



ZONING BOARD OF APPEALS

April 23, 2024

Chairperson Barbara Kearney called the meeting to order at 7:01 pm.

Attendance:

Chairwoman Barbara Kearney, James Batsford, Stephen Kahrs, Victor Greco, Zoning Administrator Jeremy Little (via Zoom), Mindy Conway (Acting Secretary) and Attorney for the Town, Brian Reichenbach (7:55 pm to 8:45 pm) were present. Vice Chairwoman Mary Clark was absent.

Chairwoman Kearney welcomed everyone to the meeting.

Old Business:

#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 said that the public hearing will remain open.

New Business and Public Hearings:

#560-V: Robert and Lori Stitt are requesting a 69.8 ft. front yard setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, for the construction of a 16' x 10' Storage Shed and 4.5' x 4' Self-Contained Toilet Structure (After-the-Fact). The property is located at 275 Rock Avenue, identified by Tax Map Parcel #: 121.-1-27, in Zoning District Resource Management.

Bret Winchip, Winchip Engineering, was present representing the Applicants.

Bret Winchip said that this lot was created as a result of an APA approved subdivision. When they originally bought it there was a camper that was permitted from 1982-1985 (that has been removed) and the shed was attached when they bought the lot, and they had no idea that it did not meet the setback re. The self-contained toilet will be removed when the house is finished.

Chairwoman Kearney asked about the self-contained toilet and said they can approve the setbacks but not the use. It is existing non-conforming.

James Batsford asked if they planned on leaving the shed. Brett Winchip replied yes.

On a motion by James Batsford, seconded by Victor Greco, the public hearing for **Variance Application #560-V: Robert and Lori Stitt** opened at 7:09 pm.

Chairwoman Kearney asked if there were any questions from the audience.

Chairwoman Kearney asked if there were any questions on Zoom.

On a motion by Victor Greco, seconded by James Batsford, the public hearing for **Variance Application #560-V: Robert and Lori Stitt** closed at 7:09 pm.

The Board discussed the following findings and decisions:

1. Whether undesirable change be produced in character of neighborhood or detriment to nearby properties:
 - No, it is existing non-conforming.
2. Whether benefit sought by the applicant can be achieved by feasible alternative to the variances:
 - No, too big to move.
3. Whether the requested variance is substantial:
 - Yes.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:
 - No, still set back pretty far.
5. Whether the alleged difficulty was self-created:
 - The Board agreed that the alleged difficulty is self-created.

Victor Greco read the following resolution:

RESOLUTION FOR VARIANCE APPLICATION #560-V

WHEREAS, Robert and Lori Stitt (the “Applicants”) are proposing to construct a 16’ x 10’ Storage Shed and 4.5’ x 4’ self-contained Toilet Structure (After-the-Fact) on property located at 275 Rock Avenue, identified by Tax Map Parcel Number 121.-1-27, in Zoning District Resource Management (the “Project”) and have applied to the Town of Chester Zoning Board of Appeals (“ZBA”) for 69.8 ft. front 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 #560-V on April 23, 2024 and closed the public hearing on April 23, 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, as the structures are 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, due to the size of the structure and that it would be too large to re-locate.
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, as the structure is set back far enough from the road.
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 subject to the following conditions:

- A. The two (2) structures are to be used for storage only.

Introduced by Victor Greco who moved for its adoption, seconded by James Batsford

Duly adopted this 23rd day of April, 2024 by the following vote:

AYES:	Chairperson Barbara Kearney
	James Batsford
	Victor Greco
	Stephen Kahrs
NOES:	None.
ABSTAIN:	None.
ABSENT:	Mary Clark

#556-V: Woodcliffe Acres Property Owners Association, Inc. are requesting relief from Section 7.03(B)(4) of the Town of Chester Zoning Local Law to increase the existing dock surface area from a total of 1,560 sq. ft. to 1,608 sq. ft. where 240 sq. ft. is allowed. The proposed project involves a 48 sq. ft. expansion to the existing dock system and will increase the width of the existing dock system from 150 ft. to 162 ft. The property is located at 47 and 48 Woodcliff Acres Road, identified by Tax Map Parcel #s: 120.6-2-14 and 120.6-2-15, in Zoning District Moderate Intensity.

Chairwoman Kearney said that the Applicant is not present.

