

Town of Chester
203 Middlesex Avenue
Chester Connecticut 06412-0218



telephone: 860-526-0013
facsimile: 860-526-0004
web page: chesterct.org
e-mail: info@chesterct.org

CHESTER ZONING BOARD OF APPEALS (ZBA)

To be completed by Zoning Officer:

Submission date: _____
Next ZBA meeting: _____
Fee paid: _____ Check #: _____
Variance #: _____

Application for Variance

To be completed by Applicant:

1. Date: May 18, 2020
2. Applicant
 - a. Name: Caryl Horner
 - b. Physical Address: 25 Maple St. Chester, Ct. 06412
 - i. _____
 - c. Mailing Address (if different): _____
 - i. _____
 - d. Phone: (860) 575-0543
 - e. Email: riverframes@icloud.com

3. Is the Applicant a (circle one):
 - a. Individual Partnership LLC Corporation Other
 - b. If "Other" please specify: _____

4. Is the Applicant the (circle one):
 - a. Owner Tenant Prospective Buyer Agent for: _____

5. Property Owner's Name: _____
 - a. Name: Caryl Horner
 - b. Physical Address: 25 Maple St., Chester, Ct. 06412
 - i. _____
 - c. Mailing Address (if different): _____
 - i. _____
 - d. Phone: _____
 - e. Email: _____

6. Property for which a Variance or Appeal is requested: Appeal requested of Zoning Compliance Officer's ruling
 - a. Tax Map #: 14 Lot #: 471 Zone: R 1/2
 - b. Street Address 27 Maple St.
 - c) Property Owners: Douglas George Mcavay & Pamela Mcavay
7. Is this an application for an Auto Repair, Auto Sales, or Parking Operation?
 - a. Yes: _____
 - b. No: X



8. This application is seeking (please check only one):
- a. Variance from the Chester Zoning Regulations _____;
 - b. Appeal of a decision of the Chester Zoning Compliance Officer: X _____.
9. Complete this section for a Variance application:
- a. Specify the exact section(s) of the zoning regulations for which the variance is sought:
 - i. Section #: (e.g. 60-B) Section name: (e.g. Required Characteristics) _____
 - ii. Section #: _____ Section name: _____
 - iii. Section #: _____ Section name: _____
 - iv. Section #: _____ Section name: _____
 - v. Is an additional sheet of paper attached listing more Sections? No Yes
 - b. Specify the conditions affected (e.g. front/side/rear setback, area, use, etc.):
 - i. _____

10. If this is a request for a variance of Section 60-B (Required Characteristics) then provide the following information if it applies to your requested variance:
- a. Front Setback:
 - i. Required as per relevant Zone (e.g. R-2: Residential-2 acre): _____ feet
 - ii. Proposed linear encroachment into setback: _____ linear feet
 - iii. Proposed square feet of encroachment: _____ square feet
 - iv. Maximum height of the proposed structure in the setback: _____ feet.
 - b. Side Setback:
 - i. Required as per relevant Zone (e.g. R-2: Residential-2 acre): _____ feet
 - ii. Proposed linear encroachment into setback: _____ linear feet
 - iii. Proposed square feet of encroachment: _____ square feet
 - iv. Maximum height of the proposed structure in the setback: _____ feet.
 - c. Rear Setback:
 - i. Required as per relevant Zone (e.g. R-2: Residential-2 acre): _____ feet
 - ii. Proposed linear encroachment into setback: _____ linear feet
 - iii. Proposed square feet of encroachment: _____ square feet
 - iv. Maximum height of the proposed structure in the setback: _____ feet.
 - d. Maximum Building Coverage (%):
 - i. Required as per relevant Zone (e.g. R-2: Residential-2 acre): _____ %
 - ii. Square feet of building lot: _____ square feet
 - iii. Current coverage (all structures): _____ square feet; _____ %
 - iv. Proposed additional coverage: _____ square feet; _____ %
 - v. Proposed total coverage: _____ square feet; _____ %



11. Provide a detailed description of the project or proposal:

- a. _____

- b. *Is an additional sheet of paper attached proving additional detail?* No Yes

12. Why would strict application of the zoning regulations create a legal hardship?
(Please read and understand the definition of a "legal hardship" as defined in the zoning regulations, with particular attention to the "Preamble" section of the regulations. The ZBA cannot grant a variance unless a legal hardship can be demonstrated.)

