

**ZONING BOARD OF APPEALS
TOWN OF CHESTER**

1786 Kings Highway
Chester, New York 10918
May 13, 2021

PRESENT: Gregg FEIGELSON, Chairman
Julie BELL, Member
Dan Doellinger, Member
Walter Popailo, Member
Tom Atkin, Member

ABSENT: Bob Favara, Member

ALSO PRESENT: Julie Tiller, Secretary
Rob Dickover, Counsel

Chairman Feigelson called the meeting to order at 7:02 PM and opened with the Pledge of Allegiance

Chairman Feigelson: Hello everyone, the April 8th meeting minutes that Julie T emailed to us need to be adopted if there are no objections. I'll make a motion to adopt the minutes, can I get a 2nd?

Member DOELLINGER: I'll 2nd

Member POPAILO: Yes

Member BELL: Yes

Member ATKINS: Yes

Chairman Feigelson: And I say yes, so the **April 8th minutes are adopted.**

First on the agenda is a public hearing for **CHAZ BYRNE 60 GOOSEPOND MTN RD** this was a building permit denial for accessory building in the front yard not permitted under 98:11. Does the ZBA have any thoughts or concerns about this since we last met before we move forward with the public hearing? Also at last month's meeting we asked for some dimensional measurements for this as well

Chaz Byrne: It will be 18 feet in front of the house

Chairman Feigelson: Okay thank you for that, as a reminder this house is on a flag lot and not very visible from the main road. We can proceed with the public hearing but first I'll confirm with Julie T. that all the appropriate mailings were done and the notice was published per our requirements.

Julie Tiller: Yes, all the mailings were done, I received all the receipts of delivery and the notice was published on May 7th in the Times Herald

Chairman Feigelson: Excellent, thank you. So I will now make a motion to open the public hearing, can I get a 2nd?

Member BELL: I'll 2nd

Member DOELLINGER: Yes

Member POPAILO: Yes

Member ATKINS: Yes

Chairman Feigelson: The public hearing is officially open, is anyone here to speak for or against this application? Please unmute yourself and let it be known you are here, it doesn't

appear that anyone is here so we'll just wait a few more moments. Alright, no one is here to speak so we need a motion to close the public hearing.

Member POPAILO: I'll make a motion to close the public hearing

Chairman Feigelson: I'll 2nd that motion

Member DOELLINGER: Yes

Member BELL: Yes

Member ATKINS: Yes

Chairman Feigelson: Okay public hearing is officially closed and now we will move on to the 5 factor review

- #1 Whether there will be an undesirable change in the character of the neighborhood, or a detriment to nearby properties?

Member DOELLINGER: No, I believe it's pretty well hidden location because of the trees

Member POPAILO: No

Member BELL: No

Chairman Feigelson: I say no as well and agree with Dan

Member ATKIN: No

- #2 Can the applicant achieve their goals via a reasonable alternative that does not involve the necessity of an area variance?

Member DOELLINGER: Yes, because it appears the structure can be located to other parts of the yard

Member POPAILO: No

Member Bell: Yes

Chairman Feigelson: Yes

Member ATKINS: No

- #3 Is the variance substantial?

Member DOELLINGER: No

Member POPAILO: No

Member BELL: No

Chairman Feigelson: No

Member ATKINS: No

- #4 Will the variance have an adverse impact on physical or environmental conditions in the neighborhood or district?

Member DOELLINGER: No

Member POPAILO: No

Member Bell: No

Chairman Feigelson: No

Member ATKINS: No

- #5 Is this a self-created difficulty?

Member DOELLINGER: Yes, for the same reasons as question #2

Member POPAILO: Yes

Member BELL: Yes

Chairman Feigelson: Yes

Member ATKINS: Yes

Chairman Feigelson: Okay so that concludes the 5 factor review and for the next step I'll make a motion to direct counsel to draft a written decision based on our findings to grant the variance to 98:11 to permit a portion of the accessory building to extend into the front yard.

Member BELL: I'll 2nd

Member DOELLINGER: Yes

Member POPAILO: Yes

Chairman Feigelson: Yes

Member ATKINS: Yes

Chairman Feigelson: Alright at our next meeting we will vote to grant the final decision, so Mr. Byrne we will see you in June.

Next up is **MAZZOLA 440 BLACK MEADOW RD** they come before us on a building department referral looking to subdivide a 4.8 acre lot. This will be a SEQRA Type II action, no further action required and no 239 county referrals needed. I'll now turn it over to Jessica so she can explain what it is she wants to do.

Jessica Mazzola: Hello everyone, we live at 440 Black Meadow Rd, we moved in August 2018 and our house was empty for several years before we moved in. We have our main house and a few detached garages and the reason we're here is to get your thoughts on the use of our 2nd large garage. We have 2 driveways; one that goes to a 2nd structure of approximately 1,000 SF and it looks like it was a type of work shop at one time but it's falling into disrepair and we wanted to hear your thoughts on what to do. The back building has its own paved driveway and electric run to it so it really operates as a separate structure. We're trying to figure out what to do with this structure; it's too far to connect to our main house as an expansion. We asked Alexa if we could set it up as a separate dwelling and she advised we would have to go before the zoning board but we don't have the required 6 acres to sub divide. We don't want to change the character of the neighborhood in any way, we are in the AR3 zone and within our zone there are approximately 8 properties that are less than the 3 acres requirement and I've listed them in my presentation. We don't really have any other way to use the structure for additional living space and we already have 2 other garages on our property for storage and cars. The relief we would be asking for would be 1.2 acres so I don't think it would be too substantial. We filled out the environmental assessment as well and we would not be adding any impervious surfaces if we were able to put a single family home back there and I don't think it would impact the environment in any way.