On a motion by James Batsford, seconded by Victor Greco, the public hearing for **Variance Application #556-V: Woodcliffe Acres Property Owners Association, Inc.** opened at 7:17 pm.

Chairwoman Kearney asked if there were any questions from the audience.

Steven Holmes said that he and his wife are members of the Woodcliffe Acres Property Owners Association. They have sent a letter expressing their opposition to this project. He just wanted to add that they do oppose it even though it is something that would somewhat benefit them as members of the Association. The reason why they are opposing it is because they believe it is not necessary to do this project based on what they have today. Their dock system has been in place for over 20 years and has been very functional for their neighbors and members. There are 28 dock slips currently and they have approval to add another 4 slips. They have never been all occupied since 2001 so there is flexibility in the current system. The current rules allow for boats up to 8 ft. and it is proposed to change that to 8.5 ft wide, but this can only be done by expanding the docks. There is one (1) boat that was put in by a new owner who did not know the rules. He believes that as an Association they can work with this owner to make it work without having to expand. They currently have six (6) boats that could fit larger boats. Those are some of the reasons why he feels that this project is unnecessary.

Maxine Sherry Gold spoke via Zoom and stated she submitted a letter in writing via email to the Board registering her objection. This would push the 12 landward berths closer to her dock which would affect the enjoyment and safety of her grandchildren swimming and paddle boarding around their dock. This is further exacerbated by the parking of a large non-conforming pontoon boat at the end of the dock system. The variance request is attempting to address an alleged difficulty that is self-created, because some people want larger boats. Larger boats would mean larger engines, more noise, and more gas fumes needing more space to navigate between her dock and the 12 landward berths and larger boat wakes. All of this would be a further detriment to her property and to the enjoyment and again safety of her family swimming in the area. The current zoning regulations stated that one (1) dock will be allowed for the first 75 ft. and one (1) additional dock for every 75 ft. of shoreline. The Association says that it owns 380 ft. of lake frontage which translates into five (5) docks. The current configuration of 28 berths would seem to be inconsistent with this regulation, while it may be grandfathered in, why should we agree to a further increase in dockage.

Chairwoman Kearney asked if there was anyone else on Zoom that would like to speak.

On a motion by Victo Greco, seconded by Stephen Kahrs, the public hearing for **Variance Application #556-V: Woodcliffe Acres Property Owners Association, Inc.** remained open at 7:27 pm.

#557-V: Gary and Roseanne Sondermeyer are requesting a 30 ft. front yard setback variance and a 5 ft. rear yard setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to remove the existing 8' x 10'-2" Front Porch and construct a new 8' x 16' Front Porch with 2 ft. overhangs. The property is located at 652 Atateka Drive, identified by Tax Map Parcel #: 120.15-1-6, in Zoning District Moderate Intensity.

Gary Sondermeyer was present and said that the current front porch is old and small.

Chairwoman Kearney commented that the Warren County Planning Department has no comment.

Stephen Kahrs commented that none of the construction is getting closer to the front property line than the existing structure.

On a motion by James Batsford, seconded by Victor Greco, the public hearing for **Variance Application #557-V: Gary and Roseanne Sondermeyer** opened at 7:32 pm.

Chairwoman Kearney asked if there was anyone from the audience who would like to speak.

Chairwoman Kearney asked if there was anyone on Zoom who would like to speak.

On a motion by James Batsford, seconded by Victor Greco, the public hearing for **Variance Application #557-V: Gary and Roseanne Sondermeyer** closed at 7:33 pm.

The Board discussed the following findings and decisions:

1. Whether undesirable change be produced in character of neighborhood or detriment to nearby properties:
 - No.
2. Whether benefit sought by the applicant can be achieved by feasible alternative to the variances:
 - No, continuing the roofline.
3. Whether the requested variance is substantial:
 - Yes.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:
 - No, existing non-conforming, minimal 6 ft. addition.
5. Whether the alleged difficulty was self-created:
 - The Board agreed that the alleged difficulty is self-created.