- a. _____

- b. *Is an additional sheet of paper attached proving additional detail?* No Yes

13. Why is the hardship unique to your situation and not shared by others in the neighborhood?

- a. _____

- b. *Is an additional sheet of paper attached proving additional detail?* No Yes

14. If the variance were to be granted, how would it affect the character of your neighborhood?

- a. _____

- b. *Is an additional sheet of paper attached proving additional detail?* No Yes

15. If this is an Appeal of a decision by the Zoning Compliance Officer (ZCO), then describe the conditions and basis of the appeal:

- a. This in an appeal from a decision of Judith R. Brown, Zoning Compliance Officer, dated 4/24/20, which is more particularly described in the attached "Schedule A"

- b. *Is an additional sheet of paper attached proving additional detail?* No Yes

16. Is any portion of the property within 500 feet of another town's boundaries?

- a. Yes No.
- b. If Yes, then list the name(s) of the town(s): _____

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17. If the requested variance relates to the operation of a business, then: **n/a**
- a. List hours of operation: _____
 - b. Provide a plan showing the location, size and construction of all signs.
 - c. If the business sells vehicles, what is the maximum number of vehicles to be displayed: _____.

18. List any improvements on the subject property since January 11, 1969, the date of inception of the Town of Chester Zoning Regulations. This list should include residential dwelling, out buildings, septic systems, wells, etc. Include the date and brief description of each improvement. **n/a**

- a. _____

- b. Is an additional sheet of paper attached proving additional detail? No Yes

19. List any variances granted for the subject property since January 11, 1969. Indicate the date of each variance, applicable Chester Zoning Regulations section numbers, description of improvements for which the variance was obtained, name of property owner when the variance was granted and the volume and page number of the Chester Land Records where the variance is recorded. Attach copy(s) of variances recorded in the Land Records. **n/a**

- a. _____

- b. Is an additional sheet of paper attached proving additional detail? No Yes

20. Application Fes Due:

Item	Unit Cost	Units	Amount
State of Connecticut Department of Environmental Protection	\$60.00	1x	\$60.00
Town of Chester (covers cost of publishing public notices of meetings and decisions in <i>The Hartford Courant</i> , the official newspaper of record, and stenographic services)	\$265.00	1x	\$265.00
Postage for legal notice to surrounding neighbors within 500 feet. Fill in the number of surrounding neighbors and the total amount required for postage	\$1.66 1.84		\$
TOTAL to be paid with your Application: (Make checks payable to "Town of Chester, CT")	---	---	\$



21. Checklist:

a. Before you submit your application to the ZBA:

- i. Do you understand the zoning regulations and "legal hardship"?
- ii. Have you met with the Zoning Compliance Officer? **No**

b. To be submitted with your application to the ZBA:

- i. Plot plan drawn to scale (an A-2 survey is preferred but not required) showing entire property, location of all buildings, septic system, wells, and other structures and infrastructure, setback lines, existing and proposed structures, watercourses, and location of any items relevant to the hardship claimed. Include elevation contour lines if relevant to your application.
- ii. Elevations (side views) drawn to scale of your proposed project (if applicable) in sufficient detail to understand what is proposed and how it relates to the existing structure(s).
- iii. Tax map of surrounding property owners within 500 feet.
- iv. List with names and addresses of property owners within 500 feet.
- v. Deed to property.
- vi. Tax Assessor's field card.
- vii. Copy of Inland Wetlands permit letter, if applicable.
- viii. Copy of Coastal Site Plan, if applicable
- ix. Twelve (12) collated & bound copies of your application & attachments
- x. Filing fees (see above).
- xi. You or your Agent should attend the ZBA meeting when you submit your application so you can answer any questions. This will help to ensure an efficient Public Hearing of your application at the next monthly meeting. This will also give you an opportunity to how the Public Hearing process works for other applicants.

c. To be available at the Public Hearing of your application:

- i. The Applicant or the Applicant's Agent must attend the Public Hearing of your application.
- ii. Applicants/Agents may bring any additional information, materials, experts or advisors they wish. Applicants are encouraged to seek professional assistance from attorneys, engineers, architects or others as relevant to the proposal, but are not required to do so. Please note: Any materials presented at the Public Hearing must be retained by Chester Town Hall as part of the public record.

