



ZONING BOARD OF APPEALS
March 26, 2024

Chairwoman Barbara Kearney called the meeting to order at 7:00 pm.

Attendance:

Chairwoman Barbara Kearney, James Batsford, Vice Chairwoman Mary Clark, Stephen Kahrs, Victor Greco, Alternate Dr. Bryan Bilfield, Zoning Administrator Jeremy Little (via Zoom) and Marion Eagan (Acting Secretary) were present.

Chairwoman Kearney welcomed everyone to the meeting.

Old Business and Public Hearings:

#545-V: Rebecca Baroudi (Mulvey) is requesting a 15 ft. road frontage variance (185 ft. proposed; 200 ft. required), according to Section 4.03 of the Town of Chester Zoning Local Law, in order to subdivide one parcel into two (2) lots (Lot 1 will be a 4.88 ± acre building lot for construction of a single-family dwelling, on-site wastewater treatment system, water supply well and driveway and Lot 2 will remain as a 42.64 ± acre lot with 53 ft. of frontage on the southerly end for future access and subdivision). Property is located at 358 Bird Pond Road, identified by Tax Map Parcel #: 49.-1-3.2, in Zoning District Moderate Intensity and Rural Use. ****PUBLIC HEARING CLOSED AT THE JANUARY 24, 2024 ZBA MEETING** **VARIANCE APPLICATION #545-V WITHDRAWN BY REBECCA BAROUDI VIA E-MAIL ON MARCH 12, 2024****

Chairwoman Kearney stated that Variance Application #545-V has been withdrawn by the Applicant.

Chairwoman Kearney recused herself and Victor Greco recused himself for **Variance Application #548-V**. Alternate Dr. Bilfield joined the Board. Chairwoman Kearney turned the Meeting over to Vice Chairwoman Clark and left the room at 7:04 pm.

#548-V: 13 Marina Road, LLC are requesting 20 ft. relief from Section 7.03(B)(4) (of the Town of Chester Zoning Local Law) as the proposed dock will exceed the 40 ft. offshore requirement where 60 ft. is proposed, 50 ft. shoreline setback variance from Section 7.01(B)(4) and a 9.2 ft. left side yard setback variance from Section 4.03, in order to construct a 60' x 4' dock and construct an 88' x 4' boardwalk over wetlands. Property is located at 13 Marina Road, identified by Tax Map Parcel #: 86.13-1-13.3, in Zoning District Moderate Intensity. ****PUBLIC HEARING REMAINED OPEN AT THE FEBRUARY 27, 2024 ZBA MEETING****

Stephanie Bitter was present (via Zoom). Russ and Sandra Crounse and Thomas Hutchins of Hutchins Engineering were also in attendance (in-person).

Tom Hutchins stated that the plan has been revised and is now for the construction of a new 60' x 4' dock, instead of the previously requested extension to the existing dock at a total of 66 ft. from the shoreline. Mr. Hutchins also presented the plan for an 88 ft. boardwalk as requested by the APA due to the wetlands on the property. Tom Hutchins stated that the proposed 60 ft. length of the dock is the minimum needed to get out to navigable waters.

The revised submission included photographs that shows the depth out 40 ft. from the shoreline. Mr. Hutchins stated that at 40 ft. from the shoreline, the depth of the water is approximately 2 ft. and at 60 ft. from the shoreline it is approximately 3 ft. Stephanie Bitters reiterated that the proposed boardwalk was to mitigate the wetland issue on the property.

Vice Chairwoman Clark reconvened the public hearing at 7:08 p.m.

There were no comments or concerns addressed by the public.

Mr. Batsford made a motion to close the Public Hearing for **Variance Application #548-V** at 7:08 p.m.; seconded by Mr. Kahrs. Motion carried 4-0.

The Zoning Administrator advised the Board that the proposed project is an Unlisted action and requires review under the State Environmental Quality Review Act (SEQRA).

The Board reviewed Parts 2 of the Short Environmental Assessment Form (SEAF):

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The Board decided that no further discussion was needed since all of the answers to the questions are "No, or small impact may occur".

Mr. Batsford read the following:

RESOLUTION

NOTICE OF DETERMINATION OF SIGNIFICANCE AND NEGATIVE DECLARATION IN CONNECTION WITH VARIANCE APPLICATION #548-V, 13 MARINA ROAD, LLC

WHEREAS, the Town of Chester Zoning Board of Appeals (“ZBA”) has received an Application from 13 Marina Road, LLC (the “Applicants”) for the construction of a 60’ x 4’ dock and construction of an 88’ x 4’ boardwalk over wetlands on property located at 13 Marina Road, identified by Tax Map Parcel #: 86.13-1-13.3 (the “Project”); and

WHEREAS, the ZBA has identified the Project to be an Unlisted action for purposes of State Environmental Quality Review Act (“SEQRA”) review pursuant to 6 NYCRR 617; and

WHEREAS, the ZBA has decided to conduct an uncoordinated review as a Lead Agency for the Project; and

WHEREAS, the ZBA has received a Short Environmental Assessment Form (“SEAF”) for the Project with Part 1 of the SEAF completed by the Applicants; and

WHEREAS, SEQRA requires that the ZBA undertake a thorough review of the potentially significant adverse environmental impacts prior to making its determination with respect to the Project; and

WHEREAS, the ZBA has reviewed Parts 1, 2 and 3 of the SEAF and all other supporting information submitted to the ZBA by the Applicants;

NOW, THEREFORE BE IT

RESOLVED, that in accordance with SEQRA, the ZBA, as a Lead Agency, has determined that the Project will not result in any significant adverse environmental impacts and hereby issues a Negative Declaration pursuant to the requirements of SEQRA and directs the ZBA Chairperson to complete and sign Part 3 of the SEAF as required for the Determination of Significance, confirming the foregoing Negative Declaration.