Stephen Kahrs read the following resolution:

RESOLUTION FOR VARIANCE APPLICATION #557-V

WHEREAS, Gary and Roseanne Sondermeyer (the “Applicants”) is proposing to remove the existing 8’ x 10’-2” Front Porch and construct a new 8’ x 16’ Front Porch with 2 ft. overhangs on property located at 652 Atateka Drive, identified by Tax Map Parcel Number 120.15-1-6, in Zoning District Moderate Intensity (the “Project”) and have applied to the Town of Chester Zoning Board of Appeals (“ZBA”) for a 30 ft. front yard setback variance and a 5 ft. rear 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 #557-V on April 23, 2024 and closed the public hearing on April 23, 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. No matter which direction the porch is expanded, a variance would be required.
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, as the existing porch is non-conforming and the expansion to the existing footprint is minimal.
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 Stephen Kahrs who moved for its adoption, seconded by James Batsford
Duly adopted this 23rd day of April, 2024 by the following vote:

AYES:	Chairperson Barbara Kearney
	James Batsford
	Victor Greco
	Stephen Kahrs
NOES:	None.
ABSTAIN:	None.
ABSENT:	Mary Clark

#558-V: Douglas A. Strait is requesting a 7 ft. left side yard setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to demolish an 11' x 14' portion of the existing Single-Family Dwelling and construct a new 4' x 14' Porch and Two-Story 14' x 22' Addition. The addition will consist of a new kitchen, entry and laundry on the first floor and a master bedroom with bath on the second floor. The existing two bedrooms on the first floor will become one bedroom (no change in the number of bedrooms). The property is located at 49 Clarkson Road, identified by Tax Map Parcel #: 86.19-1-60, in Zoning District Moderate Intensity.

Douglas Strait said that he has been the caretaker of the place since 1978 and he would like to retire there so the addition is for that purpose. It will have the same footprint and there is a new well and septic. Nothing is really changing he is only requesting to build on the same footprint.

On a motion by Victor Greco, seconded by James Batsford, the public hearing for **Variance Application #558-V: Douglas A. Strait** opened at 7:42 pm.

Chairwoman Kearney asked if there was anyone in the audience who would like to speak.

Chairwoman Kearney asked if there was anyone on Zoom.

On a motion by Victor Greco, seconded by James Batsford, the public hearing for **Variance Application #558-V: Douglas A. Strait** closed at 7:43 pm.

The Board discussed the following findings and decisions:

1. Whether undesirable change be produced in character of neighborhood or detriment to nearby properties:

- No, same footprint.
- 2. Whether benefit sought by the applicant can be achieved by feasible alternative to the variances:
 - No.
- 3. Whether the requested variance is substantial:
 - Yes.
- 4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:
 - No.
- 5. Whether the alleged difficulty was self-created:
 - The Board agreed that the alleged difficulty is self-created.

James Batsford read the following:

RESOLUTION FOR VARIANCE APPLICATION #558-V

WHEREAS, Douglas A. Strait (the “Applicant”) is proposing to demolish an 11’ x 14’ portion of the existing Single-Family Dwelling and construct a new 4’ x 14’ Porch and Two-Story 14’ x 22’ Addition consisting of a new kitchen, entry and laundry on the first floor and a master bedroom with bath on the second floor on property located at 49 Clarkson Road, identified by Tax Map Parcel Number 86.19-1-60, in Zoning District Moderate Intensity (the “Project”) and have applied to the Town of Chester Zoning Board of Appeals (“ZBA”) for a 7 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 #558-V on April 23, 2024 and closed the public hearing on April 23, 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, as the structure will be replaced in the same footprint with an addition.
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 James Batsford who moved for its adoption, seconded by Stephen Kahrs
Duly adopted this 23rd day of April, 2024 by the following vote:

AYES: Chairperson Barbara Kearney

James Batsford

Victor Greco

Stephen Kahrs

NOES: None.

ABSTAIN: None.

ABSENT: Mary Clark

#559-V: Loon Lake Properties, LLC is requesting 8.3 ft. relief from Section 7.04(F)(10) of the Town of Chester Zoning Local Law, for the installation of a 6' x 4' Freestanding Sign (After-the-Fact) for The Lodge at Loon Lake. The location of the sign is 2.7 ft. from the right-of-way of State Route 8 where 11 ft. is required for a 24 sq. ft. freestanding sign. The property is located at 5381 State Route 8, identified by Tax Map Parcel #: 103.-1-17.1, in Zoning District Moderate Intensity.

Matt Johnson said that the new sign is the exact size and placement.

Chairwoman Kearney said that it is remove and replace.

