

# 2<sup>nd</sup> Memo

**To: Members Town of Chester Zoning Board**

**From: Robert J. Dickover**

**Date: 8/19/2020**

**Re:** Jason Maass and Kelli Maass (the "Applicant") Application for Area Variance to allow a Garage to be constructed that will result in the maximum building coverage allowance of 15% to be exceeded

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1. The Request for Relief

The applicant seeks to construct a two-car garage on their premises and have applied for an area variance to the zoning code section 98-7 which limits the lot building coverage to a maximum of 15% of the total lot area.

2. The Property.

Address: 8 Park Drive

TM #: Sec. 19 Bl. 1 Lot 17

Zoning District: SR-2

Size: 0.37 Acres or approx. 16,150 sf.

3. The Facts.

By letter dated 07/27/20 the Town Building Inspector denied an application for a building permit due to the maximum lot coverage being exceeded. The applicants appeal from that denial and seek an area variance from the lot coverage requirement.

The appeal is timely.

4. The Application.

The application was not complete for lack of a SFEAF. Such form has now been provided and is acceptable for use.

5. The Law.

Town Zoning Code § 98-7 "Schedules of District Regulations" requires that:

§ 98-7 Schedules of District Regulations.

The Schedules of District Regulations which accompany this chapter are hereby made a part of this chapter.

The bulk area table for the SR-2 zoning district is attached. It has different bulk area requirements depending on the size of the lot. The subject lot appears to be sub-standard with respect to the minimum lot size(s) required (21,780 sf.) and the subject lot does not meet the minimum width required.

A more legible survey has now been provided. However, the proposed distances from the proposed garage to the boundary line is not shown. From a review of the survey it appears that the garage is proposed to be less than 35' from Second street. This would require a further variance.

Code § 98-10 "Corner lots" provides:

A. Front yard setbacks and requirements are required for all yards which abut streets. The narrowest yard of a lot which fronts on two or more streets shall be deemed to be the front yard. The yard opposite the front yard shall be the rear yard and all others shall be side yards.

B. At all street intersections, no obstructions to vision over 30 inches in height shall be erected on any lot within the triangle formed by the intersecting street lines and a line drawn between points along such street lines 30 feet distant from their point of intersection.

§ 98-11 "Accessory buildings" provides:

A. A permitted accessory building may be located in any required side or rear yard, provided that:

- (1) Such building, except for farm purposes, shall not exceed 24 feet in height.
- (2) Such building shall be set back at least five feet from any lot line and at least 10 feet from the principal building.
- (3) Such building shall not occupy more than 30% of the required side or rear yard.
- (4) Such building shall meet all front yard setback requirements for corner lots.

B. No such building shall project nearer to the front street line than the principal building.

(1) Construction of accessory buildings may be allowed in the front or side yard, but not within the required minimum setback of such front or side yard, on lots containing five acres or more. However, such accessory structure shall not be visible from the road on which the parcel fronts.

The denial letter from the Building Inspector used the lot coverage requirement applicable to lots one acre in size. Lesser size lots appear to be permitted in the zoning district and have different lot coverage requirements.

It appears that the garage may violate the setback requirement from Second Street and/or the 10 ft separation distance from the house all depending on the actual dimensions/distances which are not shown on the survey. An actual survey should be provided.

The Building Inspector should be asked to review this item and determine if further variance relief is requested and, if so, issue a further letter detailing any further variance relief needed. Absent

such, the applicant may find themselves back before the Board on another petition for variance relief.

- This issue requires consideration by the Zoning Board and referral to the building inspector.

6. GML 239-m:

The application materials do not indicate that the application is or is not subject to NYS GML section 239-m review.

- A review of the property location is required in order to ascertain whether a 239 referral is or is not required. This is required prior to scheduling a public hearing on the matter.

7. Public Hearing:

A Public Hearing on this application should not be scheduled until the issue of further variance relief is examined and settled.