Member ATKINS: Did the garage ever have a building permit? I bet it was built illegally because it can't be seen from the road

Jessica Mazzola: We are working with Alexa to get the permits closed and pay the fees. We are working towards getting everything straightened out because there were 4 to 5 open permits that were never closed

Member ATKINS: That building probably should have never been built, that's the problem. It's not going to work, it was built slab on grade

Member BELL: How far away is this structure from your neighbor John Straub?

Jessica Mazzola: There's a decent yard but I think what we would do if it works out with engineering is cut our yard close to the 2nd driveway

Member BELL: My question is what will the side yard be to the neighbor? Will you need a variance?

Jessica Mazzola: I think that would be better answered once we get it engineered for exact numbers

Chairman Feigelson: The fundamental question is about whether it's appropriate to sub divide this lot in an AR3 district to make a non-conforming lot. I would argue that's a pretty tough argument to win and that's just my opinion because sometime in the early 2000's zoning was changed in this area to AR3 to limit the density of homes in this area. The existing ones were there but the intent was to create a lower density residential zone.

Member POPAILO: Would they cut it diagonally?

Chairman Feigelson: I think at this time we need to address the more fundamental question of whether we think it's appropriate to sub divide and create a non-conforming lot

Jessica Mazzola: Yes, that's what we want to do is give use to a building that's already there

Member POPAILO: Is the house to be built going to be for sale or would it be for a family member?

Jessica Mazzola: Possibly could be for my sister

Member POPAILO: How big is the lot?

Jessica Mazzola: The whole lot is 4.8 acres; our house would be on a 3 acre lot but the other house if approved would be on 1.8 acres

Member DOELLINGER: I agree that it's tough to overcome the fact that it was put in place to be a 3 acre lot in that zone. I question if it's even feasible to build a separate house there without causing more problems.

Member BELL: This existing building is about 1,000 SF so I'm sure if it were a house it would be much bigger than that

Member POPAILO: Does this leave it open for everyone that has a 5 acre lot to want to sub divide

Chairman Feigelson: That's exactly what I thought and I don't want to open the flood gates for everyone else. For this application we need to find something that's unique to the land and not to the actual structure itself. The next step would be a public hearing but I'm not sure if you want to move forward with the expense so that's up to you.

Jessica Mazzola: But ultimately you guys have the final say right?

Member POPAILO: I just think anyone with fewer than 6 acres will want to jump on the band wagon

Member DOELLINGER: You could possibly see if you can get 1.2 acres to purchase from a neighbor and go from there

Jessica Mazzola: Okay, we will consider that and get back to you, thank you for the feed back

Chairman Feigelson: Alright, we will now move on to **JASON HARTMAN 53 GIBSON HILL RD** Jason has a building permit denial under 98:14B for fence in the front yard. This will be a SEQRA Type II action so no further action required; you may be within 500 feet of Goosepond Park so you will need a 239 referral. So I'll let you explain to us what you would like to do

Jason Hartman: Good evening everyone, I've been in my house for 11 years and the neighbor's house is in serious disrepair and I've watched it crumble. I now have kids and a dog and the separate structure is just crumbling; electric lines hanging, holes in the roof and dead deer carcasses lying around. I've tried everything to resolve this with the building department and have gotten nowhere. I cut down some dead trees and I probably should not have because now I can see the full view of the house which is terrible. The fence I want to put up is 6 foot and although it's the front of my house it's setback and would be taking the place of the dead trees that were there before. All I really want to do is hide the eyesore and I feel the fence will look better and I don't think it will affect the neighborhood at all.

Member BELL: Will the fence be obstructing any views getting in or out of the driveway?

Jason Hartman: No, in fact I cut down a bunch of trees to make it easier to see

Chairman Feigelson: Would you be open to a condition to the variance? I believe that house is in the process of being condemned so would you be opposed to something like that?

Jason Hartman: Not at all; if the house is rebuilt and nicer then I wouldn't need the fence

Chairman Feigelson: I spoke with Alexa this morning and she is in the process of condemning it but it does take a while to happen.

Jason Hartman: I even offered to buy it and the property but they want no part of it

Chairman Feigelson: Okay so if the board has no other questions or comments, would the applicant like to proceed to the next step and go to public hearing?

Jason Hartman: Yes, please

Chairman Feigelson: Alright, so I'll make a motion to schedule the public hearing for June 10th, can I get a 2nd?

Member POPAILO: I'll 2nd

All in favor: Yes

Chairman Feigelson: Okay, public hearing has been scheduled for June 10th and Julie T. will get you all the information you need to fulfill the requirements

Next we will need a motion to table the Qemal Xharo application until next month, so I'll make that motion.

Member BELL: I'll 2nd

Member POPAILO: Yes

Member DOELLINGER: Yes

Member ATKINS: Yes

Chairman Feigelson: And I say yes, so the Xharo application has been tabled until the June 10th meeting.

If no other business then I'll make a motion to adjourn

Member BELL: I'll 2nd

All in favor: Yes

Meeting adjourned at 8:10 pm

Respectfully submitted,

Julie Tiller
Zoning Board of Appeals Secretary