On a motion by Victor Greco, seconded by Stephen Kahrs, the public hearing for **Variance Application #559-V: Loon Lake Properties, LLC** opened at 7:50 pm.

Chairwoman Kearney asked if there were any questions from the audience.

Chairwoman Kearney asked if there were any questions on Zoom.

On a motion by Victo Greco, seconded by James Batsford, the public hearing for **Variance Application #559-V: Loon Lake Properties, LLC** closed at 7:50 pm.

The Board discussed the following findings and decisions:

1. Whether undesirable change be produced in character of neighborhood or detriment to nearby properties:
 - No, remove and replace.
2. Whether benefit sought by the applicant can be achieved by feasible alternative to the variances:
 - No.
3. Whether the requested variance is substantial:
 - Yes.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:
 - No.
5. Whether the alleged difficulty was self-created:
 - The Board agreed that the alleged difficulty is self-created. They changed the name, so they changed the sign.

Victor Greco read the following resolution:

RESOLUTION FOR VARIANCE APPLICATION #559-V

WHEREAS, Loon Lake Properties, LLC (the “Applicant”) is proposing to install a 6’ x 4’ Freestanding Sign (After-the-Fact) for the Lodge at Loon Lake on property located at 5381 State Route 8, identified by Tax Map Parcel Number 103.-1-17.1, in Zoning District Moderate Intensity (the “Project”) and have applied to the Town of Chester Zoning Board of Appeals (“ZBA”) for 8.3 ft. relief from requirements of Section 7.04(F)(10) 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 #559-V on April 23, 2024 and closed the public hearing on April 23, 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 7.04(F)(10) 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, as this is an in-kind replacement of a previous freestanding sign.
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, as the free-standing sign is 2.7 ft. from the right-of-way of State Route 8.
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, as a new sign has been installed.
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 Victor Greco who moved for its adoption, seconded by Stephen Kahrs

Duly adopted this 23rd day of April, 2024 by the following vote:

AYES: Chairperson Barbara Kearney

James Batsford

Victor Greco

Stephen Kahrs

NOES: None.

ABSTAIN: None.

ABSENT: Mary Clark

Attorney for the Town, Brian Reichenbach entered the meeting at 7:55 pm.

#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. ****PUBLIC HEARING REMAINED OPEN AT THE MARCH 26, 2024 ZBA MEETING****

On a motion by James Batsford, seconded by Victor Greco, the public hearing for **Variance Application #554-V: Hidden Lake Timber, LLC** continued at 7:56 pm.

Chairwoman Kearney asked if there was anyone from the audience who would like to speak.

Fred Griffen gave Chairwoman Kearney pictures. Fred Griffen said that the orange ribbon in the picture is right next to the brook, and you can see his house from the location, and he was told that no houses would be seen from the tower. He would like to see the tower moved back 150 ft. to 200 ft. and move the road 20 ft. up the hill. He thinks this is common courtesy to move it so he would not see it from his house.

Robert Burgdorf said that from the last meeting the only thing that came out was the perceived concerns about health effects and he explained how this was preempted under federal law. They submitted an exhibit on April 1st explaining that there were no adverse health effects. They also submitted evidence that this particular facility will be under what is allowed by FCC regulations.

Fred Griffen asked about the building near the water. Robert Burgdorf said that there is no preemption for waterways or wetlands. The preemption is only for health effects.

Fred Griffen asked if it could be moved back to get away from the water.

Robert Burgdorf said that there is no reason to move it and it is dictated by the landowner.

Fred Griffen said that he would speak to the landowner.

Chairwoman Kearney summarized that the tower will be going in the same location that they originally applied to put it and they submitted quite a bit on information in regard to the health aspect.

Dawna Jackson feels that this tower is going to have an effect on the environment and on the Griffens, and she is right down the hill from them. She heard that the tower is not going where the landowner wanted it. Chairwoman Kearney said that it has to go where the landowner agrees. The Attorney for the Town, Brian Reichenbach, said that the landowner is under no obligation to agree to anything. The landowner owns the land, and the tower can only go where he allows it. Chairwoman Kearney said that the owner has to sign the application. Dawna Jackson said they sent everyone copies of health documents.

