

1. Call to Order

The Chester Zoning Board of Appeals held its regular meeting on Monday, January 23, 2017, at the Chester Town Hall, 203 Middlesex Avenue, Chester, Connecticut. Chairman Mark Borton called the meeting to order at 7:30 PM.

2. Seating of Members

Members in attendance and seated were Mark Borton, John DeLaura, Mike Desnoyers, Alex Stein and Errol Horner.

4. Old Business

(a) CONTINUED Public Hearing and Consideration of Application
Application submitted by Rick & Heather Miles (owner/applicant) for variance of Section 60B, Required Characteristics (Front and Side Setbacks, Maximum Building Coverage), to construct attached garage, at property located at 23 Lakeview Avenue, Chester, CT (Tax Map 12, Lot 210, Zone R2).

Chairman Borton noted this was a continued public hearing from November 22, 2016.

Rick Miles noted at the last meeting his coverage was at 18.32%. He looked at taking down the shed and deck to bring coverage into compliance. At the same time he was trying to get a petition together to change the Zoning Regulations. He researched removing the deck but because of the way the foundation was built, it will be a lot more work than originally thought. He noted eventually he would like to take the shed down, but needs to have the garage up first.

Mr. Miles noted his hardship is also how the house is situated on the property. He has to enclose the chimney in the garage and that controls the width and length. He did reduce the garage by 4' bringing coverage down to 17.36%. He noted R2 was 15% coverage and R1 was 20%. He would be well below the 20% if this was in R1. Coverages were R2 at 15%, R1 at 20% and R½ at 25%.

Mr. Miles submitted two documents – Exhibit 1 was Table of Setbacks and Exhibit 2 was a new plot plan. He noted the chimney is about 5' in width and 2½' in depth so that takes away from the size of the garage. He reiterated he would like to get rid of the shed eventually. He also noted if it was easy to remove the deck and put in a patio, he would do that, but its a lot more difficult than originally thought.

There was discussion regarding the greenhouse that was in the area of the current deck and the location of the foundation and stairs. Mr. DeLaura noted the garage originally was 24' x 24'. If the 144' is removed, that would bring the coverage down to about 15%. He also noted there is no legal hardship. Mike Desnoyers stated

there is a hardship because the R2 regulation is being applied to a ½ acre lot. DeLaura noted that is not a legal hardship because every other lot in that area has the same standard. It was noted there are bigger lots in that area. There was further discussion amongst Board members as to whether this was a legal hardship. Chairman Borton noted he thought the Board had established there was a legal hardship because of the imposition of Zoning. Mr. DeLaura disagreed. Other members noted this was used as a hardship on other applications. DeLaura noted the Zoning in this area should be changed, but that has to be done by the Planning & Zoning Commission.

Mr. DeLaura noted a legal hardship cannot be personal, financial or something that a property owner just wants to do. It has to be based on why that particular lot is so much different than the other lots in that area. DeLaura noted he was trying to protect all those involved. If the shed was removed, it would bring the coverage down to 16.33% along with reducing the garage by 4' to 20' x 24'.

There was further discussion as to whether the deck could be removed and replaced with a terrace/patio. Miles noted the deck was there when he moved in. He also reiterated the existing chimney and window dictate the length of the garage.

Chairman Borton reviewed the setbacks for R2, R1 and R½ zones.

John DeLaura asked the applicant to confirm he would be willing to remove the shed (144') which would bring this more in compliance. This could be a condition of approval. Mr. Miles asked if the shed area could be reduced because he wasn't sure everything would fit in the garage.

A Board member asked if a project was already started and the Zoning changes, how does that effect the project. John DeLaura noted the project would still go under the Zoning that was in place when the project was approved. He also noted the logical thing would be to wait and see if Zoning was going to change.

It was suggested a condition be put on the approval to remove the shed. If the Zoning Regulations change in the mean time, then possibly the shed might be able to remain. DeLaura again stated the objective of Zoning is to bring things more in compliance.

Chairman Borton noted if a shed is 100' or less, it is exempt from setbacks, but coverage still applies.

**Motion by Desnoyers, second by Stein, to close the public hearing at 8:07 PM.
Unanimously Approved.**

Board members began their deliberation. Chairman Borton noted there are two issues – setback and coverage. John DeLaura noted he did not see a legal hardship because there are things that could be done. Mike Desnoyers noted this is pre-existing nonconforming.

There was discussion regarding the setback. Chairman Borton noted the structure has been reduced by 4' putting it within the R½ setback line. If this was an R½ zone, it would be in compliance. He felt that was a goodfaith demonstration by the applicant to conform. John DeLaura agreed, but felt there should be some sort of a trade.

Chairman Borton noted relative to setbacks for the garage, John DeLaura would be willing to grant that if the shed was removed. Alex Stein noted the shed has been there and is clearly nonconforming. The applicant has clearly stated he wasn't sure he can accommodate everything in the shed in the new garage. Being sensitive to that, can we come to an agreement on the setback on its own and work the coverage issue with the removal of the shed. His thought was the coverage issue might go away if the lot gets rezoned. Then he would be okay on coverage with the zone.

John DeLaura noted the coverage and setbacks are not independent. One can't be done without the other. The way to resolve that is to trade one more egregious nonconformity for a less egregious nonconformity. The setback issue is less egregious. This lot has got to become more compliant.

Chairman Borton noted the variance could be granted per the revised plan for a 20' x 24' garage with the condition that the shed be removed within 1 year of granting of the variance. That would allow the applicant to proceed with construction and proceed with the request to the Planning & Zoning Commission. The issue of coverage might become moot, but the setback issue would remain. DeLaura noted it is a pre-existing nonconforming structure.

Discussion ensued regarding setbacks and coverage. DeLaura felt it was a good compromise to reduce the garage and remove the shed. Discussion followed as to how much time should be given for removal of the shed. It was a consensus that the shed should be removed within 2 years.

Motion by DeLaura, second by Horner, to grant the variance for a 20' x 24' garage per Exhibit 2 dated 1/23/17 with the condition the shed be reduced to conformity within two (2) years from the date of the grant of the variance. Unanimously Approved.

5. New Business -
(a) Receipt of New Applications – none.

6. Any Other Business
Chairman Borton encouraged all members to attend the upcoming Land Use training class.

7. Audience of Citizens – none.

3. Approval of Minutes
Motion by DeLaura, second by Desnoyers, to approve October minutes as written. Unanimously Approved.

Motion by DeLaura, second by Desnoyers, to approve November minutes as written. Unanimously Approved.

8. Adjournment
Motion by Stein, second by Desnoyers, to adjourn at 8:38 PM. Unanimously Approved.

Respectfully submitted,



Judith R. Brown, Recording Secretary