Signature of Applicant: Date: 5/21/20
(required) Caryl Horner, by Michael E. Cronin, Jr.,
Printed Name of Applicant: Her Attorney

Signature of Property Owner: Date: 5/21/20
(required) Caryl Horner, by Michael E. Cronin, Jr.,
Printed Name of Property Owner: Her Attorney

SCHEDULE A

This is an appeal which is taken from the decision of the Zoning Compliance Officer, Judith R. Brown, dated April 24, 2020, a copy of which is attached hereto and made a part hereof. The letter is directed to Errol Horner at 25 Maple Street, Chester, Connecticut. Errol Horner is the husband of Caryl Horner, who is the applicant and owner in title to 25 Maple Street. Both parties reside at 25 Maple Street.

27 Maple Street and 25 Maple Street are adjoining properties, each a single-family residential structure. (27 Maple Street adjoins the southerly boundary of 25 Maple Street).

Recently, the owners of 27 Maple Street installed an outdoor electrical generator adjacent to the northerly line of their dwelling house on said property, which is approximately 15 feet from the side line of the Horner property, clearly within the 20-foot setback requirement as established for the R ½ zone. Thereafter, Errol Horner made a complaint about the situation which was referred to Ms. Brown. This resulted in the issuance of the Decision set forth in the April 24, 2020 letter to him by Ms. Brown. This appeal is made in objection to this ruling and Decision, as allowed under the zoning regulations, and as set forth as a right under the provisions of Section 8-7 of the Connecticut General Statutes, the applicant is bringing this appeal to the Zoning Board of Appeals in objection to this ruling.

The following sections are relevant to the present case:

1. Section 20: DEFINITIONS.

Definition of Structure. Anything constructed or which is located on, above or beneath the ground, except driveways, sidewalks, parking areas, curbing and fences which are less than eight (8) feet high, including anything located on, above or beneath the water which is not primarily utilized or intended for navigation.

2. Section 40D – IMPROVEMENTS.

No improvement shall be made except in conformity with those regulations.

3. Section 40II – SETBACKS.

4. STRUCTURE: Anything constructed or which is located on, above or beneath the ground, except driveways, sidewalks, parking areas, curbing and fences which are less than eight (8) feet high, including anything located on, above or beneath the water which is not primarily utilized or intended for navigation.

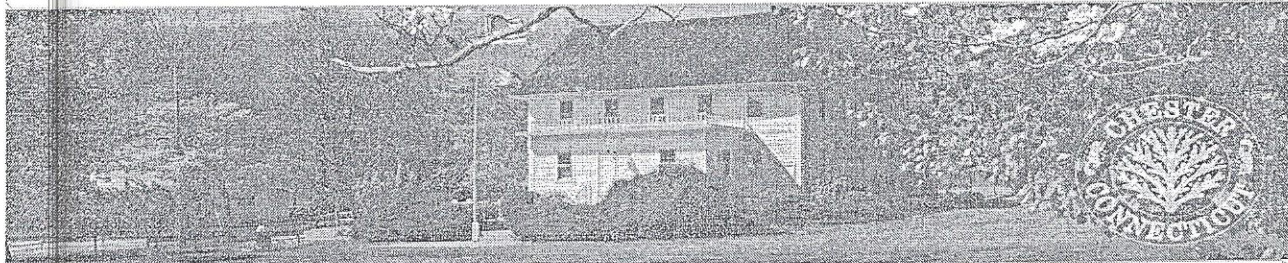
The following rules shall govern the determination of required setbacks:

401.1 GENERAL. Except as otherwise prescribed in 401.2, required setbacks shall be open and unobstructed to the sky, except for the ordinary projection, not exceeding two feet of window sills, belt-courses, cornices, eaves, chimneys and other architectural features of the building for which such setbacks are required and except for trees and shrubs. No land shall be included in computing the required setback or other open space for more than one building;

Based upon the above regulations, it is submitted that a clear and fair interpretation is that the generator is a structure and improvement that is prohibited in the side line of the property owned by Mr. & Mrs. Douglas George McAvay at 27 Maple Street. Because it is a violation of the regulations, an appropriate action by Ms. Brown should be taken requiring that it be removed, and if desired by the property owners, re-located in a place on the lot which would make it in conformity with the regulations.