MOTION FOR ISSUANCE OF NOTICE OF DETERMINATION OF SIGNIFICANCE AND NEGATIVE DECLARATION IN CONNECTION WITH VARIANCE APPLICATION #548-V, 13 MARINA ROAD, LLC,

Introduced by James Batsford who moved for its adoption, seconded by Bryan Bilfield:

Duly adopted this 26th day of March, 2024 by the following vote:

AYES: Vice Chairperson Mary Clark
James Batsford
Stephen Kahrs
Bryan Bilfield

NOES: None.

ABSTAINED: Chairperson Barbara Kearney
Victor Greco

ABSENT: None.

Mr. Batsford read the following:

RESOLUTION

WHEREAS, 13 Marina Road, LLC (the “Applicants”) are proposing to construct a 60’ x 4’ dock and construct an 88’ x 4’ boardwalk over wetlands on property located at 13 Marina Road, identified by Tax Map Parcel Number 86.13-1-13.3, in Zoning District Moderate Intensity (the “Project”) and have applied to the Town of Chester Zoning Board of Appeals (“ZBA”) for 20 ft. relief from Section 7.03(B)(4) (of the Town of Chester Zoning Local Law) as the proposed dock will exceed the 40 ft. offshore requirement where 60 ft. is proposed, 50 ft. shoreline setback variance from Section 7.01(B)(4) and a 9.2 ft. left side yard setback variance from Section 4.03; and

WHEREAS, as required by General Municipal Law Section 239-m, the Variance Application was referred to the Warren County Planning Department for its review and the County has determined that there was No County Impact; and

WHEREAS, the ZBA opened and held a properly-noticed Public Hearing on Variance Application #548-V on February 27, 2024 and closed the public hearing on March 26, 2024; and

WHEREAS, the ZBA has reviewed, considered and deliberated about the variances requested and the written and verbal comments received in connection with the variance application;

WHEREAS, the ZBA has classified the Project as an Unlisted Action pursuant to the New York State Environmental Quality Review Act (“SEQRA”) and its implementing regulations in 6 NYCRR 617 and determined to conduct an uncoordinated review; and

WHEREAS, the ZBA performing the duties as Lead Agency has prepared and reviewed the records of SEQRA, Short Environmental Assessment for the Project; and

WHEREAS, the ZBA has issued a Notice of Determination of Significance and Negative Declaration concluding that the Project will not create any significant adverse environmental impacts and that a draft Environmental Impact Statement will not be prepared; and

WHEREAS, a full record of the Decision will be referred to the Adirondack Park Agency (“Agency”) as required by Section 10.08(E)(2) of the Town of Chester Zoning Local Law; and

WHEREAS, the variance does not take effect until thirty (30) days from the Agency’s receipt of the Board’s complete record of the Decision and if within such thirty (30) day period, the Agency determines that such variance involves the provisions of the land use and development plan including any shoreline restriction and was not based upon the appropriate statutory basis, the Agency may reverse the local determination to grant the variance;

NOW, THEREFORE, BE IT

RESOLVED, that the ZBA hereby determines that the Application meets the requirements set forth in Section 4.03, 7.01(B)(4), 7.03(B)(4) of the Town of Chester Zoning Local Law for issuance of an area variance as further discussed below:

1. An undesirable change will not be produced in the character of the neighborhood nor be a detriment to nearby properties.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than area variances.
3. The requested area variances are substantial.
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The alleged difficulty is self-created.
6. The proposed variances are the minimum variance that is necessary and adequate to achieve the Applicant's goal and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
7. The benefit to the Applicant if the variances are granted would outweigh the potential detriment to the health, safety and welfare of the neighborhood or community.

FURTHER RESOLVED, that the ZBA therefore grants the requested area variances with no condition(s) imposed.

Introduced by James Batsford who moved for its adoption, seconded by Bryan Bilfield
Duly adopted this 26th day of March, 2024 by the following vote:

AYES: Vice Chairperson Mary Clark
James Batsford
Stephen Kahrs
Bryan Bilfield

NOES: None.

ABSTAIN: Chairperson Barbara Kearney
Victor Greco

ABSENT: None.

Victor Greco and Chairwoman Kearney returned to the meeting at 7:25 p.m. Vice Chairwoman Clark turned the meeting over to Chairwoman Kearney.