Jim Dower has not talked to the owner and would like to talk to the owner. Chairwoman Kearney said that the tower will go where the application says. Jim Dower asked if they could agree to not let the tower go there. Brian Reichenbach said that this Board can only act on the application before them. If the Board approves it that would be a variance, that does not mean that the owner is compelled then by anyone to allow the tower where the application provides it is going to be. If the owner has a change of heart or it is not keeping with what he agreed to it is up to him to say we are not going to do it that way. This is authority to the owner and the company that wants to erect the tower. There is no mandate from this Board. If the owner does not like the plan, he can fight it out with Verizon. Chairwoman Kearney said that also if there is a change in this plan they have to come before the ZBA again.

Dawna Johnson asked how far away from the tower the waves are going to project. Chairwoman Kearney recommended that she schedule a time with the Zoning Office to look through the literature and they tell us that they are going to follow industry standards. James Batsford said that it is less than industry standards. Dawna Johnson asked what would happen in five (5) or ten (10) years they get cancer; do they sue Verizon. Chairwoman Kearney said that they have to go by the criteria that is put forth for the Zoning Board and the following are the questions they have to answer:

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 is very grateful the public came out. They have to be held to standards from the FCC.

Fred Griffen asked the Board to put it off one (1) month.

Chairwoman Kearney asked if there were any questions on Zoom.

Greg Wright, who was present via Zoom, asked if they were applying for a variance. Chairwoman Kearney said yes. Greg Wright asked if the Town could be held responsible for the cell tower if it does cause cancer. Chairwoman Kearney said she was told no, not if someone had health effects or if someone in that area was not able to use their cell phone, we would not be held liable. Brian Reichenbach said no.

Greg Wright asked why it could not be further up the mountain and a shorter tower or further up the mountain same size, you would get better reception to further people. Power is just wires and cables. Brian Reichenbach said that the Board is only asked on the application before them. Robert Burgdorf stated that is often a misnomer that if you go to a higher location you are going to get better service and that is not the case with cellular. Each tower has its own geographic cell and has to work in connection with all the other cells around it. Robert Burgdorf stated the landlord, as of last Friday, looked at the stakes and approved this location.

Chairwoman Kearney asked if anyone else would like to speak.

Victor Greco said that they have a request from a person who was not here last time. Maybe we should keep the public hearing open.

Chairwoman Kearney said she would like to close the public hearing and move forward.

On a motion by James Batsford, seconded by Stephen Kahrs, the public hearing for **Variance Application #554-V: Hidden Lake Timber, LLC** closed at 8:28 pm.

The Board discussed the following criteria:

1. That the proposed improvement is a public necessity in that it is required to render safe and adequate service.
 - In today's age where most citizens do not have landlines, we rely heavily on cell phone service.
 - living in an area where there are a lot of backroads that are not heavily traveled, the cell tower will provide for a safer environment in the event of an emergency.
2. That there are compelling reasons, economic or otherwise, for the variance.
 - The cell service is poor in the area and with the new cell tower service will be improved and will enhance the economy of the Pottersville immediate area.
3. Where the intrusion or burden on the community is minimal, the showing required by the utility should be correspondingly reduced.
 - The Board noted that all of the documents have been signed by an engineer and designed to meet industry standards.
 - The proposed monopine tower will also blend in with the surrounding trees.

Victor Greco asked why not have the question settled of where the location is going to be before it is approved. Chairwoman Kearney said that if they choose to move the tower they will need to come back. We are going by the application in front of the Board. Stephen Kahrs said that we have the Application that the owners signed off on.

Chairwoman Kearney asked Brian Reichenbach if there was any other advice he would like to give the Board before they vote. Brian Reichenbach said just to clarify the Board is prohibited from considering the health effects, you don't have a choice in that matter and that decision is forced on you by law.

Victor Greco asked if a condition could be put in exploring the change of location. Brian Reichenbach said that that would be a different variance application.

Chairwoman Kearney asked if the APA was involved. The Zoning Administrator said that yes, the APA is currently reviewing the project. Chairwoman Kearney said the APA would look at the waterways.

