

Chester Zoning Board of Appeals
Regular Meeting, November 21, 2016
Page 1 of 5

1. Call to Order

The Chester Zoning Board of Appeals held its regular meeting on Monday, November 21, 2016, at 7:30 PM 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 were Mark Borton, John DeLaura, Errol Horner, Alex Stein and Lisa Tollefson. Mike Desnoyers arrived at 7:40 PM.

3. Approval of Minutes

The Minutes were tabled until the next meeting.

4. Old Business

(a) 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).

Rick Miles introduced himself. Chairman Borton explained the meeting procedures noting everyone had a copy of the application.

Mr. Miles explained he wanted to have a garage which would follow the existing roof line. Four photos were submitted and marked Exhibit A. The garage would be 2 feet back. Mr. Miles noted they were in an R2 zone and limited in what they can do on their lot because of the 2 acre zoning. The driveway is 23½ feet and the garage is about ½ foot bigger. This will not block any views. Mr. Miles further noted there is a 12 acre parcel for sale behind them and they were waiting to see what happened with that. In the meantime they decided they really want to stay in Chester and in that area. They really want to have a garage so they are now applying for it.

John DeLaura asked Mr. Miles to elaborate on the legal hardship. Mr. Miles felt the hardship was the fact zoning in that area was 2 acres. They only have a 10,000 square foot lot. DeLaura noted most of the lots in that area are small lots.

Chester Zoning Board of Appeals
Regular Meeting, November 21, 2016
Page 2 of 5

That is not a unique characteristic in that area. He explained what types of features are unique to a lot. The Board is looking for something that would separate this lot from all other lots in the area. DeLaura noted the problem is that Planning & Zoning has not recognized all these small lots in that area. Mr. Miles agreed noting that is why he felt this was his hardship.

Mr. DeLaura noted in the absence of a legal hardship there is case law where one could trade a pre-existing nonconforming situation for another nonconforming situation. He asked Mr. Miles if he would consider that. There is an accessory structure (shed) which is very much noncompliant only 4' from the property line.

Mr. Miles noted he was new to this and wanted to make his house something they would live in for the rest of their lives.

Chairman Borton noted the house was built in 1960. Zoning came in in the late 60's, therefore, there was imposition of zoning after the fact. He indicated the condition of small lots in larger zoned areas is not unique to this property or this area. He asked if there were any other conditions that would lend to the hardship. Mr. Miles noted the way the house is positioned on the lot prohibits the garage from being anywhere else. Also the location of the well and septic.

(It is noted for the record Mike Desnoyers arrived at 7:40 PM.)

It was noted it wasn't clear whether this zone was changed many years ago or was is originally zoned as 2 acres.

John DeLaura reiterated the Planning & Zoning Commission was delinquent in not addressing this issue. There was discussion about moving the garage further back, the setback encroachment of 22' and the buildable envelope. It was noted the buildable envelope would be less than half the size of the house.

John DeLaura noted shoreline towns allow small lots to go with 16 or 17% coverage. He felt the 24 x 24 garage was huge for that property. A 22 x 22 garage would be less percentage of coverage. He asked if some of this could be reduced down in lieu of a legal hardship.

Chester Zoning Board of Appeals
Regular Meeting, November 21, 2016
Page 3 of 5

Mr. Miles again noted he felt the legal hardship was the zoning rules. He has a 10,000 square foot property in a 2 acre zone. He felt the idea of reducing coverage should have been done with other lots in this area. Mr. DeLaura noted the lot is not unique in this situation. Mike Desnoyers noted all the lots are unique in this area with the 2 acre zoning.

There was further discussion regarding buildable envelope and possible reduction of nonconformities.

John DeLaura noted the question is are the Zoning Regs a legal hardship. This is not unique in the neighborhood.

Chairman Borton noted if the imposition of Zoning Regs is a legal hardship, then there is a basis for a variance. Maybe it should be a one car garage. DeLaura noted a one car garage might not go over on coverage, but would still be in the setback. Borton noted a variance can't be granted if there is any other way to do a project without a variance.

Mr. Miles noted compared to what he sees in the neighborhood, he isn't asking for a lot. Errol Horner noted Mr. DeLaura's point about coverage is very important, maintaining massive structures, etc.

John DeLaura noted decks are included in coverage and probably shouldn't be. The accessory shed is 144 sf and counts for coverage. If the shed is removed, the coverage would still be 16.88%. Total square footage of the lot is 10,000. Proposed coverage is 18.32%. Included in coverage is anything above 1 foot. There was discussion about reducing the size of the garage. It was noted that would be difficult in view of the location of the chimney and fitting 2 cars in there.

It was noted there isn't anything that says the property owner couldn't remove the shed and deck and replace the deck with a patio no more than 1 foot high. Mr. Miles noted he wouldn't be able to remove the shed or deck before the garage is built. Maybe possible conditions of a variance would be removal of the deck and shed.

John DeLaura noted the Board has given the applicant several suggestions, but

Chester Zoning Board of Appeals
Regular Meeting, November 21, 2016
Page 4 of 5

can't make that decision for him. The shed is egregious. If it were removed, that would be an indication the property is becoming more compliant, also getting rid of the deck and reducing garage size.

Chairman Borton noted the Board is suggesting the applicant revise his plan and come back next month with a modified one. The Board has to react to the application in front of it. Chairman Borton also noted this hearing could be left open and they would encourage the applicant to modify his plan. They would also agree to waive the fee if the applicant wanted to withdraw this application and take more time to decide on what he wants to do. Board members agreed it was mostly coverage that was the problem. The applicant showing a good faith attempt to bringing this further into compliance would be a good thing.

It was decided to table this matter until next month in order to consult with staff and inquire as to whether the deck was included in coverage.

Motion by DeLaura, second by Tollefson, to continue the public hearing until next month to allow the Board and the applicant to obtain further information from staff regarding coverage. Unanimously Approved.

Chairman Borton noted since this is being tabled, there is no issue with waiving the fee.

5. New Business -

(a) Receipt of New Applications – none.

6. Any Other Business

Board members thanked Lisa Tollefson for her past services on the Board.

7. Audience of Citizens

Pat Fisher, 21 Lakeview Avenue, noted the Board indicated earlier in the meeting that Planning & Zoning were delinquent in address this issue of small lots in R2 zoned areas. John DeLaura noted he has suggested to the Board of Selectmen this should probably be addressed by the Planning & Zoning Commission. It could be done by a Zoning Regulation change. He also noted any individual or group could ask for a rezoning of the district, but not a single property. He suggested Mr.

**Chester Zoning Board of Appeals
Regular Meeting, November 21, 2016
Page 5 of 5**

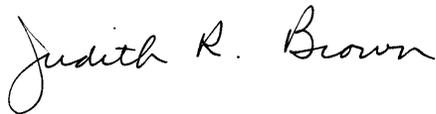
Fisher write to the First Selectman. Errol Horner noted this is something that should be dealt with. Perhaps this Board should contact the Planning & Zoning Chairman. Chairman Borton asked if the ZBA feels it appropriate to make a statement to Planning & Zoning.

Motion by Borton, second by Tollefson, that the Zoning Board of Appeals recommends to the Board of Selectmen and the Planning & Zoning Commission that they consider rezoning areas of multiple small lots in areas of much larger lots, such as (but not limited to) Castle View Drive and Cedar Lake Terrace. Unanimously Approved.

8. Adjournment

**Motion by Tollefson, second by Stein, to adjourn at 8:34 PM.
Unanimously Approved.**

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith R. Brown". The signature is written in black ink and is positioned below the text "Respectfully submitted,".

Judith R. Brown, Recording Secretary