



TOWN OF POESTENKILL

38 Davis Drive / P.O. Box 210
Poestenkill, NY 12140
(518) 283-5100 Phone
(518) 283-7550 Fax

Zoning Board of Appeals

ZONING BOARD OF APPEALS December 8, 2020 Minutes Poestenkill Town Hall

Attendees:

Paul Jamison, Chairman
Kevin McGrath
Tim Hoffay
Nicole Heckelman
Susan Kalafut
Frank Burzesi, Alternate

Non-voting:

Lynn E. Kane, Secretary

Chairman Jamison called the meeting to order at 7:00 pm with the Pledge of Allegiance. Public Hearing for Teresa Quell on hold, waiting for her to arrive.

Meeting Minutes:

The Board reviewed the November 10, 2020 meeting minutes. Corrections as follows: 1st paragraph, 3rd line replace "...can..." with "...is..." and motion to adjourn was seconded by Member Kalafut. Motion to accept the minutes as revised made by Member Kalafut seconded by Member Heckelman and was approved with a vote of five (5) ayes, zero (0) nays and zero (0) abstentions.

Organizational:

Chairman Jamison stated it was time for re-appointments to the Board as follows:

Motion was made by Chairman Jamison to re-appoint Kevin McGrath to another five (5) year term as Board Member, from 1/1/2021 to 12/31/2025. Motion was seconded by Member Kalafut and was approved with a vote of five (5) ayes, zero (0) nays and zero (0) abstentions. Motion was made by Chairman Jamison to re-appoint Frank Burzesi to another one (1) year term as Alternate, from 1/1/2021 to 12/31/2021. Motion was seconded by Member Heckelman and was approved with a vote of five (5) ayes, zero (0) nays and zero (0) abstentions. Motion was made by Member Heckelman to re-appoint Paul Jamison to another one (1) year term as Chairman. Motion was seconded by Member McGrath and was approved with a vote of five (5) ayes, zero (0) nays and zero (0) abstentions. Clerk Kane was directed these requested re-appointments to the Town Board. Motion was made by Member McGrath to nominate Tim Hoffay as Vice Chairman. Motion was seconded by Member Heckelman was approved with a vote of five (5) ayes, zero (0) nays and zero (0) abstentions. Motion was made by Chairman Jamison to nominate Susan Kalafut as Secretary. Motion was seconded by Member McGrath was approved with a vote of five (5) ayes, zero (0) nays and zero (0) abstentions.

Public Hearing:

Teresa Quell

Area Variance

136.-9-34.18

55 Chain Mountain Way

Secretary Kane read the Public Hearing notice into the record and advised the Board that the Rensselaer County Economic, Development and Planning had no issue with this requested. Applicant Teresa Quell reminded the Board her desire to place a 24' x 30' detached garage with a five (5) foot setback instead of the minimum twenty (20) foot setback required by Code. She had considered other locations on the lot, but felt this choice would be the most practical, not to break up the lot configuration awkwardly. Her future plan to subdivide is now to sell the second lot. Member Hoffay visited the site and said the location would work well. Motion to close the Public Hearing was made by Member Kalafut, was seconded by Chairman Jamison and was approved with a vote of five (5) ayes, zero (0) nays and zero (0) abstentions. Chairman Jamison made the motion to approve the Area Variance, allowing a five (5) foot side setback where a minimum of twenty (20) foot setback is require. Motion was seconded by Member Kalafut and was approved with a vote of five (5) ayes, zero (0) nays and zero (0) abstentions

All voting members completed the Area Variance Findings and Decision form for this application.

After considering all of the mandatory area variance factors, **Board Member McGrath** voted to **approve** the variance giving the following reasons for this decision:

- 1) *Whether an undesirable change would be produced in the character of the neighborhood or detrimental to nearby properties.* – No, rural area, no neighbors.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, moving garage would block access to rear of property.
- 3) *Whether the requested variance is substantial.* – Yes, five feet where twenty feet is required.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, no immediate neighbors.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, change is not a necessity.

After considering all of the mandatory area variance factors, **Board Member Kalafut** voted to **approve** the variance giving the following reasons for this decision:

- 1) *Whether an undesirable change would be produced in the character of the or detrimental to nearby properties.* – No. No neighbors attended the Public Hearing to express concern nor were there any written comments submitted. Property is surrounded by woods, rural area.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. 5' was agreed upon as reasonable and most feasible.
- 3) *Whether the requested variance is substantial.* – Yes. Requested five (5) feet from property line where twenty (20) feet is required.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, none noted by comments from Board who visited the site nor were any comments received by neighbors.

- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, Applicant wants garage next to house while it would enhance sale, not a necessity.

After considering all of the mandatory area variance factors, **Chairman Jamison** voted to **approve** the variance giving the following reasons for this decision:

- 1) *Whether an undesirable change would be produced in the character of the neighborhood or detrimental to nearby properties.* – No, a garage is compatible with the current neighborhood character and there is not anything built close by on the adjacent property.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. A small reduction in the size of the Variance is perhaps possible but the request is reasonable.
- 3) *Whether the requested variance is substantial.* – Yes. 75% of the required distance is substantial.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. There will be no change to the environment based on this Variance.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, this is a desired, not a required addition to the property.

After considering all of the mandatory area variance factors, **Member Heckelman** voted to **approve** the variance giving the following reasons for this decision:

- 1) *Whether an undesirable change would be produced in the character of the neighborhood or detrimental to nearby properties.* – No. House is situated on clear lot surrounded by woods. No undesirable changes to landscape.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. She would like as much space as possible for her garage and still be able to get behind the house and make it look presentable.
- 3) *Whether the requested variance is substantial.* – Yes. She would like the house to look presentable if she were to ever sell the property.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. She lives in a wooded area, no other houses around her.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes. Purchased house from family, wants garage but does not need garage.

After considering all of the mandatory area variance factors, **Board Member Hoffay** voted to **approve** the variance giving the following reasons for this decision:

- 1) *Whether an undesirable change would be produced in the character of the neighborhood or detrimental to nearby properties.* – No, property is isolated well, variance is for residential garage.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. Desired location is reasonable and most practical.
- 3) *Whether the requested variance is substantial.* – Yes, 5' where 20' is required.

- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, variance is for construction of a residential garage.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, due to desired location of building

Chairman Jamison polled the members for their responses. Variances approved by a vote of five (5) ayes, zero (0) nays and zero (0) abstentions.

Resolution: Area Variance granted.

Organizational:

Wood Processing: There was much and extensive discussion of the Wood Processing Law Proposal distributed by Town Board member, June Butler. Items of specific concern were as follows: Chairman Jamison proposed “permitted” in RA and RR zones, with Special Use Permit needed for RR1 and CLI zones. Also, there is no distinction where logs are from, should DEC be contacted. Member Hoffay has very serious concerns over setbacks from lot lines, that the existing chart of setbacks may not be useable for this change of Code. Member McGrath questioned about existing lots that do not meet Codes today, how far to go to “grandfathered” someone in. Member Heckelman stated that any commercial should require a Special Use Permit. Member Kalafut the distinction if can sell for a “private” listing. Town Board Member June Butler to ask Town Attorney Jack Casey – can the Town grandfather operations in the RR2 zone.

There being no further business, a motion to adjourn the meeting was made by Member Kalafut, seconded by Member Heckelman and was approved by five (5) ayes, zero (0) nays and zero (0) abstentions. The meeting was adjourned at 9:20 pm.

Respectfully submitted,

Lynn E. Kane, Secretary