



TOWN OF POESTENKILL

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Zoning Board of Appeals

ZONING BOARD OF APPEALS

June 8, 2021 Minutes

Poestenkill Fire Hall

(not approved at time of distribution)

Attendees:

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

Non-Voting:

Tiffany Buker, ZBA Clerk

Chairman Burzesi called the meeting to order at 7:01 pm with the Pledge of Allegiance.

Public Hearing:

Thomas Capparella
125.-11-28

Area Variance- Setbacks
53 Abbott Dr

Chairman Burzesi said it was a continuation of the public hearing from May for Mr. Capparella. Chairman Burzesi stated his neighbor, Alec Jordan, whose property borders where the garage will be located is present. Mr. Jordan stated he didn't mind the garage but was concerned if it turned into a business as it would make it hard for him to sit out back and enjoy his yard and the bushes that are currently there between the property would be a visual barrier to the garage and vehicles that are out back. Chairman Burzesi stated to help with the potential business side of what could develop at the garage that an SUP would be needed for a motor vehicle repair shop and that would be a condition of the resolution. Chairman Burzesi asked the board if they had any questions and if any comments from the public. Tom Russell stated he is concerned with the potential for the commercial use and asked that Mr. Capparella apply for a SUP if the garage is to be used commercially. Member Heckelman asked if he still plans to put the lift in. Mr. Capparella said he did plan but it would be later down the road. Chairman Burzesi said after speaking with Mr. Church, Town CEO, that the lift wouldn't mean commercial but the motor vehicle repair shop license would make it commercial. L. Basale said the minutes should reflect that if it turns commercial, an SUP is needed. Member Heckelman asked about the overhang from the roof and it was clarified with the rounded roof type, there isn't much of an overhang.

Motion made by Chairman Burzesi to close the public hearing, seconded by Member Hoffay, with five (5) ayes and zero (0) nays or abstains.

Motion made by Member Jamison to approve the requested variance as five (5) foot rear setback, where twenty (20) feet is required and ten (10) feet side setback, where twenty (20) feet is required with conditions that a SUP is required for a motor vehicle repair license to operate and a natural barrier on best effort basis be maintained seconded by Chairman Burzesi.

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 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 neighborhood or detrimental to nearby properties.* – No, Mr. Capparella resides in a residential neighborhood where a garage is typical on property.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, The lot size does not make an alternative solution feasible.
- 3) *Whether the requested variance is substantial.* – Yes, five feet where twenty feet is required for rear and ten feet where twenty feet is required for side.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, There may be a need to take down some trees or bushes but no adverse environmental impacts expected..
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, while desirable, a garage is not essential.

After considering all of the mandatory area variance factors, **Board Member 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 or detrimental to nearby properties.* – No. A garage is in character with the surrounding neighborhood.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, This seems like the best spot on the property for a detached garage, based on the location of the house.
- 3) *Whether the requested variance is substantial.* – Yes, It is a substantial variance at greater or equal to 50% of both the side and rear setback requirements.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, There will be no significant impact on the physical or environmental conditions.
- 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 required change.

After considering all of the mandatory area variance factors, **Chairman Burzesi** 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, The structure will not produce an undesirable change.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, There are no other places to position a 30x30.

- 3) *Whether the requested variance is substantial.* – Yes, the variance to the rear setback is substantial.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No Adverse Impact
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, this is self created.

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, Structure will possibly be 30x30 with the roof height no more than 20 ft per code and neighbor will see structure from backyard
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, Applicant needs building to work on his and his families vehicles.
- 3) *Whether the requested variance is substantial.* – Yes, Requested 5 ft rear setback, where 20 ft is required and 10 ft side setback, where 20 ft is required. Need SUP from Town Planning Board if Motor Vehicle License is wanted.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, Applicant needs to maintain natural barrier already in place.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, Applicant wants to put 30x30 structure on his property near his neighbor.

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, Residential detached garage is reason for variance sought.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, Applicant is limited in space for desired structure.
- 3) *Whether the requested variance is substantial.* – Yes, 5' where 20' is required for rear and 10' where 20' is required for side.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, Variance is for a residential detached garage.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, Due to the proposed location on the lot.

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.

Meeting minutes for the May 11th, 2021 with corrections in a motion made by Member Kalafut, seconded by Member Heckelman and carried by 5-0.

There being no further business, a motion to adjourn the meeting was made by Member Kalafut, seconded by Member Hoffay and was approved by five (5) ayes, zero (0) nays and zero (0) abstentions. The meeting was adjourned at 7:46pm.

Respectfully submitted,

Tiffany Buker, ZBA Clerk