#549-V: Jonathan Peter Angell is requesting a 12'-2" front yard setback variance, 10' right side yard setback variance, 7'-6" left side yard setback variance and a 13'-11" shoreline setback variance, according to Section 4.03 and 7.01(B)(4) of the Town of Chester Zoning Local Law, in order to construct a 623 sq. ft. addition to the existing single-family dwelling. The addition will consist of an expansion to the existing living room, new covered porch and one bedroom. Property is located at 19 Tabernacle Foot Path, identified by Tax Map Parcel #: 102.40-1-34, in Zoning District Hamlet. ****PUBLIC HEARING REMAINED OPEN AT THE FEBRUARY 27, 2024 ZBA MEETING****

Mark Middleton briefly explained that the plans have been revised to fulfill the Board's requests at the last meeting in February. Mr. Middleton stated that he would be leaving the upstairs as one bedroom. Chairwoman Kearney asked if that meant that there would only be one bedroom in the house. Mr. Middleton responded yes.

Chairwoman Kearney reconvened the public hearing at 7:27 p.m.

There were no comments or concerns addressed by the public.

Vice Chairwoman Clark made a motion to close the Public Hearing for **Variance Application #549-V** at 7:29 p.m.; seconded by Mr. Greco. Motion carried 5-0.

Mr. Greco read the following:

RESOLUTION

WHEREAS, Jonathan Peter Angell (the "Applicant(s)") is proposing to construct a 623 sq. ft. addition to the existing single-family dwelling on property located at 19 Tabernacle Foot Path, identified by Tax Map Parcel Number 102.40-1-34, in Zoning District Hamlet (the "Project") and have applied to the Town of Chester Zoning Board of Appeals ("ZBA") for a 12'-2" front yard setback variance, 10' right side yard setback variance, 7'-6" left side yard setback variance and a 13'-11" shoreline setback variance from requirements of Section 4.03 and 7.01(B)(4) of the Town of Chester Zoning Local Law; and

WHEREAS, the ZBA has classified the project as a Type II Action, requiring no further review under the State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, as required by General Municipal Law Section 239-m, the Variance Application was referred to the Warren County Planning Department for its review and the County has determined that there was No County Impact; and

WHEREAS, Site Plan Review approval by the Planning Board will be required for the Project; and

WHEREAS, the ZBA opened and held a properly-noticed Public Hearing on Variance Application #549-V on February 27, 2024 and closed the public hearing on March 26, 2024; and

WHEREAS, the ZBA has reviewed, considered and deliberated about the variances requested and the written and verbal comments received in connection with the variance application;

WHEREAS, a full record of the Decision will be referred to the Adirondack Park Agency (“Agency”) as required by Section 10.08(E)(2) of the Town of Chester Zoning Local Law; and

WHEREAS, the variance does not take effect until thirty (30) days from the Agency’s receipt of the Board’s complete record of the Decision and if within such thirty (30) day period, the Agency determines that such variance involves the provisions of the land use and development plan including any shoreline restriction and was not based upon the appropriate statutory basis, the Agency may reverse the local determination to grant the variance;

NOW, THEREFORE, BE IT

RESOLVED, that the ZBA hereby determines that the Application meets the requirements set forth in Section 4.03 and 7.01(B)(4) of the Town of Chester Zoning Local Law for issuance of an area variance as further discussed below:

1. An undesirable change will not be produced in the character of the neighborhood nor be a detriment to nearby properties. All of the dwellings are already in close proximity to one another.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than area variances. It is a small dwelling.
3. The requested area variances are substantial.
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The alleged difficulty is self-created.
6. The proposed variances are the minimum variance that is necessary and adequate to achieve the Applicant’s goal and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
7. The benefit to the Applicant if the variances are granted would outweigh the potential detriment to the health, safety and welfare of the neighborhood or community.

FURTHER RESOLVED, that the ZBA therefore grants the requested area variances with no condition(s) imposed.

Introduced by Victor Greco who moved for its adoption, seconded by Mary Clark

Duly adopted this 26th day of March, 2024 by the following vote:

AYES: Chairperson Barbara Kearney
Mary Clark
James Batsford
Victor Greco
Stephen Kahrs

NOES: None.
ABSTAIN: None.
ABSENT: None.

#550-V: Work Hard, Play Harder LLC (Members: Luke and Jessica Getty, Kyle and Rella Getty) are requesting multiple variances from Section 2.03, 4.03, 7.03(C)(3,4 and 5) and Section 7.03(B)(4) of the Town of Chester Zoning Local Law, in order to renovate the existing boathouse, including repairs to the foundation, replacement of the roof with a flat roof to including safety railings, expansion of the height of the boathouse (Existing Height: 16’-6”; Proposed Height: 22’-10”) and construction of stairs, in-kind replacement of the existing 450 sq. ft. shoreline deck, construction of a new 30’ x 8’ dock and construction of a new 10’ x 10’ deck attached to the side of the existing boathouse. Property is located at 9 Pine Tree Drive, identified by Tax Map Parcel #: 136.6-1-18, in Zoning District Rural Use. ****PUBLIC HEARING REMAINED OPEN AT THE FEBRUARY 27, 2024 ZBA MEETING****

Chairwoman Kearney stated that the Applicants for Variance Application #550-V were not ready to present. The public hearing for **Variance Application #550-V** will remain open from the February 27, 2024 Meeting.