Respectfully,

Robert J. Dickover, Esq.  
Counsel to the Zoning Board of Appeals

- *Identifies an action item*

Dashboard - MyCase
Town of Chester, NY Planning Bo
Schedule A

eode360.com/attachment/CH0648/CH0648-098b%20Sched%20of%20Use%20and%20Area%20Req%20Tables.pdf

MSN.com
Hotmail
Facebook
News - recordonlin...
Syracuse NY Local...
watertown daily tim...
hudson valley for s...
Dashboard - MyCase
Municipal Codes
Westlaw Sign-On
My LastPass Vault

ZONING

Town of Chester

SR-2 District

Schedule of Use and Area Requirements

[Amended 6-7-2005 by L.L. No. 2-2005; 3-6-2007 by L.L. No. 4-2007; 9-9-2008 by L.L. No. 4-2008; 2-23-2011 by L.L. No. 2-2011; 9-27-2017 by L.L. No. 1-2017]

Permitted Uses	Uses Requiring Site Plan Approval	Accessory Uses	Minimum Lot		Minimum Required Yards (feet)				Maximum Building Height (feet)	Maximum Percentage of Building Coverage
			Area (acres)	Width (feet)	Front	One Side	Total Side	Rear		
1. Single-family dwellings, not to exceed one dwelling unit per lot with neither central water nor central sewer service.	1. Conversion of a single-family home to a two-family dwelling per § 98-29. <sup>1</sup> 2. Bed-and-breakfast per § 98-29. 3. Clustered development with approval per § 98-25 and with lot areas as set forth in this table. <sup>2</sup> Site plan approval shall be required by the Planning Board only for multipurpose or community buildings, recreation or other facilities or areas as determined by the Planning Board.	1. Customary accessory buildings, including swimming and wading pools not operated for gain, private garage, storage building or carport. 2. Customary home occupations, including (a) family day-care home; (b) group family day-care home, per § 98-29H(2)(a) only for a permitted single-family dwelling.	1	150	60	30	60	60	35	15%
2. Single-family dwellings, not to exceed one dwelling unit per lot with either central water or central sewer.			32,670 square feet	100	35	20	40	40	35	20%
3. Single-family dwellings, not to exceed one dwelling unit per lot with both central water and central sewer.			21,780 square feet	100	35	15	30	40	35	25%
			(1)	125	35	20	40	40	35	20%
	4. Two-family dwellings not to exceed a total of two dwelling units per lot. <sup>3</sup> 5. Planned adult communities as per § 98-29. 6. Senior housing as per § 98-29. 7. Senior assisted-care facility as per § 98-29. 8. Annual membership clubs providing indoor and outdoor recreational facilities per § 98-29. 9. Bed-and-breakfast inns per § 98-29.	3. Keeping of not more than a total of five dogs or cats over six months of age or two other domestic animals.	25	300	As required in § 98-29.					
			5	200	50	30	60	50	40	30%
4. Municipal buildings and uses, including fire stations, offices, libraries, parks, museums and public schools, etc.	10. Religious institution as per § 98-29F. 11. Cemeteries. <sup>4</sup>  12. Schools as per § 98-29O. 13. Public utility structures and rights-of-way per § 98-29. 14. Excavations and removal of soil, subject to §§ 98-12 and 98-13. DEC mining permit may be required. 15. Day-care centers and nursery schools per § 98-29. 16. Market-rate senior housing. 17. Small-scale solar energy system per § 98-40D and subject to architectural review pursuant to § 98-28.	4. Accessory uses limited to parish houses, day-care centers, nursery schools, meeting halls and required parking and loading areas pursuant to § 98-22 and signs pursuant to § 98-21. 5. Customary accessory uses parking and loading areas pursuant to § 98-22 and signs pursuant to § 98-21.	3	200	50	50	100	50	40	30%
			See § 98-29.							
			As required by the appropriate regulatory agency.							
			20	500	150	150	300	150	15	—
			2	150	60	30	60	60	35	20%
			See § 98-29W.							

NOTES:  
<sup>1</sup> Lot area requirements are 175% of the requirement for a single-family dwelling unit with similar utility services.  
<sup>2</sup> Individual clustered lot sizes shall be determined by the Planning Board at the time of approval. Lot sizes for lots with both central water and sewer service, clustered, is 14,520 square feet. However, no more than two dwelling units shall be allowed per acre of land in the SR-2 Districts involved in the project.  
<sup>3</sup> No more than 20% of the dwelling units in a subdivision shall be in two-family units.  
<sup>4</sup> See regulations for existing historic cemeteries.

