehling