

**TOWN OF CHESTER**  
**DEVELOPMENT REVIEW BOARD**  
**MINUTES**

*March 22, 2021*

**BOARD MEMBERS PRESENT:** Harry Goodell, and Larry Semones at the Town Hall, Robert Greenfield and Phil Perlah via Zoom teleconference.

**STAFF PRESENT:** Cathy Hasbrouck, Recording Secretary at the Town Hall and Jill Barger Zoning Administrator via Zoom teleconference.

**CITIZENS PRESENT:** Chris Augusto and Gail Sabettini at the Town Hall, Ruby Ramsland, Erik Ramsland and Jason Waysville via Zoom teleconference.

**Call to Order**

Phil Perlah called the meeting to order at 6:00 PM. He introduced the members of the Development Review Board and staff and read the meeting agenda. He noted that one agenda item had been withdrawn.

**Agenda Item 1 Reorganizational Meeting**

Before the reorganization began Phil Perlah expressed his appreciation for the service Carla Westine had given to the Development Review Board for many years. He asked that a motion to that effect be made and a copy of the minutes with the motion be sent to her when the minutes are finalized. Harry Goodell made the motion and Bob Greenfield seconded it. A vote was taken and the motion was passed unanimously.

Bob Greenfield volunteered to be vice chair. Phil Perlah suggested that he (Phil) would continue to run the meeting, as he had prepared himself to do so, but Bob Greenfield could take up the vice chair duties at the end of the meeting. Phil Perlah noted that there were still 2 vacancies to fill on the Board and the Board could re-organize again when those positions were filled.

**Agenda Item 2 Review draft minutes from the February 8, 2021 meeting**

A question, "Why can't I get it?" was heard from the Zoom participants, but the person who asked the question did not identify themselves and the meeting proceeded. Harry Goodell moved to accept the minutes of the February 8, 2021 meeting as written. Bob Greenfield seconded the motion. There was no discussion. A vote was taken and the motion passed.

**Agenda Item 3 Citizen comments.**

There were no citizen comments.

**Agenda Item 4 847 Farrar Road Variance Request**

Phil Perlah asked whether any Board member had any conflict of interest to report. None did. He asked if any member had any ex-parte communication to report. None did. He then swore in Erik Ramsland, Jason Waysville, Chris Augusto and Gail Sabettini to give testimony.

29:59 Phil Perlah accepted documents entered as evidence. The first document was an Application for Building Permit for parcel 09-01-42 dated 9/3/2019. Harry Goodell moved to

accept the application as Exhibit A. Bob Greenfield seconded the motion. A vote was taken and the application was accepted as Exhibit A.

The second document was a map by Paton Land Surveying which appeared to be recorded in Book 56 page 402. Harry Goodell moved to accept the map as Exhibit B. Bob Greenfield seconded the motion. A vote was taken and the map was accepted as Exhibit B.

The third document was a letter dated September 14, 2020 indicating that the foundation intrudes into the setback by 20 feet. Larry Semones moved to accept the letter as Exhibit C. Bob Greenfield seconded the motion. A vote was taken and the letter was accepted as Exhibit C.

The fourth document presented was an Application for a Variance/Waiver signed by the applicant on January 9, 2021 and by the Zoning Administrator on February 9, 2021. Harry Goodell moved to accept the application as Exhibit D. Bob Greenfield seconded the motion. A vote was taken and the application was accepted as Exhibit D.

The fifth document presented was a Town of Chester Amended Notice of Public Hearing before the Development Review Board. Phil Perlah read the first paragraph of the document aloud. Harry Goodell moved to accept the Notice as Exhibit E. Bob Greenfield seconded the motion. A vote was taken and the notice was accepted as Exhibit E.

The sixth document presented was an e-mail exchange between Zoning Administrator Jill Barger and Gail Sabettini dated February 1, 2021. Chris Augusto read the e-mail aloud. Phil Perlah said the items noted in the e-mail were part of the bylaw checklist and the Board would discuss them as part of the hearing. Harry Goodell moved to accept the e-mail exchange as Exhibit F. Bob Greenfield seconded the motion. A vote was taken and the e-mail exchange was accepted as Exhibit F.

The seventh exhibit was a survey by Waysville Engineering dated 12/28/20 and showed the property in question. Bob Greenfield moved to accept the motion as Exhibit G. Larry Semones seconded the motion. A vote was taken and the survey was accepted as Exhibit G.

The eighth exhibit was a photograph of the snow-covered foundation looking toward the shed. The photo did not have a date or indicate who took the photograph. Harry Goodell moved to accept the photograph as Exhibit H. Bob Greenfield seconded the motion. A vote was taken and the photograph was accepted as Exhibit H.

The ninth exhibit was a printout of the Assessor's Page for the property. Phil Perlah read the owner's name (George Augusto) and address (122 Chelsea St. Gardner, MA) aloud. Harry Goodell moved to accept the printout as Exhibit I. Bob Greenfield seconded the motion. A vote was taken and the printout was accepted as Exhibit I.

