

Chester Zoning Board of Appeals
Regular Meeting, February 25, 2019
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1. Call to Order

The Chester Zoning Board of Appeals held its regular meeting on Monday, February 25, 2019, at the Chester Town Hall, 203 Middlesex Avenue, Chester, CT. Chairman Borton called the meeting to order at 7:30 PM.

2. Seating of Members

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

3. Approval of Minutes – May 21, 2018

*Motion by Stein, second by DeLaura, to approve May 21, 2018 Minutes as written.
Unanimously Approved.*

4. Old Business – none.

5. New Business

Application submitted by Michael Jordan/Joosje VanRoode (applicant and owner) for variance of Sections 50D Extensions or Expansions and 73.8.3 Required Characteristics (front and side setbacks) for addition of 2 wood decks and expansion of living area, at property located at 87-89 Main Street, Chester, CT (Tax Map 14, Lot 535, Village District).

Brian Buckley, Designer, introduced himself and his clients, Michael Jordan and Joosje VanRoode, owners of 87-89 Main Street. He noted this is only the second application made to P&Z and the first to ZBA for a variance regarding the Chester Village District. This was Mr. Buckley's first application dealing with the Village District. He reviewed the Purpose of the Chester Village District. He also noted he had an informal discussion with the Chairman and Secretary of Planning & Zoning and they waived their application given the scope of this project. There was nothing in writing. Mr. Buckley was told to go before the ZBA. John DeLaura noted the P&Z Chairman doesn't have the authority to waive an application. This application needs to go before Planning & Zoning according to Section 73.3.3. Chairman Borton noted the ZBA deals mainly with footprint and the variance requested. If the variance is approved, there should be a statement that it is our belief this needs to go before Planning & Zoning for approval.

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Mr. Buckley noted he received the Inland Wetland Permit, copy in the file. He indicated they are asking for a variance of Section 50, Extension or Expansion, which states no nonconforming use to be expanded. Section 73.8.3, Required Characteristics of Sub-District D3, front and side setbacks. Mr. Buckley noted the front setback is 15' and the front porch will be along the entire front of the building. There is a 3' encroachment into the front setback and the amount of encroachment is 54 square feet. The northwest side has a 14' encroachment or 347 square feet. The expansion of the footprint only deals with Section 50D and not the setback. The deck and stairs and area of the addition within the footprint was reviewed. Existing coverage is 15%, proposed coverage is 21%. The wetlands application was granted with mitigation of a rain garden for roof runoff.

Mr. Buckley reviewed the following –

- Expansion of first floor living area and 2 wood decks (1 deck is over existing coverage), first floor expansion is 215 square feet, second floor expansion is 574 square feet, the 3rd floor is being raised 2 ½' over the front of the house.
- Existing house is a full 2 story with attic.
- Building meets the 50% regulation in the Building Code, if you do more than 50% of the value of the existing structure, everything has to be brought up to code. In doing that, the logistics raises it up. The maximum height of the building will be 34'. No variance is required for height.
- The decks will add 500 square feet, however, one deck is over an existing patio.
- The area of the garage and basement were reviewed. There will be no garage in the proposed structure.
- New living area was reviewed.

Mr. Buckley noted the hardship is the width of the lot and the placement of the house restrict the ability to reasonably improve the property. Hardship is unique because the property was subdivided before Zoning and in perpetuity created the nonconformity. No significant expansion will affect the street view.

Chairman Borton noted the specific elements needing a variance are the front porch and the deck.

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Mr. Buckley reiterated the hardship was basically the shape of the lot and the D3 Sub-district. When this one lot was subdivided, it made the lot nonconforming.

No one spoke in favor of the application, other than the property owners.

No one spoke in opposition to the application.

Correspondence from Susan Peck, 101 Main Street, dated February 24, 2019, in support of the application was read into the record. Ms. Peck noted the proposal will vastly improve the living space and functionality of the existing property and is in keeping with improvements made to neighboring properties on Main Street as a whole.

The public hearing was closed and the Board went into a deliberations session.

Errol Horner – didn't see any problems or issues. There is plenty of coverage. He noted this Board doesn't have any purview over what goes before P&Z.

Alex Stein – no issue with it. Its nonconforming, no more egregious.

John DeLaura – the front porch is not encroaching any more than the existing building. No problem with it. He agreed with Mr. Horner with regarding to P&Z.

Eric Anderson – no problem with it.

Mark Borton – nothing further to add.

Motion by Horner, second by DeLaura, to approve variance for Michael Jordan/Joosje VanRoode of Sections 50D Extension or Expansion of pre-existing structure and 73.8.3 for Required Characteristics, Sub-district D3, front and side setback for new porch and new deck. Unanimously Approved.

