

**BEFORE THE FAIRVIEW TOWNSHIP
ZONING HEARING BOARD**

DECISION

**IN RE: APPLICATION OF MARK & SUZANN CHESEK
APPLICATION NO. 2023-02**

APPLICANT(S): Mark & Suzann Chesek, husband and wife
HEARING DATE: March 16, 2023
DECISION DATE: March 16, 2023
APPEARANCES: Suzann Chesek
Brett Garret with Brexton Builders (the contractor)
Stephen Waller, Township Zoning Officer
EXHIBITS: Exhibit 1 – Application (including all submittals)
Exhibit 2 – three (3) email submissions opposing Application
LETTER SUBMITTAL: Email submission by Diane Brown opposing Application
Email submission by Yvonne Erridge opposing Application
Email submission (anonymous) opposing Application
SUBJECT PROPERTY: 805 Stonybrook Lane, Lewisberry, Pennsylvania, 17339

BACKGROUND

This decision of the Fairview Township Zoning Hearing Board (the “**Board**”) is from an application filed with Fairview Township (the “**Township**”) on February 14, 2023 (the “**Application**”), seeking zoning relief under the Township’s Zoning Ordinance (the “**Ordinance**”), for a variance from Sections 300.16.A, Table 4-3 to construct a detached garage bay outside of the side setback line, which would be 5-10 ft from the property line. The subject property is located at 805 Stonybrook Lane, Lewisberry, Pennsylvania, 17339, located in the Township’s Rural Living (RL) Zoning District.

A hearing was held on the Application on Thursday, March 16, 2023, with the meeting starting at 6:30 p.m. The Zoning Hearing Board was represented by Mark Perry (Acting Chairman), Keith Bashore, and Daniel Alderman (as the acting alternate member). All published and posted notices were duly given, with no objection thereto being made in writing or orally at the time of the hearing. No testimony in opposition to the Application was offered or taken, and no parties attended the hearing in opposition. Three email submissions were provided in opposition to the Application, which were submitted into the record. After hearing the testimony and viewing the evidence in this matter, the Board makes the following determinations:

FINDINGS OF FACT

1. Mark & Suzann Chesek, husband and wife (“**Applicants**”), are the current owners of property located at 805 Stonybrook Lane, Lewisberry, Pennsylvania, 17339, having an irregular shape and area of roughly 3.17 acres (the “**Property**”), which is used as their primary residential dwelling.

2. The Property is located in the Township's Rural Living (RL) Zoning District (the "**RL Zone**") and is improved with a residential dwelling, which includes an attached garage converted into living space (in-law quarters) (the "**House**").

3. The Applicants currently reside at the House with their four (4) children and Suzann Chesek's parents.

4. The House currently has a right side yard setback of 22 ft. from the property line and a left side yard setback of 27.74 ft. from the property line.

5. Applicants seek to construct a detached garage to the left side of the House (when facing the House from the street) and slightly in front of the House (the "**Garage**"), that would encroach on the current side yard setback of 20 feet, being anywhere between 5 feet to 10 feet from the side yard boundary.

6. The Garage would be 46 ft. by 26 ft. (it would be wider than deep) and it would be finished to match the siding of the House.

7. Given the layout of the Property and the location of the House, as well as the location of the well, underground propane tank, and the pool in the rear yard, the proposed location of the Garage (as shown on the plans submitted with the Application) is the only feasible location to place the Garage.

8. Applicant's require access to the propane tank from the driveway for refills, meaning the Garage cannot be attached to the House, although Applicants testified it can be 10 feet from the House (meaning it would be considered an attached structure for zoning purposes).

9. Applicants' neighbor, located to the left of the Property (when facing House from the street) and being the neighbor which would be most heavily impacted by the encroachment of the side yard setback, currently have a sand mound installed directly behind where the Garage would be constructed, with tall grasses on top of the sand mound.

10. Due to the sand mound and grass, Applicants testified there would be little visual effect due to the height of the sand mound.

11. Applicants also testified that their neighbors (on both the right and the left) have their houses built closer to the street, whereas Applicant's House is deeper on the Property (roughly 175 feet from the street right of way), meaning the location of the Garage would not be directly across from the neighbors' homes.

12. Stephen Waller, as the Township Zoning Officer, testified as follows:

A. All public notice of the application and hearing was legally conducted, with the hearing being advertised in the newspaper on March 2nd and 9th, the Property being posted on March 8th, and the adjoining property owners having letters mailed to them on Feb. 28th.

B. While a concern existed for the front yard set back and the location of an accessory structure, as well as a potential question for interpretation, where the Garage is within 10 ft. of the House, it would be considered attached to the House (and therefore not an accessory structure).

C. Where the Garage was attached, the front yard setback would be 100 ft. because Stonybrook Lane is a local street, and the side yard setback would be 30 ft. (for a principal structure compared to an accessory structure).

13. Applicants testified that they would amend their application to seek a variance from 300.16.A, Table 4-3 to construct the Garage as attached to the House (i.e. within 10 ft. of the House) with an encroachment on the side setback line, which would be 10 feet from the property line (instead of the 30 feet required for a principal structure).

CONCLUSIONS OF LAW

1. The Applicant has established the elements required by Section 300-99(E)(4) of the Ordinance regarding the general criteria for a variance in order to grant a variance from § 300.16.A, Table 4-3 to construct the Garage (as attached to the House due to being within 10 feet of the House) outside of the 30 foot side setback line, which would be 10 feet from the side property line.

DECISION

Mr. Bashore moved to grant the zoning relief requested by the Applicants in the Application, being a variance from Section 300.16.A, Table 4-3 to construct the Garage, as an addition to the House (because it would be 10 feet or closer to the House) inside the current 30 foot side setback line applicable to principal structures, which would be 10 ft from the side yard property line.

Mr. Alderman seconded the motion. Upon a vote, the Fairview Township Zoning Hearing Board unanimously approved the motion.

APPLICANT SHALL ABIDE BY ALL FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES PERTAINING TO PERMISSIONS GRANTED BY THIS DECISION.

APPLICANT SHALL PROCEED PURSUANT TO THIS DECISION IN ACCORDANCE WITH THE TESTIMONY AND EXHIBITS PRESENTED AT THE HEARING.

Date: 3-20-2023

Mark Perry
Mark Perry, Acting Chairmen

ANY PERSON AGGRIEVED BY THIS DECISION OF THE FAIRVIEW TOWNSHIP ZONING HEARING BOARD MAY APPEAL TO THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA. THE APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS FROM THE MAILING OF THESE FINDINGS OF FACT, CONCLUSIONS OF LAW AND THE ABOVE DECISION.

MAIL DATE: 3-21-23

PUBLIC NOTICE

The Fairview Township Zoning Hearing Board will hold a Public Hearing on Thursday, **March 16, 2023**, at 6:30pm, at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070, to discuss the following:

Docket No. 2023-02: The applicants, Mark & Suzann Chesek are requesting a Variance from Section 300.16, Table 4-3 – Area and Design Requirements – Rural Living Zoning District. The applicants are requesting a variance to construct a freestanding garage within five (5) feet of the side property line, which would reduce the minimum side setback required in the Rural Living Zoning District (RL) from twenty (20) feet to five (5) feet. The subject property is located at 805 Stonybrook Lane, Lewisberry, Pennsylvania, 17339, located in the Township’s Rural Living Zoning District.



ZONING HEARING BOARD APPLICATION
YORK COUNTY, PENNSYLVANIA

❖ Part 1:

APPLICANT(S)/EQUITABLE OWNER

Name: Mark + Suzann Chesek
Address: 805 Stonybrook Ln
Lewisberry PA 17339
Phone: 717 512 8654

EXISTING OWNER OF PROPERTY:

Name: Mark + Suzann Chesek
Address: 805 Stonybrook Lane
Lewisberry PA 17339

PROPERTY LOCATION:

Address: 805 Stonybrook Ln
Lewisberry PA 17339
Lot Size: 3.17 acres / 138,885 Sq Ft
Date Purchased: 8/17/2010
Location: Stonybrook Ln off of
Siddonsburg Rd, Fairview Township

PRESENT USE OF PROPERTY:

Main residence single
family dwelling

EXISTING ZONE: RL

❖ Part 2:

ZONING REQUEST (Identification of the applicable request(s)):

- () SUBSTANTIVE CHALLENGE
- () SPECIAL EXCEPTION
- (X) VARIANCE
- () APPEAL OF THE ZONING OFFICERS DECISION



SECTION(S) OF ZONING ORDINANCE WHICH APPLY TO THIS REQUEST - Please identify the specific section(s) of the Zoning Ordinance involved in the request):

300.116 Article 4-3 RL accessory use of structure
area design reqs. 20 ft SED/SOF all other non-residential non-agricultural uses

❖ Part 3:

DESCRIPTION OF REQUEST:

See attached

❖ Part 4

LIST ALL INDIVIDUAL PROPERTY OWNERS WITHIN 200 FEET OF THE PERIMETER OF THE ENTIRE PROPERTY.

NAME	ADDRESS	USE TYPE
Diane Brown	807 Stonybrook Ln Lewisberry	residence
Yvonne Enridge	803 Stonybrook Lane Lewisberry	residence
Deborah Bombenger	886 Siddonsburg Rd Lewisberry	residence
Frank Bowersox	804 Stonybrook Ln Lewisberry	residence
Joseph Gingrich	866 Siddonsburg Rd Lewisberry	residence
Katie Sauder	868 Siddonsburg Rd Lewisberry	residence
John Freet	870 Siddonsburg Rd Lewisberry	residence
Robert Watson	802 Stonybrook Ln Lewisberry	residence

❖ *Part 5 For office use only:*

ZONING HEARING BOARD CHECKLIST

Application Received: _____

Property Zoned: _____

Asking for Special Exception, Variance or Appeal: _____

Case No.: _____

Fees Paid: _____

Hearing Date: _____

Draft Public Notice sent to Attorney for review: _____

Notice sent to Newspaper: _____

Notice Published in Newspaper: _____

Notice Mailed to Property Owners in 225ft. Buffer: _____

Public Notice Posted on Property: _____

ZHB Packets Mailed and Emailed: _____

part 3 attachment

We are applying for a variance to allow for the construction of a free-standing garage with a setback of 5 feet from the side property line, see plot plan. We are asking for the variance as when we purchased the property, garages were allowed within 10 feet of the property line, as demonstrated by the residence with a free-standing garage at 804 Stonybrook Lane.

Due to the layout of the yard and existing home, it would be awkward to build the garage with a 20 foot setback in a manner that is pleasing to the eye and aligns with the design and aesthetics of the neighborhood as doing so would place the garage directly in front of the home. We are not able to build the garage behind the home due to an underground propane tank we cannot have a driveway passing along the south side of the house. The north side of the house is blocked by a swimming pool and is also unpassable.

The rear yard is sloped and would not be conducive to the construction of a garage even if we could establish a driveway past the side of the house. There is a well behind the home that would also prohibit placing the garage behind the house.

Lots sizes in the neighborhood are large, ranging 1-10 acres. Houses are located far enough apart that building the garage within 5 feet of the property line will still ensure plenty of space between the garage and the neighboring home.

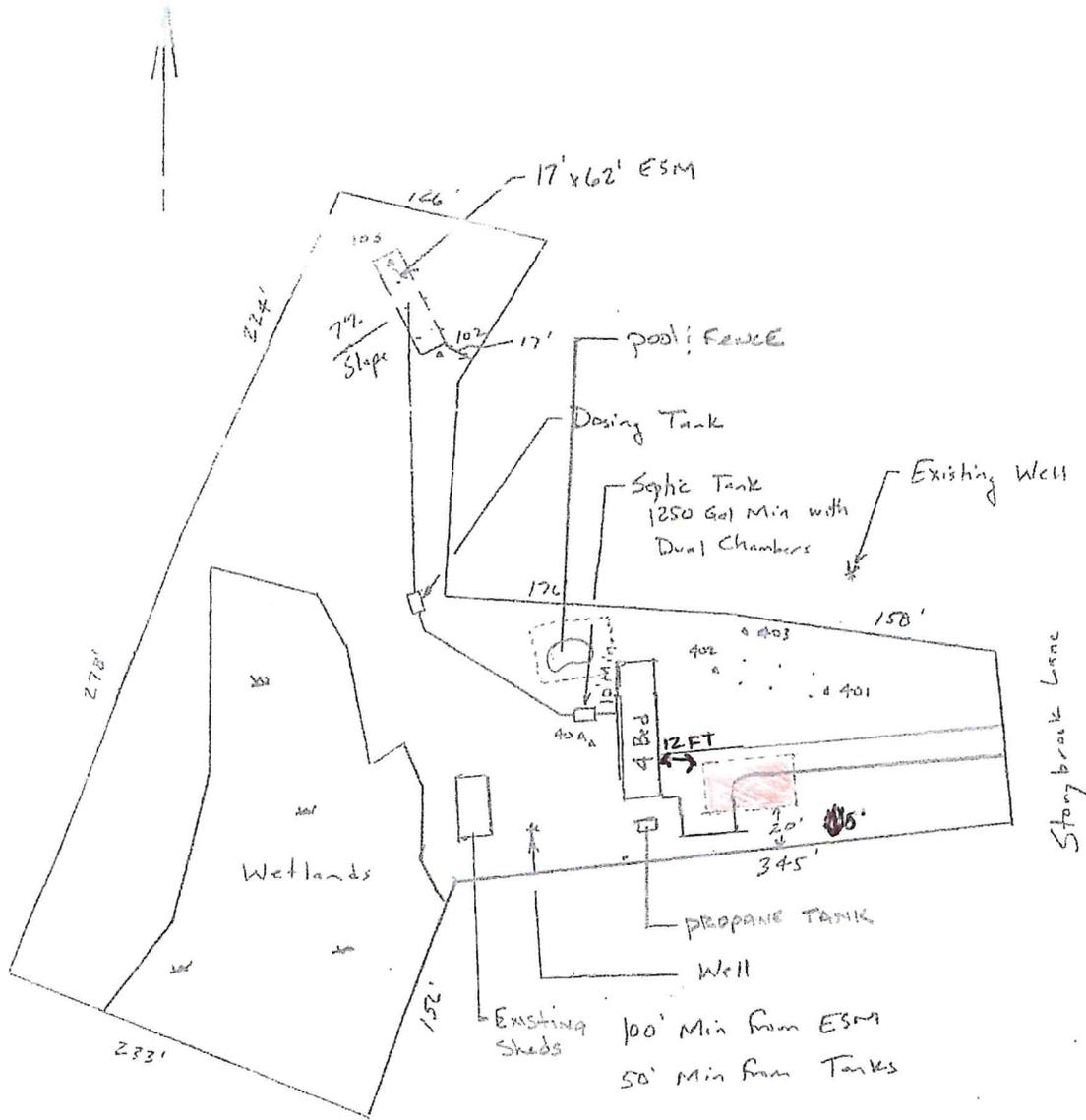
Thank you for considering our request,

Mark and Suzann Chesek

w/ 20' setback

DESIGNED BY: GRANT MARSHALL
149 KERRS ROAD
CARLISLE, PA 17013
(717)776-3008
FAX (717)776-4503

JOB Lot 42 Stonybrook, Fairview Twp.
SHEET 2 OF 8 York Co.
DATE 1/21/04