New Business and Public Hearings:

#551-V: Richard and Sharon Pfluger are requesting a 24 ft. left side yard setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to install and place a 16’ x 24’ Steel Carport. Property is located at 131 Pine Notch Road, identified by Tax Map Parcel #: 103.-1-3, in Zoning District Rural Use.

Mr. Pfluger presented the proposal to the Board. Mr. Pfluger stated that he was requesting a 24 ft. left side yard setback variance to construct a 16’ x 24’ Steel Carport for the storage of his motor home. He said that the adjoining property was vacant and also stated that he was requesting this variance as the slope of his property is 12-14 degrees and that when he built his garage he needed approximately 58 cubic yards of fill in order to build his garage. Chairwoman Kearney asked if it was possible to move the new carport closer to the metal garage. Mr. Pfluger stated his concern over the snow falling off the roof in between the buildings. Chairwoman Kearney stated that it was the Board’s duty to grant the minimum variance necessary for the project. Mr. Pfluger said that if it were at all possible, he would move the carport. The Board left it at Mr. Pfluger’s discretion if he could or not.

Chairwoman Kearney opened the Public Hearing on **Variance Application #551-V** at 7:45 p.m.

There were no comments or concerns addressed by the public.

Vice Chairwoman Clark made a motion to close the Public Hearing for **Variance Application #551-V** at 7:48 p.m.; seconded by Mr. Kahrs. Motion carried 5-0.

RESOLUTION

WHEREAS, Richard and Sharon Pfluger (the “Applicants”) are proposing to install and place a 16’ x 24’ Steel Carport on property located at 131 Pine Notch Road, identified by Tax Map Parcel Number 103.-1-3, in Zoning District Rural Use (the “Project”) and have applied to the Town of Chester Zoning Board of Appeals (“ZBA”) for a 24 ft. left side yard setback variance from requirements of Section 4.03 of the Town of Chester Zoning Local Law; and

WHEREAS, the ZBA has classified the project as a Type II Action, requiring no further review under the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the ZBA opened and held a properly-noticed Public Hearing on Variance Application #551-V on March 26, 2024 and closed the public hearing on March 26, 2024; and

WHEREAS, the ZBA has reviewed, considered and deliberated about the variance requested and the written and verbal comments received in connection with the variance application;

NOW, THEREFORE, BE IT

RESOLVED, that the ZBA hereby determines that the Application meets the requirements set forth in Section 4.03 of the Town of Chester Zoning Local Law for issuance of an area variance as further discussed below:

1. An undesirable change will not be produced in the character of the neighborhood nor be a detriment to nearby properties.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than area variances.
3. The requested area variance is substantial.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The alleged difficulty is self-created.
6. The proposed variance is the minimum variance that is necessary and adequate to achieve the Applicant’s goal and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

7. The benefit to the Applicant if the variance is granted would outweigh the potential detriment to the health, safety and welfare of the neighborhood or community.

FURTHER RESOLVED, that the ZBA therefore grants the requested area variance with no condition(s) imposed.

Introduced by Stephen Kahrs who moved for its adoption, seconded by James Batsford
Duly adopted this 26th day of March, 2024 by the following vote:

AYES: Chairperson Barbara Kearney
 Mary Clark
 James Batsford
 Victor Greco
 Stephen Kahrs

NOES: None.

ABSTAIN: None.

ABSENT: None.

Mr. Greco recused himself from **Variance Application #552-V** at 7:55 p.m.

#552-V: Richard E. and Mary J. Irish are requesting a 60 ft. front yard setback variance and a 31 ft. left side yard setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to construct an 858 sq. ft. Detached Garage. Property is located at 27 Rock Ledge Road, identified by Tax Map Parcel #: 136.6-1-24, in Zoning District Rural Use.

Mr. Irish presented the proposal to the Board. Mr. Irish stated that he previously was requesting a 60 ft. front yard setback and a 31 ft. side yard setback in order to construct an 858 sq. ft. garage. Mr. Irish said that he has reduced the amount of variance he needs so is now requesting a 50 ft. front yard and a 19 ft. side yard variance as opposed to 60 ft. front yard and 31 ft. side yard. He also explained that he had found the septic system location and would not know until they started digging if there was need for a pipe relocation. He stated that the septic line might just touch the garage.

Chairwoman Kearney opened the Public Hearing on **Variance Application #552-V** at 7:59 p.m.

There were no comments or concerns addressed by the public.

Vice Chairwoman Clark made a motion to close the Public Hearing for **Variance Application #552-V** at 8:00 p.m.; seconded by Mr. Batsford. Motion carried 4-0.

