

**MINUTES OF THE TOWN OF CHESHIRE ZONING BOARD OF APPEALS HELD ON
MONDAY, DECEMBER 2, 2013, AT 7:30 P.M. IN ROOM 207, TOWN HALL, 84
SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Ken Wilson, Chairman; Marion Nero, Secretary; Agnes White

Alternates: Gerald Devine, Jackie Cianci

Absent: John Pepper

Staff: Dave Kehoss, Zoning Enforcement Officer

I. CALL TO ORDER

Chairman Wilson called the meeting to order at 7:31 p.m.

Mr. Wilson read the emergency announcement.

II. ROLL CALL

Secretary Nero called the roll.

III. DETERMINATION OF QUORUM

A quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES – October 7, 2013

MOTION by Mr. Devine; seconded by Mr. Nero

MOVED to accept the minutes of October 7, 2013 subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

VI. ELECTION OF OFFICERS

Chairman

MOTION by Ms. Nero; seconded by Ms. White

MOVED that Ken Wilson be elected Chairman of the Zoning Board of Appeals.

Nominations were called three times; there were no other nominations.

MOTION by Ms. White; seconded by Mr. Devine.

MOVED to close nominations for Chairman.

VOTE The motion passed unanimously by those present.

VOTE The motion to elect Ken Wilson Chairman passed unanimously by those present.

Secretary

MOTION by Ms. White; seconded by Ms. Cianci

MOVED that Marion Nero be elected Secretary of the Zoning Board of Appeals.

Nominations were called three times; there were no other nominations.

MOTION by Ms. White; seconded by Mr. Devine.

MOVED to close nominations for Secretary.

VOTE The motion passed unanimously by those present.

VOTE The motion to elect Marion Nero as Secretary passed unanimously by those present.

VII. APPROVAL OF 2014 MEETING DATES

MOTION by Ms. White; seconded by Mr. Devine.

MOVED that the following meeting dates be approved for 2014.

January 6, February 3, March 3, April 7, May 5, June 2, July 7, August 4, September 3 (Wednesday), October 6, November 3, December 1, And January 5, 2015.

VOTE The motion passed unanimously by those present.

VIII. PUBLIC HEARING

Secretary Nero read the call of public hearing.

The application of Richard Casey, 68 Beaverbrook Court, Cheshire CT 06410, requesting a variance of Section 42.5 Dimensional Requirements for Cluster Subdivisions, requesting a 12 foot rear line variance. The resulting rear line setback requested is 18 feet of the required 30 foot rear line setback in an R-40 Cluster Zone, for an existing covered porch will be winterized; property located at 68 Beaverbrook Court, Cheshire CT 06410, as generally shown on Assessor's Map No. 72, Lot No(s) 46 in an R-40 (cluster) Zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

1. **Richard Casey** **13-12-01** **PH 12/2/14**
68 Beaverbrook Court **MAD 2/5/14**
Requesting a 12 foot rear line variance
of the required 30 foot rear line setback
(Cluster). The resulting rear line setback
requested is 18 feet for an existing deck that
is to be winterized.

Chairman Wilson stated that the applicant has requested a waiver of an A-2 Survey. The Board members reviewed the information in the packet, and it was determined that an A-2 Survey could be waived.

MOTION by Mr. Devine; seconded by Ms. Nero.

MOVED that the Zoning Board of Appeals grants the waiver of an A-2 Survey requirement for the application of Richard Casey, 68 Beaverbrook Court, Cheshire CT 06410.

VOTE The motion passed unanimously by those present.

Richard Casey, Applicant, presented his application for a 12 foot rear line variance of the required 30 foot rear line setback, with a resulting 18 foot rear line setback. The applicant wishes to winterize an existing deck on the rear of his home, which he purchased in 1998. At the time of purchase, Mr. Casey advised he was unaware that the porch was a non-compliant and illegal structure, and that a building permit was never acquired to build the porch. He wants to go through the appropriate process to make the porch a legal and compliant structure, and this is the reason for the variance request. Mr. Casey informed the Board that due to the nature of the subdivision and shape of his lot it does not create an envelope for a good setback for the porch on the back of the house. The property is .29 acres in size.

Chairman Wilson noted that this lot appears to be non-conforming.

ZEO Officer Kehoss informed the Board that this is an R-40 Cluster Zone; the property can have 25,000 sq. ft.; but the 30 foot rear setback still applies. Mr. Kehoss reported that the applicant sent out notification letters to neighbors, and responses were received which stated no objection to the variance request.