James Batsford read the following resolution:

RESOLUTION FOR VARIANCE APPLICATION #554-V

WHEREAS, the Town of Zoning Board of Appeals (“ZBA”) has received an Application from Hidden Lake Timber, LLC (the “Applicant”) for a use variance to permit construction and operation of 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 on vacant property owned by Hidden Lake Timber, LLC and located at 37 Kohl Road, identified by Tax Map Parcel Number 34.-1-25, in Zoning District Rural Use (the “Project”); and

WHEREAS, 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; 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 #554-V on March 26, 2024 and closed the public hearing on April 23, 2024; 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 has reviewed, considered and deliberated about the variance requested and the written and verbal comments received in connection with the variance application; 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;

WHEREAS, the four (4) Criteria usually associated with a Use Variance are different in this case and Verizon Wireless is recognized as a public utility under New York decisional law (*Cellular Telephone Company v. Rosenberg*, 82 N.Y.2d 364 (1993)) and a provider of “personal wireless services” under the federal Telecommunications Act of 1996;

NOW, THEREFORE, BE IT

RESOLVED, that the ZBA hereby determines that the Applicant has shown that the applicable zoning regulations and restrictions have caused unnecessary hardship and has demonstrated that the proposed public utility is a public necessity and has met the Public Utility Use Variance (PUV) Standard, as further discussed below:

1. That the proposed improvement is a public necessity in that it is required to render safe and adequate service. In today's age where most citizens do not have landlines, we rely heavily on cell phone service and living in an area where there are a lot of backroads that are not heavily traveled, the cell tower will provide for a safer environment in the event of an emergency.
2. That there are compelling reasons, economic or otherwise, for the variance. The cell service is poor in the area and with the new cell tower service will be improved and will enhance the economy of the Pottersville immediate area.
3. Where the intrusion or burden on the community is minimal, the showing required by the utility should be correspondingly reduced. The Board noted that all of the documents have been signed by an engineer and designed to meet industry standards. The proposed monopine tower will also blend in with the surrounding trees.

FURTHER RESOLVED, that 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;

FURTHER RESOLVED, that the ZBA grants the Application for a use variance with no condition(s) imposed.

Introduced by James Batsford who moved for its adoption, seconded by Stephen Kahrs
Duly adopted this 23rd day of April, 2024 by the following vote:

AYES: Chairperson Barbara Kearney

James Batsford

Stephen Kahrs

NOES: None.

ABSTAIN: Victor Greco

ABSENT: Mary Clark

Chairwoman Kearney commented that Victor Greco will be leaving the Board and thanked him for his service.

Attorney for the Town, Brian Reichenbach left the meeting at 8:45 pm.

#561-V: Herman and Kathleen Nied are requesting an 8 ft. front yard setback variance, 53 ft. shoreline setback variance and a variance for 26.4% proposed lot coverage (24.9% existing lot coverage) where 15% is maximum allowed, according to Section 4.03 and Section 7.01(B)(4) of the Town of Chester Zoning Local Law, in order to construct a new foundation under the existing structure, a new 15' x 12' Addition consisting of a kitchen and storage above, two (2) new decks (12' x 12' and 12' x 20') and additions to each side of the existing entry porch (4'-7" x 9'-8" and 3' x 9'-8"). The property is located at 12 Pine Tree Drive, identified by Tax Map Parcel #: 136.6-1-19, in Zoning District Rural Use.

Herman and Kathleen Nied were both present.

Discussion ensued about the distances.

Chairwoman Kearney said no correspondence was received.

On a motion by James Batsford, seconded by Stephen Kahrs, the public hearing for **Variance Application #561-V: Herman and Kathleen Nied** opened at 8:53 pm.

Chairwoman Kearney asked if there were any questions on Zoom.

On a motion by James Batsford, seconded by Victo Greco, the public hearing for **Variance Application #561-V: Herman and Kathleen Nied** closed at 8:54 pm.

Chairwoman Kearney read through the following in 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?	<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 all agreed “No, or small impact may occur.”