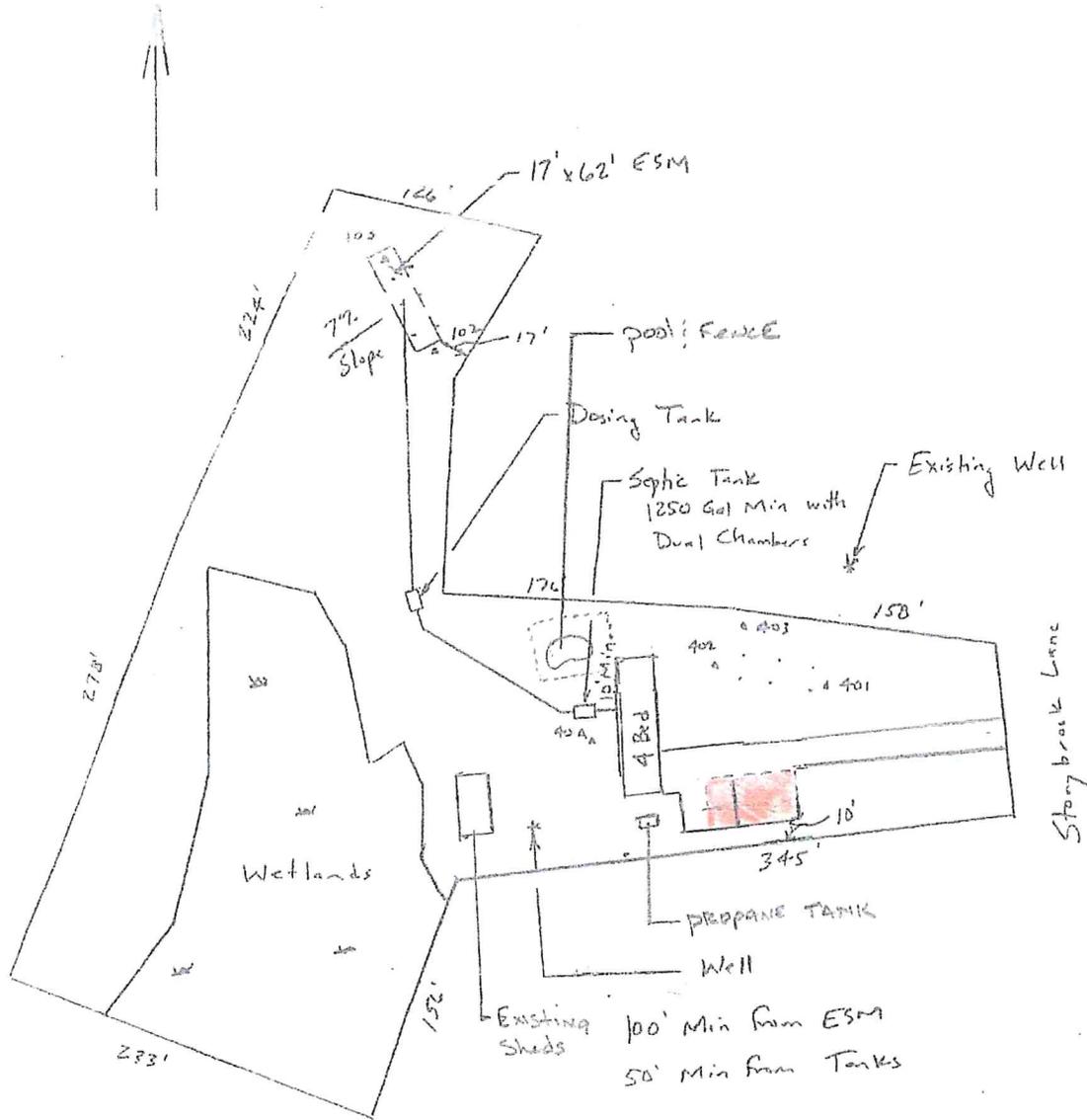
garage will be 12'
from the corner of the
home,

Plot Plan
" = 100'

w/ 5-10' setback

DESIGNED BY: GRANT L. MARSHALL
349 KERRS ROAD
CARLISLE, PA 17013
(717)776-3008
FAX (717)776-4503

IOB Lot 42 Stonybrook, Fairview Twp.
SHEET 2 OF 8 York Co.
DATE 1/21/04



Plot Plan

" = 100'