RESOLUTION

WHEREAS, Richard E. and Mary J. Irish (the “Applicants”) are proposing to construct an 858 sq. ft. Detached Garage on property located at 27 Rock Ledge Road, identified by Tax Map Parcel Number 136.6-1-24, in Zoning District Rural Use (the “Project”) and have applied to the Town of Chester Zoning Board of Appeals (“ZBA”) for a 60 ft. front yard setback variance and a 31 ft. left

side yard setback variance from requirements of Section 4.03 of the Town of Chester Zoning Local Law; and

WHEREAS, the ZBA has classified the project as a Type II Action, requiring no further review under the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the ZBA opened and held a properly-noticed Public Hearing on Variance Application #552-V on March 26, 2024 and closed the public hearing on March 26, 2024; and

WHEREAS, the ZBA has reviewed, considered and deliberated about the variances requested and the written and verbal comments received in connection with the variance application;

NOW, THEREFORE, BE IT

RESOLVED, that the ZBA hereby determines that the Application meets the requirements set forth in Section 4.03 of the Town of Chester Zoning Local Law for issuance of an area variance as further discussed below:

1. An undesirable change will not be produced in the character of the neighborhood nor be a detriment to nearby properties.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than area variances.
3. The requested area variances are substantial.
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The alleged difficulty is self-created.
6. The proposed variances are the minimum variance that is necessary and adequate to achieve the Applicant’s goal and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
7. The benefit to the Applicant if the variances are granted would outweigh the potential detriment to the health, safety and welfare of the neighborhood or community.

FURTHER RESOLVED, that the ZBA therefore grants the requested area variances with no condition(s) imposed.

Introduced by Mary Clark who moved for its adoption, seconded by James Batsford
Duly adopted this 26th day of March, 2024 by the following vote:

AYES: Chairperson Barbara Kearney

Mary Clark
James Batsford
Stephen Kahrs

NOES: None.
ABSTAIN: Victor Greco
ABSENT: None.

Mr. Greco rejoined the meeting.

#553-V: RKH Land Holdings, LLC is requesting a 10 ft. right side yard setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to demolish an existing 40' x 14' Storage Shed and construct a 32' x 20' Storage Shed with 2 ft. overhangs. Property is located at 6260 State Route 9, identified by Tax Map Parcel #: 104.14-1-35, in Zoning District Hamlet.

Craig House, one of the owners of RKH Landholding LLC, presented the proposal to the Board. He stated that he was requesting a 10 ft. right side yard variance to construct a 32' x 20' Storage Shed with 2 ft. overhangs in the rear of parcel #104.14-1-35 to replace an existing 40' x 14' building that is in disrepair and needs to be demolished.

Chairwoman Kearney opened the Public Hearing on **Variance Application #553-V** at 8:05 p.m.

There were no comments or concerns addressed by the public.

Vice Chairwoman Clark made a motion to close the Public Hearing for **Variance Application #553-V** at 8:05 p.m.; seconded by Mr. Batsford. Motion carried 5-0.

RESOLUTION

WHEREAS, RKH Land Holdings, LLC (the "Applicant(s)") are proposing to demolish an existing 40' x 14' Storage Shed and construct a 32' x 20' Storage Shed with 2 ft. overhangs on property located at 6260 State Route 9, identified by Tax Map Parcel Number 104.14-1-35, in Zoning District Hamlet (the "Project") and have applied to the Town of Chester Zoning Board of Appeals ("ZBA") for a 10 ft. right side yard setback variance from requirements of Section 4.03 of the Town of Chester Zoning Local Law; and

WHEREAS, the ZBA has classified the project as a Type II Action, requiring no further review under the State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, as required by General Municipal Law Section 239-m, the Variance Application was referred to the Warren County Planning Department for its review and the County has determined that there was No County Impact; and

WHEREAS, the ZBA opened and held a properly-noticed Public Hearing on Variance Application #553-V on March 26, 2024 and closed the public hearing on March 26, 2024; and

WHEREAS, Site Plan Review approval by the Planning Board will be required for the Project;
and

WHEREAS, the ZBA has reviewed, considered and deliberated about the variance requested and the written and verbal comments received in connection with the variance application;

NOW, THEREFORE, BE IT

RESOLVED, that the ZBA hereby determines that the Application meets the requirements set forth in Section 4.03 of the Town of Chester Zoning Local Law for issuance of an area variance as further discussed below:

1. An undesirable change will not be produced in the character of the neighborhood nor be a detriment to nearby properties.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than area variances.
3. The requested area variance is substantial.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The new storage shed will be constructed no closer to the right side yard than what is currently existing.
5. The alleged difficulty is self-created.
6. The proposed variance is the minimum variance that is necessary and adequate to achieve the Applicant's goal and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
7. The benefit to the Applicant if the variance is granted would outweigh the potential detriment to the health, safety and welfare of the neighborhood or community.

FURTHER RESOLVED, that the ZBA therefore grants the requested area variance with no condition(s) imposed.

Introduced by Stephen Kahrs who moved for its adoption, seconded by Mary Clark
Duly adopted this 26th day of March, 2024 by the following vote:

AYES: Chairperson Barbara Kearney
 Mary Clark
 James Batsford
 Victor Greco
 Stephen Kahrs

NOES: None.
ABSTAIN: None.
ABSENT: None.