Chairwoman Kearney read the following:

**NOTICE OF DETERMINATION OF SIGNIFICANCE AND NEGATIVE
DECLARATION IN CONNECTION WITH VARIANCE APPLICATION #561-V,
HERMAN AND KATHLEEN NIED**

WHEREAS, the Town of Chester Zoning Board of Appeals (“ZBA”) has received an Application from Herman and Kathleen Nied (the “Applicants”) for the construction of a new foundation under the existing structure, a new 15’ x 12’ Addition consisting of a kitchen and storage above, two (2) new decks (12’ x 12’ and 12’ x 20’) and additions to each side of the existing entry porch (4’-7” x 9’-8” and 3’ x 9’-8”) on property located at 12 Pine Tree Drive, identified by Tax Map Parcel #: 136.6-1-19 (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 #561-V, HERMAN AND KATHLEEN NIED,**

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

Duly adopted this 23rd day of April, 2024 by the following vote:

AYES:	Chairperson Barbara Kearney James Batsford Victor Greco Stephen Kahrs
NOES:	None.
ABSTAINED:	None.
ABSENT:	Mary Clark

The Board discussed the following findings and decisions:

1. Whether undesirable change be produced in character of neighborhood or detriment to nearby properties:
 - No.
2. Whether benefit sought by the applicant can be achieved by feasible alternative to the variances:
 - No, more structurally sound.
3. Whether the requested variance is substantial:
 - Yes.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:
 - No.
5. Whether the alleged difficulty was self-created:
 - The Board agreed that the alleged difficulty is self-created.

Stephen Kahrs read the following resolution:

RESOLUTION FOR VARIANCE APPLICATION #561-V

WHEREAS, Herman and Kathleen Nied (the “Applicants”) are proposing to construct a new foundation under the existing structure, a new 15’ x 12’ Addition consisting of a kitchen and storage above, two (2) new decks (12’ x 12’ and 12’ x 20’) and additions to each side of the existing entry porch (4’-7” x 9’-8” and 3’ x 9’-8”) on property located at 12 Pine Tree Drive, identified by Tax Map Parcel Number 136.6-1-19, in Zoning District Rural Use (the “Project”) and have applied to the Town of Chester Zoning Board of Appeals (“ZBA”) for an 8’-4” front yard setback variance, 52’-5” shoreline setback variance and a variance for 26.4% proposed lot coverage (24.9% existing lot coverage) where 15% is maximum allowed from requirements of Section 4.03 and Section 7.01(B)(4) of the Town of Chester Zoning Local Law; and

WHEREAS, the ZBA opened and held a properly-noticed Public Hearing on Variance Application #561-V on April 23, 2024 and closed the public hearing on April 23, 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 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, as no correspondences have been received (for or against the variance) from neighboring properties.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than area variances, as the structure will be more structurally sound.
3. The requested area variances are substantial.
- Ch
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 Stephen Kahrs who moved for its adoption, seconded by James Batsford

Duly adopted this 23rd day of April, 2024 by the following vote:

AYES: Chairperson Barbara Kearney
 James Batsford
 Victor Greco

NOES: Stephen Kahrs
ABSTAIN: None.
ABSENT: Mary Clark

Minutes:

Chairwoman Kearney commented that they are no longer required to approve the minutes at the meetings, but if you have any comments, please see the secretary. Mindy Conway asked if they notice any typos to please email her so she can get it fixed.

Correspondence:

- Zoning Administrator's Activity Report for March 2024;
- Correspondence from Robert W. Burgdorf dated April 01, 2024 and received by the Zoning Office on April 02, 2024 RE: Variance Application #554-V;
- Correspondence from Robert W. Burgdorf dated April 02, 2024 and received by the Zoning Office on April 03, 2024 RE: Variance Application #554-V;
- Letter from Jim Dower and Dawna Jackson, including accompanying documentation, received by the Zoning Office on April 09, 2024 RE: Variance Application #554-V;
- Warren County Planning Department Project Review and Referral Form, reviewed by Department on April 12, 2024 for Variance Application #557-V and #559-V. Forms received by the Zoning Office on April 15, 2024;
- E-mail from Hali and Steve Holmes received by the Zoning Office on April 18, 2024 RE: Variance Application #556-V;
- E-mail with attached letter from M. Sherry Gold received by the Zoning Office on April 18, 2024 RE: Variance Application #556-V;
- E-mail from John Bevilacqua received by the Zoning Office on April 19, 2024 RE: Variance Application #556-V;
- E-mail from Gale Chang received by the Zoning Office on April 22, 2024 RE: Variance Application #556-V.

Public Privilege:

None.

Board Privilege:

None.

Adjournment:

On a motion by Victor Greco, seconded by Stephen Kahrs, the meeting adjourned at 9:10 pm.

AYE 4 NO 0

Respectfully submitted,

Mindy Conway
Acting Secretary