Secretary Nero read letters in support of the variance request, dated November 20, 2013, from Leslie and Todd McPadden, 63 Beaverbrook Court and Alison and Jared Black, 62 Beaverbrook Court, into the record of the meeting.

Because his house is at the end of the cul de sac, and sits on an odd shaped lot, Mr. Casey said the existing porch is not in the neighbor's sightline. The winterized porch will have the same footprint and will not impact the neighbors. On his laptop computer,

Mr. Casey showed the Board members photographs of his property, his house and the existing porch, landscaping, and the hill which rises in the rear of his lot. There is also open space between his house and the next rear house, which his owned by the land trust.

With regard to drainage issues, Mr. Casey stated that the area is very dry; there are no wetlands; the topography sheds to the left of the property; and he has never had water problems or pooling issues. The hill and surrounding area drains very well.

In this application, Chairman Wilson commented on there being a non-compliant structure, built without a building permit, and the applicant is now trying to get a building permit and make things right. To do this he needs a variance from the ZBA. He asked Mr. Casey about the hardship of his application.

Mr. Casey stated his hardship being the existing parcel not allowing for the structure to be in existence; this was a pre-existing structure which he assumed was legal; and winterizing the porch would not impact the neighbors or surrounding properties.

IX. DECISION MAKING SESSION

Secretary Nero read the call of public hearing.

The application of Richard Casey, 68 Beaverbrook Court, Cheshire CT 06410, requesting a variance of Section 42.5 Dimensional Requirements for Cluster Subdivisions, requesting a 12 foot rear line variance. The resulting rear line setback requested is 18 feet of the required 30 foot rear line setback in an R-40 Cluster Zone, for an existing covered porch will be winterized; property located at 68 Beaverbrook Court, Cheshire CT 06410, as generally shown on Assessor's Map No. 72, Lot No(s) 46 in an R-40 (cluster) Zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

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|---|-----------------|-------------------|
| 1. Richard Casey | 13-12-01 | PH 12/2/14 |
| <u>68 Beaverbrook Court</u> | | MAD 2/5/14 |
| Requesting a 12 foot rear line variance of the required 30 foot rear line setback (Cluster). The resulting rear line setback requested is 18 feet for an existing deck that is to be winterized. | | |

Ms. White stated she is in favor of granting this variance because of the topography of the land and the existing structure which will not be enlarged.

Mr. Devine stated it is nice of the applicant to come in and legitimize the situation he has found himself in with this porch. He said Mr. Casey is doing the right thing by the regulations and he will support granting the variance.

Ms. Cianci agreed with the comments of other Board members, and stated she would approve granting this variance, as the applicant purchased the home without knowing the porch was non-compliant.

Ms. Nero supports granting the variance request, noting the applicant is winterizing the existing porch by installing windows, and all else remains the same.

Chairman Wilson agreed with the comments made, and supports granting the variance. This is an existing structure, and the Board does not want the applicant to have to tear it down. The property is in an R-40 Cluster Zone, but does not have 40,000 sq. ft.

MOTION by Ms. Nero; seconded by Mr. Devine.

MOVED that the Zoning Board of Appeals grants the variance under Section 42.5, Dimensional Requirements, Cluster Zone, for a 12 foot rear line variance, resulting in an 18 foot rear line setback of the required 30 foot rear setback, for an existing porch to be winterized, property located at 68 Beaverbrook Court, Cheshire CT 06410.

Based upon the evidence presented at the public hearing and the general knowledge of the members of the Board it is hereby found that a hardship exists to the property, which is not applicable to other properties in the district. To strictly apply the zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning regulations. Granting of the variance will not confer upon the applicant any special privilege, and is in harmony with the general intent and purpose of the regulations. The variance is only applicable to the drawing of the structure, as submitted by the applicant, and only to the existing porch and no other structure.

VOTE The motion passed unanimously by those present.

THE VARIANCE IS APPROVED. IT DOES NOT BECOME OFFICIAL UNTIL FILED WITH THE TOWN CLERK, AND RECORDED ON THE LAND RECORDS OF THE TOWN OF CHESHIRE. THIS IS THE RESPONSIBILITY OF THE APPLICANT.

X. OTHER ZONING BOARD OF APPEALS BUSINESS

XI. CHAIRMAN'S REPORT

Chairman Wilson thanked the Board members for re-electing him as Chairman and said he looks forward to working with everyone.

Secretary Nero thanked the Board members for re-electing her as ZBA Secretary.

XII. ADJOURNMENT

MOTION by Mr. Devine; seconded by Ms. Nero

MOVED to adjourn the meeting at 8:05 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk