

TOWN OF CHESTER
DEVELOPMENT REVIEW BOARD
DRAFT MINUTES

March 25, 2019

BOARD MEMBERS PRESENT: Carla Westine, Larry Semones, Gary Coger, and Phil Perlah.

STAFF PRESENT: Michael Normyle, Zoning Administrator, Cathy Hasbrouck, Recording Secretary.

CITIZENS PRESENT: Michael Gacioch, Ruth Zezza, Christine Montagna.

Call to Order

The meeting was called to order at 6:00 PM by Chair Carla Westine. She read the agenda for the meeting and confirmed that there had been a site visit to 3483 Popple Dungeon Road at 5:15 that afternoon. She invited the audience to join in reciting the Pledge of Allegiance. She then introduced the members of the Development Review Board and supporting staff.

Agenda Item 1 Review Draft Minutes of February 11, 2019 meeting.

The minutes from February 11, 2019 were considered. After a short discussion about the technical term “forebay”, no changes were requested. Gary Coger moved to accept the minutes as written. Larry Semones seconded the motion. A vote was taken and the motion passed.

Agenda Item 2 Citizen Comments.

There were no citizen comments.

Agenda Item 3 Boundary Line Adjustment Review, Gacioch - Zezza

Carla Westine asked if any Board member had had any ex parte communication on this hearing or wished to discuss a potential conflict of interest. None did.

Michael Normyle gave a short history of the project, saying that Michael Gacioch had approached him about a year before about recording the agreement for the boundary adjustment. Michael Normyle said that he had also discussed the issue with Ruth Zezza, who owns the other parcel affected by this boundary adjustment and who was present at the hearing.

Michael Gacioch, Christine Montagna and Ruth Zezza were sworn in to give testimony.

Carla Westine reviewed the six documents submitted as evidence. The first document was a Town of Chester Application for Boundary Line Adjustment. Carla Westine read the applicant’s name, Michael Gacioch, address, 3483 Popple Dungeon Road, the property location, also 3483 Popple Dungeon Road and zoning district, R-120. She verified with Zoning Administrator Michael Normyle that there are currently 2 lots affected and will be 2 lots after the boundary adjustment is made. Michael Normyle confirmed this, saying that one lot will be made smaller by this adjustment and one lot will be made larger. Carla Westine read the Parcel ID numbers of the two lots affected and the acreage before and after the adjustment. There was considerable confusion about the acreage of the larger parcel whose tax number is 13-01-27. It was resolved

by consulting the tax map, the survey and lister's card. The Board concluded that, before the adjustment, the Zezza parcel (13-01-27) had 174.9 acres according to the lister's card and the survey. After the adjustment it will have 174.67 acres. The correction was noted on the application. The lot belonging to the applicant, Michael Gacioch, (parcel 13-1-16) had .19 acres before the adjustment and .42 acres after it. Phil Perlah moved to accept the corrected application as Exhibit A. Gary Coger seconded the motion. A vote was taken and the motion passed.

The second document presented was a Town of Chester Notice of Public Hearing before the Development Review Board dated February 26, 2019. Carla Westine read the following items from the notice: the applicant name is Michael Gacioch, the location is 3483 Popple Dungeon Road, the district is Residential 3 acres and the action requested is," A proposed boundary line adjustment which will transfer 0.23 acres from the Ruth Zezza Family Trust to the Gacioch property." Phil Perlah moved to accept the drawings as Exhibit B. Gary Coger seconded the motion. A vote was taken and the motion passed.

The third document presented was a narrative written by Michael Gacioch giving the history of the boundary adjustment. Carla Westine read the narrative aloud. Phil Perlah moved to accept the narrative as Exhibit C. Gary Coger seconded the motion. A vote was taken and the motion passed.

The fourth document presented was three unstapled pages on two sides, titled Stipulated Proposed Order and Declaratory Judgement from the Windsor Unit, Civil Division of the Vermont Superior Court. The plaintiff is Michael Gacioch and the defendants are P. Ruth Zezza Family Revocable Trust, and Patricia Ruth Zezza as Trustee for the P. Ruth Zezza Family Revocable Trust. Phil Perlah moved to accept the document as Exhibit D. Gary Coger seconded the motion. A vote was taken and the motion passed.

The fifth document presented was a Wastewater System and Potable Water Supply permit on three sides of two pages. Carla Westine read the acreage listed of 0.19 and explained that this is the acreage before the boundary adjustment. She read the permit number WW-2-5377 and noted that the permit was signed by Terry Shearer. Ruth Zezza asked what the date was on the permit. Carla Westine said the permit was dated June 22, 2017. Ruth Zezza asked about the easement from the property that extends to the mound system on her lot. Carla Westine confirmed that the easement was still present and was noted on the site plan that accompanied the application. Phil Perlah moved to accept the permit as Exhibit E. Gary Coger seconded the motion. A vote was taken and the motion passed.

The sixth document presented was a site plan prepared by DBS Surveys. Carla Westine read the title, Boundary Survey of Property of Michael Gacioch which includes a Boundary Line Adjustment with the land of Ruth P. Zezza Family Revocable Trust. She said the survey was dated 1/16/19 and stamped by Donald Stein, Licensed Land Surveyor. Phil Perlah moved to

accept the permit as Exhibit F. Gary Coger seconded the motion. A vote was taken and the motion passed.