#554-V: Hidden Lake Timber, LLC is requesting a use variance in order to construct and operate a wireless telecommunications facility consisting of a 149' monopine wireless telecommunications tower and antennas, a 4' x 8' equipment cabinet, a 4' x 8' battery cabinet and other associated improvements. The Project is a Major Public Utility Use and is prohibited in Zoning District Rural Use, according to Section 4.02(D) and the Town Use Chart of the Town of Chester Zoning Local Law. The property is located at 37 Kohl Road, identified by Tax Map Parcel #: 34.-1-25, in Zoning District Rural Use.

Robert Burgdorf, attorney at Nixon Peabody LLP, presented the project to the Board. The purpose of this project is to construct and operate a wireless telecommunications facility at 37 Kohl Road to address coverage and capacity issues. The proposed facility will be a 149 ft. monopine wireless telecommunication tower and antennas. There will also be a gravel driveway that will provide access to the 50' x 50' fenced compound. The tower is camouflaged to resemble a natural tree. There will also be a 4' x 8' battery cabinet.

Mr. Burgdorf stated that this project requires a use variance from the Town ZBA and noted that this Application is different than the typical use variance standards. He also mentioned that this is a relaxed public utility standard under NY State Law and under the federal Telecommunications Act. This project is a Type II action as it is deemed a Class A Regional Project and currently being reviewed by the Adirondack Park Agency. SEQRA review is not required for this project. Mr. Burgdorf further stated that the approval from the Town ZBA is required before the review is completed by the Agency.

Mr. Burgdorf stated that the monopine tower has no aesthetic concerns. Chairwoman Kearney asked if the proposed cell tower will be seen by any neighboring properties. Mr. Burgdorf said that it would not be noticeable to the casual observer; however, if one was trying to look for it, it would most likely not be noticeable and seen. Mr. Burgdorf referenced the photo simulations in Exhibit I of the variance submission which demonstrate the visibility of the cell tower from different distances (1 mile, 3 miles and 5 miles). Vice Chairwoman Clark asked if there were any neighbors nearby that could see the proposed cell tower. Mr. Burgdorf again reiterated that it will not be noticeable.

A brief discussion ensued regarding the existing and proposed coverage. Mr. Burgdorf said that the cell tower is not like a television or radio station that operates in megawatts. In this case, the user would have to also get an extremely weak signal from the phone (.3 watts) back to the cell tower. It is a very weak signaled system controlled by the FCC and the technological limitations. Chairwoman Kearney asked if there was a photo simulation of the proposed cell tower and Mr. Burgdorf showed an example of a monopine tower.

On a motion by Mr. Batsford, seconded by Mr. Kahrs, the public hearing for **Variance Application #554-V** opened at 8:30 p.m.

Chairwoman Kearney asked if anyone from the public would like to speak.

Bryan Bilfield stated that when he moved to Pottersville, he had to drive two miles to receive cell phone service. During that time, there was a newspaper article concerning a couple that was traveling from Montreal towards New York City and got into an accident. They had a cell phone, but there was no service. The husband did not survive. He said that if this cell tower saves one life, it is worth it.

James Dower, owner of property located at 621 Olmstedville Road, expressed his concerns of the cell tower. He said that he will see the cell tower outside of his bedroom window. He also said that he will feel all the effects given off by the cell tower. He mentioned that his ears are ringing because of all the cell phones in the meeting room.

Karen Griffen, owner of property at 36 Kohl Road, said that she would be able to see the cell tower from her dining room window. She does not have an issue with that.

Dawna Jackson, who also lives at 621 Olmstedville Road, expressed her concerns about all of the health effects.

Greg Wright (via Zoom), owner of property located at 47 Kohl Road, has concerns about the equipment that they will need in order to do the project and how much more traffic will the road have. Mr. Burgdorf said that post construction there will be one (1) truck per month.

Mr. Burgdorf addressed the primary concerns that were raised regarding health effects. He said that there are no facts being hidden and there is liability insurance associated with the cell tower. He noted the fact is that this is preempted by federal law. Federal law states that a local municipality under the federal Telecommunications Act cannot consider perceived health effects as part of a decision. He further explained that this is an extremely weak radio signal and there is not a health concern with the cell tower.

James Dower said this will affect the assessment on his house. Chairwoman Kearney stated that was a question for the Assessor.

Dawna Jackson asked if there was an actual distance that people could live from a cell tower and have no effects.

Chairwoman Kearney said she would like to keep the public hearing open to get more information and if the Applicant could provide any health studies. Mr. Burgdorf said he would be happy to provide any information but reminded Chairwoman Kearney and the Board that this decision is preemptive.

Chairwoman Kearney noted that the Public Hearing for **Variance Application #554-V** will remain open at 8:50 p.m. and read the following Public Utility Use Variance Standard:

1. That the proposed improvement is a public necessity in that it is required to render safe and adequate service.
2. That there are compelling reasons, economic or otherwise, for the variance.

3. Where the intrusion or burden on the community is minimal, the showing required by the utility should be correspondingly reduced.