A careful reading of the zoning regulations indicates that there is absolutely no reference therein about the absence of the requirement of a zoning permit to excuse the placement of this structure in the side line area. The regulations are clear that it allows "tree and shrubs" under Section 401.1, and in the definition of "Structure", excludes certain items, such as fences which are less than eight (8) feet. However, There is nothing in the regulations that would allow or excuse placement of a structure on the McAvay lot at 27 Maple Street.

The Assessor's office is responsible for the maintenance of records on the ownership of properties. Assessments are computed at 70% of the estimated market value of real property at the time of the last revaluation which was 2018.



Information on the Property Records for the Municipality of Chester was last updated on 4/28/2020.

Parcel Information

Location:	25 MAPLE ST	Property Use:	Residential	Primary Use:	Residential
Unique ID:	00066900	Map Lot:	14/472	Acres:	0.72
490 Acres:		Zone:	R-1	Volume / Page:	0095/0837
Developers Map / Lot:		Census:	6001		

Value Information

	Appraised Value	Assessed Value
Land	148,960	104,270
Buildings	212,660	148,860

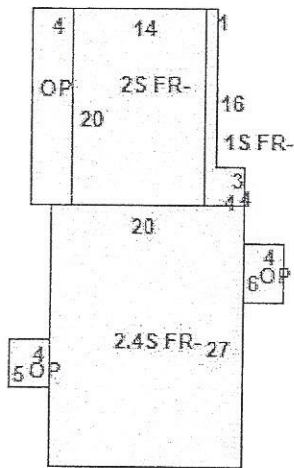
	Appraised Value	Assessed Value
Detached Outbuildings	0	0
Total	361,620	253,130

Owner's Information

Owner's Data

HORNER CARYL
25 MAPLE ST
CHESTER, CT 06412

Building 1



Building Use:	Single Family	Style:	Colonial	Living Area:	1,888
Stories:	2.40	Construction:	Wood Frame	Year Built:	1850
Total Rooms:	6	Bedrooms:	2	Full Baths:	2
Half Baths:	1	Fireplaces:	1	Heating:	Hot Water
Fuel:	Oil	Cooling Percent:	0%	Basement Area:	0

Basement Finished Area:	0	Basement Garages:	0	Roof Material:	Arch Shingles
Siding:	Clapboards	Units:	01		

Special Features

Extra Bath Sink	2
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Attached Components

Type:	Year Built:	Area:
Open Porch	1850	80
Open Porch	1850	24
Open Porch	1850	20

Building 2



	16
	12 1S Deck-
6	16
10	1.5S FR+ UGR
1S Garage- 24	16
	1S Cath- 1S FR+ UGR
6	16
1S Porch- 6	12 1S FR+

Building Use:	Single Family	Style:	Conventional	Living Area:	656
Stories:	2.40	Construction:	Wood Frame	Year Built:	1985

Total Rooms:	4	Bedrooms:	1	Full Baths:	1
Half Baths:	0	Fireplaces:	0	Heating:	Hot Water
Fuel:	Oil	Cooling Percent:	0%	Basement Area:	576
Basement Finished Area:	100	Basement Garages:	2	Roof Material:	Asphalt
Siding:	Vertical Wood	Units:	01		

Special Features

Attached Components

Type:	Year Built:	Area:
Cathedral	1850	224
Wood Deck	1850	192
Frame Garage	1985	144
Open Porch	1850	36