Application submitted by Yulka Markevich (applicant and owner) for variance of Section 60B, Required Characteristics (front, rear and side setbacks) for reconstruction of mud room and roof, deck addition and add portico above front door, at property located at 10 Birch Street, Chester, CT (Tax Map 12, Lot 196, R2 Zone).

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Yulka Markevich introduced herself noting she bought a small cottage which was in very bad condition and is trying to restore it. It was a surprise to her it was in a 2 acre zone. She was requesting a variance for a deck, roof over part of the deck and small portico. The plan was reviewed highlighting the existing structure and the new proposal. I didn't know I needed to get a permit for this and had already started construction. Construction has been stopped. I obtained a wetlands permit.

Chairman Borton noted this is an R2 Zone with a 40' setback. He asked how high the deck was off grade. Ms. Markevich noted the east side was about 2 ½' and west side about 1'. The entire structure is within the setbacks, similar to other properties in that area.

Ms. Markevich reviewed the photos submitted, Exhibit A. She noted construction started about a month and half ago. The neighbor complained and work was stopped by the Building Official.

No one spoke in favor of the application.

Ernie and Pam Cartier, 6 Birch Street, spoke in opposition. They submitted and reviewed photos. Mr. Cartier noted construction started in October. He noticed the footprint was being extended and visited Town Hall. Ron Rose looked at the file and there wasn't any permit. He stopped the work. The next day a variance was applied for. Mr. Cartier further noted the property owner thought part of his property was hers. One day he noticed trees were marked on his property. He discussed this with the property owner and notified her no one was to be on his property and no trees on his property were to be cut down. He came home a week later and 2 trees were cut down on his property. She said she would replace the trees but they will be slow growing. Mr. Cartier stated he was in opposition to any of this. He was shocked wetlands approved it. The wetlands goes completely along the west side of the property and that is where they moved the septic tank. He also noted the well is closer to the septic than technically allowed but they allowed it. During the well drilling tons of stuff came down on his property. He noted this is a case of its better to beg forgiveness than ask for permission.

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Ms. Markevich noted she applied for permits and Ron Rose and Judy Brown have the package and plans. My being a realtor has nothing to do with this. She indicated she knew she needed a permit and that's what she did. She didn't know she was buying a property so small and that part of the property belonged to the neighbors. With regard to the trees, I told the guys to be careful with the neighbors trees but they did cut it. I will plant a new tree in the spring time. John DeLaura noted cutting neighbors trees is a civil action and not part of this application.

Mr. Cartier noted there appears to be a disregard of the rules and doesn't want any more encroachment. He objected to covering the porch. Ms. Markevich feels she is not increasing the footprint but its bigger now. John DeLaura reviewed the site plan and noted it is no more egregious than what is there now and in some places less.

Erik Anderson asked how far the existing concrete patio was to the property line. Ms. Markevich replied 9'. She also noted the portico will be attached to the wall, no columns, stone steps. She also agreed to accept a condition that if approved, it will not be enclosed.

Board members discussed the application amongst themselves.

Erik Anderson – no comment at this time.

John DeLaura – this is a pre-existing nonconforming lot. The whole house is within the setback. Nothing can be done within the regulations. He had reservations about the portico over the front door and was not in favor of it. He noted the deck and small roof over the barbecue area if approved could be conditioned to remain open.

Alex Stein – he noted he had no problem with the roof. After discussion regarding the deck and portico, he noted he was okay with the deck but not with the portico.

Errol Horner – he noted he would like to see the scene. He was uncomfortable moving forward to a vote because he can't visualize the area. He wanted to do a site visit.

Erik Anderson – he noted he doesn't have enough information.

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Mark Borton – Chairman Borton noted the Board needs to do a site visit. Also the applicant needs to submit Building and Wetland Permits.

A member of the public, Joe Tomaszewski, property owner on Main Street, noted he thought an awful lot of this has been predicated on wishy washy stuff. He said he would be more comfortable if he saw something that stated this is going to be removed, this is going to be this high, this bigger, etc. There isn't enough to make your mind up.

Motion by Borton, seconded by Horner, to continue Public Hearing for Yulka Markevich, 10 Birch Street, to March 18, 2019 meeting to provide copies of wetland and building permits and allow the ZBA members to do a site visit. Unanimously Approved.

Chairman Borton noted the property lines and setbacks should be clearly marked with stakes, outline of proposed deck and other structures with stakes and any other features the applicant wants the Board members to observe. Chairman Borton noted the members can ask questions, but there will be no discussion.

6. Receipt of New Applications – none.

7. Any Other Business – none.

8. Audience of Citizens – no further comments from the public.

9. Adjournment

Motion by Borton, second by Stein, to adjourn at 9:12 PM. Unanimously Approved.

Respectfully submitted,



Judith R. Brown, Recording Secretary