Chairwoman Kearney stated that the Board would like to know about the health effects and have documentation provided to the Board stating if there are any.

#555-V: Gregory Galustian is requesting relief from the .5 acres per principal building Intensity requirement of Section 4.03 of the Town of Chester Zoning Local Law where a minimum of one (1) acre is required for two (2) principal buildings on the same lot and .34 acres exists, in order to change the use of the existing Single-Family Dwelling to a Two-Family Dwelling. The property is located at 111 State Route 28N, identified by Tax Map Parcel #: 66.6-1-14, in Zoning District Hamlet.

Gregory Galustian (via Zoom) presented the proposal to the Board. Christopher Silliman was also present via Zoom. Mr. Galustian said that he renovated the back of house into a small second unit for his own personal use. He also stated that the primary area in the house will be used for Short-Term Rental purposes.

Mr. Kahrs asked about the existing on-site wastewater treatment system. Mr. Galustian said that the septic tank has been pumped out twice by Northern Septic. Mr. Galustian confirmed that there is a 1,750 gallon septic tank.

Mr. Kahrs asked Mr. Galustian if he had expanded the leach field and was it adequate for a six-bedroom dwelling.

Mr. Galustian stated that there is an existing leach field and as far as he is aware, the leach field is adequate to serve the existing six-bedroom dwelling.

Chairwoman Kearney asked the Zoning Administrator if there was a 1750 Gallon tank on the property and questioned the leach field size. The Zoning Administrator stated that the absorption field should also be designed for a six-bedroom dwelling, but it appeared the size of the absorption field is unknown at this time.

Mr. Greco stated he is trying to understand the project, saying that presently he has a six-bedroom single-family dwelling that he would like to keep the same but wants to make a portion of the dwelling an apartment for Mr Galustian's private use similar to a "Mother-Daughter" set up.

Chris Silliman (via Zoom) on behalf of Mr Galustian stated the house was pretty much set up that way when Mr. Galustian purchased the property. Chairwoman Kearney asked if it was pre-existing, non-conforming. Chris replied yes.

Mr. Kahrs asked if there was enough parking to accommodate all the guests. Mr. Galustian replied there is enough space to accommodate 6-8 vehicles. Mr. Galustian noted that he will not be staying there when guests are occupying the portion of the dwelling as a Short-Term Rental.

Chairwoman Kearney stated that the Warren County Planning Department finds that the proposed action has no significant inter-community or county-wide impacts.

Chairwoman Kearney opened the Public Hearing on **Variance Application #555-V** at 9:05 p.m.

Tom Fuller, owner of adjoining property located at 3 Old River Road, questioned the amount of traffic and stated that this is a quiet neighborhood. Chairwoman Kearney replied that they are just taking what was there and making it conform to zoning regulations. Chairwoman Kearney noted that the Board is only reviewing the change of use from a single-family dwelling to a two-family dwelling, not for the use of a portion of the structure as a Short-Term Rental.

Mr Greco asked if this would be on North Creek's Sewer System. The Zoning Administrator said no it would not be on North Creeks Searw System.

Mr. Batsford made a motion to close the Public Hearing for **Variance Application #555-V** at 9:10 p.m.; seconded by Mr. Greco. Motion carried 5-0.

The Board reviewed Part 2 of the Short Environmental Assessment Form (SEAF):

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The Board decided that no further discussion was needed since all of the answers to the questions are "No, or small impact may occur".

Chairwoman Kearney read the following:

RESOLUTION

NOTICE OF DETERMINATION OF SIGNIFICANCE AND NEGATIVE DECLARATION IN CONNECTION WITH VARIANCE APPLICATION #555-V, GREGORY GALUSTIAN

WHEREAS, the Town of Chester Zoning Board of Appeals ("ZBA") has received an Application from Gregory Galustian (the "Applicant") to change the use of the existing Single-Family Dwelling to a Two-Family Dwelling on property located at 111 State Route 28N, identified by Tax Map Parcel #: 66.6-1-14 (the "Project"); and

WHEREAS, the ZBA has identified the Project to be an Unlisted action for purposes of State Environmental Quality Review Act (“SEQRA”) review pursuant to 6 NYCRR 617; and

WHEREAS, the ZBA has decided to conduct an uncoordinated review as a Lead Agency for the Project; and

WHEREAS, the ZBA has received a Short Environmental Assessment Form (“SEAF”) for the Project with Part 1 of the SEAF completed by the Applicants; and

WHEREAS, SEQRA requires that the ZBA undertake a thorough review of the potentially significant adverse environmental impacts prior to making its determination with respect to the Project; and

WHEREAS, the ZBA has reviewed Parts 1, 2 and 3 of the SEAF and all other supporting information submitted to the ZBA by the Applicant;

NOW, THEREFORE BE IT

RESOLVED, that in accordance with SEQRA, the ZBA, as a Lead Agency, has determined that the Project will not result in any significant adverse environmental impacts and hereby issues a Negative Declaration pursuant to the requirements of SEQRA and directs the ZBA Chairperson to complete and sign Part 3 of the SEAF as required for the Determination of Significance, confirming the foregoing Negative Declaration.