The Board turned to Section 4.13, Boundary Line Adjustments on page 83 of the Chester Unified Development Bylaws to consider the application before them. Carla Westine read the bylaw as follows:

4.13 BOUNDARY LINE ADJUSTMENTS

Boundary Line Adjustments are adjustments to the dividing line between adjacent lots (see Definitions in Article 8).

A. In accordance with 24 V.S.A. §4464(c), these Bylaws authorize the Development Review Board to review applications and issue permits for boundary line adjustments, provided that the applicant satisfies all of the following standards:

1. It meets the definition of a Boundary Line Adjustment;
Carla Westine read the definition of Boundary Line Adjustment from page 122 of the Bylaws. BOUNDARY LINE ADJUSTMENT: Moving a property boundary between two (2) or more adjoining parcels that creates no new separate lots or parcels, and has no adverse impact on access, the provision of public services and utilities, or neighboring uses. The Board agreed that the proposed action met the definition of a boundary line adjustment and the citizens present had no questions on this point.
2. It does not create any new lot as a result of the adjustment;
The Board agreed that no new lot was being created. Ruth Zezza asked how large a new lot would have to be. Carla Westine explained that in the R120 district where this property is located, a new lot would have to be 3 acres.
3. The Plan must show the requirements of Section 4.12(F) of these Bylaws;
Carla Westine read the dimensional standards shown in the center of the top of the site plan and checked them against the dimensional standards for the R120 district on page 23 of the Chester Unified Development Bylaws. The dimensional standards on the site plan agreed with the bylaws.
4. It does not substantially change the nature of any previous subdivision;
Carla Westine said that the board observed a heavily wooded area on the 174.9-acre Zezza Family Trust lot and a dwelling close to Popple Dungeon Road on the Gacioch lot. The Board agreed the boundary adjustment did not change the nature of either lot.
5. It will not adversely impact access to any parcel;
The Board agreed that the transfer of land did not affect the driveway of the Gacioch property and did not limit the driveway options open to the Zezza Family Trust parcel, as the space to be added which abutted the road was part of a steep ravine.
6. It will not result in the development on any portion of a parcel that has been designated as open space as the result of a prior municipal permit or approval, or allow for the acreage of any open space parcel to be applied to the maximum density or minimum lot size for another parcel; and,

The Board and Michael Gacioch determined that none of the land in question had any designated open space.

7. It will not create any nonconformities.

Carla Westine said the pre-existing structure had been permitted in 1989 by the then Zoning Board of Adjustment, which could have been thinking at the time the lot was 2 acres and not the 0.2 acres it actually was. Phil Perlah said he thought the actual lot was created in 1956, which would make the building a pre-existing building on a pre-existing lot, both of which are non-conforming. Ruth Zezza said the original building was a camp. The Board agreed that the boundary adjustment will not create any new non-conformities. Ruth Zezza pointed out that the Gacioch lot was still non-conforming. Carla Westine agreed that it was still not conforming, but the action was not creating an additional non-conformance.

Carla Westine went on to read the rest of sub-section 4.13:

B. If any of these conditions are not clearly met to the satisfaction of the Development Review Board, such boundary adjustments shall be subject to approval as a subdivision. In such cases, the applicant shall be responsible for any additional fees or submittals needed for DRB review.

C. An applicant for a boundary line adjustment shall provide the Zoning Administrator with a complete boundary line adjustment application and a map of the property, drawn to scale.

Carla Westine noted that the Development Review Board had received the application and map.

D. In accordance with the recording requirements in Section 4.12 of these Bylaws, the applicant shall submit for recording a mylar and deeds within 180 days of the effective date of the permit issued for the boundary line adjustment. If the applicant fails to submit a mylar within 180 days, the permit expires and the applicant must re-apply

There were no further questions from the Board of the Audience. The Recording Secretary, Cathy Hasbrouck, asked if the standards listed in 4.12(F) needed to be reviewed during the hearing. Carla Westine and Michael Normyle agreed that it was not necessary. Carla Westine noted that the site plan appeared to show all of the requirements listed in 4.12(F).

Carla Westine asked the members of the Board informally whether they would approve the application. The members present said they planned to approve the application. Carla Westine described the rest of the process to be gone through in order to complete the process. She said the Board will produce a Findings of Fact and Conclusion document that will be signed and sent to Michael Gacioch and the other citizens present at the hearing. Carla Westine said that Michael Gacioch would then take the Findings and Conclusions document to the surveyor Donald Stein and have a mylar produced. Michael Gacioch said he had mylars from previous steps he has taken to settle the issue. Carla Westine said the mylar would need to be updated and that Michael Gacioch would also have to contact a lawyer to change the description of the parcel in the deed and then get the new deed recorded in the town's Land Records.

Larry Semones moved to close the hearing. Phil Perlah seconded the motion. A vote was taken and the hearing was closed.

Agenda Item 4, Confirm next meeting date(s)

Michael Normyle said he would be meeting with an applicant on Tuesday March 26th and he expected he would be able to set a hearing date for a waiver application at the base of Crow Hill during that meeting. He said he would inform the Board of the date as soon as it was available.

Agenda Item 5, Deliberative session to review previous matters

The last item on the agenda was a deliberative session to discuss previous matters. The Board entered deliberative session and the meeting was adjourned at the end of it.