The tenth document was a Wastewater System and Potable Water Supply Permit number WW-2-6140, issued by the Vermont Department of Environmental Conservation. The document was 3 pages long and signed by Terry Shearer. Harry Goodell moved to accept the permit as Exhibit J. Bob Greenfield seconded the motion. A vote was taken and the permit was accepted as Exhibit J.

Phil Perlah acknowledged the receipt of a page of notes from the Zoning Administrator Jill Barger in the packet. He said he was inclined not to enter it as an exhibit. Jill Barger said she had prepared the notes as a guide but did not intend it as an exhibit. No one on the Board wished to include it as an exhibit.

The eleventh document to be considered was a Wastewater Replacement Plan for the property on Farrar Road, dated 6/12/2020. It was sent to the DRB electronically as a .pdf for their ease of viewing. A .pdf could be enlarged on the screen. Phil Perlah proposed not to accept the document as an exhibit. Harry Goodell said the plan showed the proposed location of the new building. Jason Waysville explained that the plan was part of the Wastewater and Potable Water Supply permit from the DEC. Given that information, Phil Perlah was willing to accept it as an exhibit. Harry Goodell moved to accept the document as Exhibit K. Bob Greenfield seconded the motion. A vote was taken and the plan was accepted as Exhibit K.

Phil Perlah then began to discuss the proposed variance. He read Section 3.19.B.2 of the Chester Unified Development Bylaws aloud:

Existing Small Lots. In accordance with the Act [§ 4412], any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located, provided such lot is not less than one eighth acre or has a minimum width or depth dimension of at least 40 feet.

He asked Chris Augusto how long he has owned the property. He said he had owned it for four years. Phil Perlah asked how long the previous owner had held the property. Jason Waysville said he believed the Paton survey had the deed book of the previous owner. Cathy Hasbrouck said the parcel was created in 1979. Bob Greenfield said the current bylaws were adopted in April 2017. Phil Perlah said the lot did therefore pre-date the current bylaws.

Phil Perlah asked what zoning district the lot was in. Jill Barger said it was in the R-120 district. Phil Perlah said the minimum lot size for the R-120 was 3 acres. Jill Barger said the lot was .76 acres, which is less than the 3-acre minimum lot size and more than 0.125 acres. Since the lot also has a depth greater than 40 feet, the Board concluded that the lot met the description of a non-conforming lot.

Phil Perlah turned to the requirements for a variance. He read parts of section 7.15 Variance from the bylaws. In response to 7.15.A.1 which lists the types of unique physical circumstances or conditions of the lot that would allow a variance. Phil Perlah asked Jason Waysville to describe for the record the unique physical circumstances and conditions of the lot.

Jason Waysville said he was hired to obtain a wastewater and potable water supply permit for the parcel. He listed the features in the area which needed to be addressed by the plan. There was a well for a house across Farrar Road from the property, a water line from a shallow spring to the north, which crossed the property and continued down Farrar Road to a parcel south of the property, the ditch along the town road and the proposed structure. Each of the features had an isolation distance attached to it. Given all those requirements, Jason Waysville said, there was a small area where the house could be placed. He said test pits were dug and suitable soil was found. He took that information to the State of Vermont and obtained permit WW-2-6014.

After he obtained the permit, he was contacted by Gail Sabettini and Zoning Administrator Jill Barger who asked him to indicate the location of the now existing foundation on the plan compared to everything else. He said the map presented to the Board is the existing foundation overlaid on the parcel with the information he had obtained from the Paton survey for property

lines and the topographic survey which he had done for the water and wastewater. At that time the topographic survey located the existing structure. He said the map (Exhibit G) has the now poured foundation, the previous location of the previous structure, and the required isolation distances from the items like the water line and wastewater system. He said he indicated the ledge from the outcroppings which had to be shown for the water-wastewater permit.

Phil Perlah recapped what he had heard from Jason Waysville. He said when the ledge and the myriad setbacks required from neighbors and waterways were considered, there was very little space left on which to build a small home. Jason Waysville said Phil's summary was correct. Harry Goodell asked why the proposed house location was moved from where it was shown on the wastewater permit application drawing. Jason Waysville said he did not site the structure in the field. He said he showed a traditional footprint for the structure on the wastewater plan. The plan for the wastewater permit is not intended to be presented for a zoning application. He said the plan had details for the construction of the water-wastewater system. He said he went back and surveyed the actual location later.

Phil Perlah said the 12/28/20 survey shows the foundation where it is now. The drawings of the septic system do not show where the foundation is now. Jason Waysville said he had not overlaid the two maps, but he thought that if the maps were overlaid, the structure would not be in the same place.

Harry Goodell said the original location for the house would have been well within the setbacks. He understood there was an outcropping there, but the outcropping could have been removed. Bob Greenfield asked why the foundation was moved so far from where it was initially. Jason Waysville said he was not part of that decision. Chris Augusto said the house needed to be 25 feet from the septic system. Jason confirmed that was true. Bob Greenfield recapped, saying the septic system was moved and the house had to be moved as well to stay 25 feet away. Chris Augusto said there was a setback from the ditch. Jason Waysville said the septic system did not move. Bob Greenfield again asked why the house moved. Phil Perlah said it appeared to him the ledge was between the septic tank and the foundation. Harry Goodell said if the ledge had been removed the building could have been placed where it met the setbacks.