MOTION FOR ISSUANCE OF NOTICE OF DETERMINATION OF SIGNIFICANCE AND NEGATIVE DECLARATION IN CONNECTION WITH VARIANCE APPLICATION #555-V, GREGORY GALUSTIAN,

Introduced by Barbara Kearney who moved for its adoption, seconded by James Batsford:

Duly adopted this 26th day of March, 2024 by the following vote:

AYES:	Chairperson Barbara Kearney
	Mary Clark
	James Batsford
	Victor Greco
	Stephen Kahrs
	Bryan Bilfield

NOES:	None.
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ABSTAINED:	None.
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ABSENT:	None.
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The Board reviewed the criteria for issuance of an area variance.

Mr. Greco would like to have the existing absorption field checked out. Chairwoman Kearney said she was not sure how you would go about that. The Zoning Administrator stated that there is no record of the system on file in the Town.

Mr. Kahrs stated that what is happening in North Creek is that all the homes on Main Street are being utilized beyond their capacity and have septic issues. Vice Chairwoman Clark said that it has already been stated that this property is not in North Creek. Chairwoman Kearney said that if there was a leach field failure there most likely would be a complaint submitted to the Town.

Mr. Batsford read the following:

RESOLUTION

WHEREAS, Gregory Galustian (the “Applicant”) is proposing to change the use of the existing Single-Family Dwelling to a Two-Family Dwelling on property located at 111 State Route 28N, identified by Tax Map Parcel Number 66.6-1-14, in Zoning District Hamlet (the “Project”) and have applied to the Town of Chester Zoning Board of Appeals (“ZBA”) for relief from the .5 acres per principal building Intensity requirement of Section 4.03 of the Town of Chester Zoning Local Law where a minimum of one (1) acre is required for two (2) principal buildings on the same lot and .34 acres exists; and

WHEREAS, as required by General Municipal Law Section 239-m, the Variance Application was referred to the Warren County Planning Department for its review and the County has determined that there was No County Impact; and

WHEREAS, the ZBA opened and held a properly-noticed Public Hearing on Variance Application #555-V on March 26, 2024 and closed the public hearing on March 26, 2024; and

WHEREAS, Site Plan Review approval by the Planning Board will be required for the Project; and

WHEREAS, the ZBA has reviewed, considered and deliberated about the variance requested and the written and verbal comments received in connection with the variance application;

WHEREAS, the ZBA has classified the Project as an Unlisted Action pursuant to the New York State Environmental Quality Review Act (“SEQRA”) and its implementing regulations in 6 NYCRR 617 and determined to conduct an uncoordinated review; and

WHEREAS, the ZBA performing the duties as Lead Agency has prepared and reviewed the records of SEQRA, Short Environmental Assessment for the Project; and

WHEREAS, the ZBA has issued a Notice of Determination of Significance and Negative Declaration concluding that the Project will not create any significant adverse environmental impacts and that a draft Environmental Impact Statement will not be prepared; and

NOW, THEREFORE, BE IT

RESOLVED, that the ZBA hereby determines that the Application meets the requirements set forth in Section 4.03 of the Town of Chester Zoning Local Law for issuance of an area variance as further discussed below:

1. An undesirable change will not be produced in the character of the neighborhood nor be a detriment to nearby properties. The structure is pre-existing and non-conforming.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than area variances.
3. The requested area variance is substantial.
4. The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The alleged difficulty is self-created.
6. The proposed variance is the minimum variance that is necessary and adequate to achieve the Applicant's goal and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
7. The benefit to the Applicant if the variance is granted would outweigh the potential detriment to the health, safety and welfare of the neighborhood or community.

FURTHER RESOLVED, that the ZBA therefore grants the requested area variance with no condition(s) imposed.

Introduced by James Batsford who moved for its adoption, seconded by Mary Clark
Duly adopted this 26th day of March, 2024 by the following vote:

AYES: Chairperson Barbara Kearney
 Mary Clark
 James Batsford
 Victor Greco
 Stephen Kahrs

NOES: None.
ABSTAIN: None.
ABSENT: None.

Minutes:

On a motion by Mr. Batsford, seconded by Mr. Kahrs, the minutes from the Regular Meeting on February 27, 2024 were accepted.

AYE 5 NO 0

Correspondence:

- Zoning Administrator's Activity Report for February 2024;
- Revised Application, SEAF, Site Plan and accompanying documents received by the Zoning Office on March 06, 2024 for Variance Application #548-V;
- Revised Plans by Rucinski Hall Architecture received by the Zoning Office on March 06, 2024 for Variance Application #549-V;
- Warren County Planning Department Project Review and Referral Form, reviewed by Department on March 11, 2024 for Variance Application #553-V, #554-V and #555-V. Forms received by the Zoning Office on March 11, 2024.

Public Privilege: None.

Board Privilege: None.

Adjournment:

On a motion by Vice Chairwoman Clark, seconded by Mr. Greco, the meeting adjourned at 9:30 p.m.

AYE 5 NO 0

Respectfully submitted,

Marion Eagan
Acting Secretary