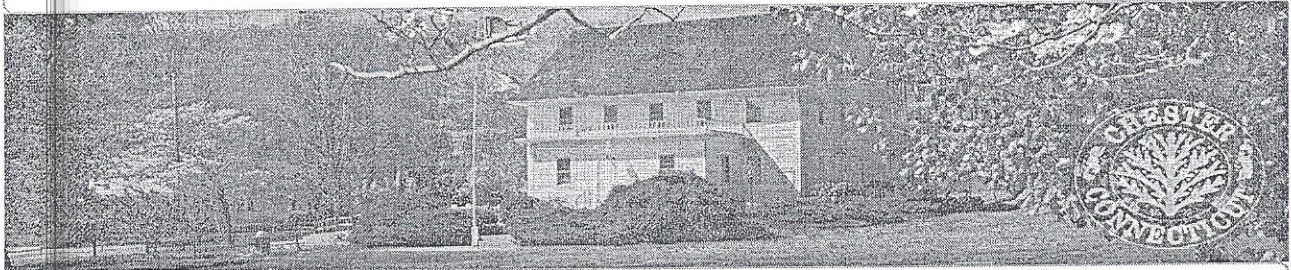
Owner History - Sales

Owner Name	Volume	Page	Sale Date	Deed Type	Valid Sale	Sale Price
HORNER CARYL	0095	0837	06/09/1998		No	\$0
HORNER ERROL & CARYL	0084	0208	01/18/1994		No	\$170,000
HARTMAN FREDERICK & JOAN	0000	0000	01/19/1981		No	\$47,000

Owner Name	Volume	Page	Sale Date	Deed Type	Valid Sale	Sale Price
HARTMAN JOHN D	0045	0698	07/29/1975		No	\$35,000

Information Published With Permission From The Assessor

The Assessor's office is responsible for the maintenance of records on the ownership of properties. Assessments are computed at 70% of the estimated market value of real property at the time of the last revaluation which was 2018.



Information on the Property Records for the Municipality of Chester was last updated on 5/15/2020.

Parcel Information

Location:	27 MAPLE ST	Property Use:	Residential	Primary Use:	Residential
Unique ID:	00094200	Map Lot:	14/471	Acres:	0.98
490 Acres:		Zone:	R-1	Volume / Page:	173/ 150
Developers Map / Lot:		Census:	6001		

Value Information

	Appraised Value	Assessed Value
Land	144,400	101,080
Buildings	337,534	236,270

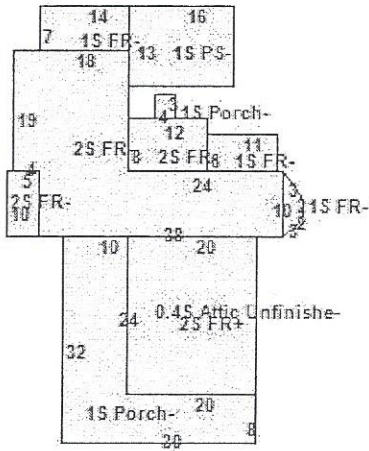
	Appraised Value	Assessed Value
Detached Outbuildings	4,657	3,260
Total	486,591	340,610

Owner's Information

Owner's Data

MCAVAY DOUBLAS GEORGE & MCAVAY PAMELA
JEANNE
27 MAPLE ST
CHESTER CT 06412

Building 1



Building Use:	Single Family	Style:	Colonial	Living Area:	2,880
Stories:	2.00	Construction:	Wood Frame	Year Built:	1835
Total Rooms:	9	Bedrooms:	5	Full Baths:	3
Half Baths:	1	Fireplaces:	1	Heating:	Hydro
Fuel:	Oil	Cooling Percent:	100%	Basement Area:	480

Basement Finished Area:	0	Basement Garages:	0	Roof Material:	Asphalt
Siding:	Clapboards	Units:	01		

Special Features

Extra Fixtures	1
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Attached Components

Type:	Year Built:	Area:
Unfinished Attic	1835	192
Stone Patio	1835	208
Open Porch	1835	480
Open Porch	1835	12

Detached Outbuildings

Type:	Year Built:	Length:	Width:	Area:
Frame Garage	1899			616

Owner History - Sales

Owner Name	Volume	Page	Sale Date	Deed Type	Valid Sale	Sale Price
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Owner Name	Volume	Page	Sale Date	Deed Type	Valid Sale	Sale Price
MCAVAY DOUBLAS GEORGE & MCAVAY PAMELA	173	150	10/21/2019	Warranty Deed	No	\$0
MCAVAY DOUGLAS & MCAVAY PAMELA	168	636	05/30/2017	Warranty Deed	Yes	\$509,000
HARRALL RICHARD A + MARY C	0129	0547	04/07/2005		Yes	\$645,000
CHESTER I LLC	0102	0843	06/23/2000		Yes	\$236,000
LINGUADOCA JOHN RALPH	0030	0107	10/29/1958		No	\$0

Information Published With Permission From The Assessor