Jason Waysville said he was looking at the septic plan, which was to scale. He said he did not have a CAD program available, but he thought that the house as shown on the septic plan still would not meet the setback requirement. The house appeared to him to be 35 feet from the property boundary and would not conform to the 50-foot setback.

Harry Goodell confirmed that Jason Waysville believed the house as drawn on the septic plan would not meet the setbacks. Jason said that was correct. Harry said someone will have to show him that distance. When he compared the two drawings it definitely looked like the house could have met the 50-foot setback, unless Jason was showing something different.

Jason said the state of Vermont does not look at setbacks for the town zoning. He said he believed the setbacks he drew on the wastewater plan would match or exceed the previous structure. Harry Goodell said he saw nothing wrong with the septic plan. He said if the hard ledge was stripped out, the house could have been slid back and met the setback, which would have had no impact on the wastewater permit.

Phil Perlah asked if there was any further discussion on this point. Harry Goodell suggested the Board continue through the criteria. Phil Perlah read paragraph 7.15.A.2:

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these Bylaws and that the authorization of a Variance is, therefore, necessary to enable the reasonable use of the property

Phil Perlah said he thought this point ties into the discussion on point 1. Harry Goodell agreed. He said that with today's construction techniques the ledge could be removed. He said it was being done all the time. He said it appeared to him that they moved the house possibly because there was less expense involved in putting the house in a flatter area. Chris Augusto said they had removed a lot of ledge from the area. Harry Goodell said he understood that and he could have removed more and kept the building where it was originally drawn. Chris Augusto said the ground was very hard packed there.

Phil Perlah read item 3, "That the unnecessary hardship has not been created by the appellant" and said the Board would look at that later.

He read item 4:

That the Variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare;

Phil Perlah said the preceding building was a seasonal camp and will now be a year-round house. He asked Chris Augusto about the neighborhood. Chris Augusto said he loved the neighborhood and got along with the neighbors. Phil Perlah explained he meant to ask what impact the project would have on the neighborhood. Chris Augusto said the property had been covered with junk before and the neighbors were happy to have the junk cleared away. It would bring up property values in the neighborhood.

Harry Goodell asked Erik Ramsland if he had anything to say. Erik said there was formerly a 496 square foot hunting camp there and it was being replaced by a house. He wanted the existing zoning to be enforced. He said the house could have been built with the legal setbacks. He said people buy property in Vermont to have some room. Harry Goodell asked if the project would affect the value of Erik Ramsland's property. Erik said he didn't know anyone who could know that. He is not planning to sell his property. He wondered if a house would have more value with a hunting camp which is vacant 48 weeks a year or if there was a year-round house 36 feet from the property line. Harry Goodell said he didn't know how a house being so close would affect the resale value of the property.

Phil Perlah said he did not think resale value of an adjacent property and essential character of the neighborhood were the same thing. He gave an example of building a Ramsland's retail store in the neighborhood as something that would change the character, as the area appears to him to be strictly residential. Erik Ramsland said having houses right on top of each other would alter the character of the neighborhood.

Phil Perlah read the fifth item:

That the Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least deviation possible from these Bylaws and from the Plan

Chris Augusto said he understood Erik's Ramsland's point, but he said the shed that has been standing on the land all this time is even closer to the boundary line. He said the Ramslands must look through the windows of two garages in order to see the proposed house.

Phil Perlah said the issue comes back to the five criteria to determine whether to grant a variance. He proposed that the hearing be recessed to a date certain and that the Board discuss the information received so far in a deliberative session that evening. He said the Board could seek further testimony if that would be appropriate.

Larry Semones asked Jason Waysville why there was that much difference between the site plans of June 12, 2020 and December 28, 2020. Jason said he could speak for the work he did on the water and wastewater permit. He said for that permit he was meeting the setback criteria for the state of Vermont, which does not concern itself with local zoning bylaws. He is obliged to stake out the water and wastewater placements as part of obtaining the water and wastewater permit. he said he was later contacted and surveyed the foundation that had been poured.

Larry Semones then asked who staked out the house. Chris Augusto said he and the person doing site work for the house staked out the house. He said they took the measurements off the septic design and backed up from there. He said he knew the house needed to be a certain distance from the septic system.

Phil Perlah asked what the rest of the board thought about recessing until April 12, 2021 and going into deliberative session now. Harry Goodell said he was willing if the applicant was willing to accept the delay. Phil Perlah asked Chris Augusto to wait until the next meeting. Chris Augusto said he was. Phil then moved to recess the meeting until April 12, 2021 at 6:00 PM. Harry Goodell seconded the motion. A vote was taken and the motion passed.

Phil Perlah thanked the applicant, the Ramslands and the other people who attended the meeting.

Phil Perlah asked that the meeting go into deliberative session and the session include Jill Barger and Cathy Hasbrouck. Harry Goodell made a motion to that effect.

At this point the meeting went into deliberative session and was adjourned at the end of it.