



TOWN OF POESTENKILL

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Zoning Board of Appeals

ZONING BOARD OF APPEALS

April 11, 2017 Minutes

(Distributed before Approval)

Attendees:

Terry Lantry
Kevin McGrath
Tim Hoffay

Absent:

Paul Jamison, Chairman
Cheryl Sargeant

Secretary Lantry opened the meeting at 7:30 pm with the Pledge of Allegiance and moves to the Public Hearings.

Public Hearings:

Cliff Diehl

125.-1-21

Area Variance

287 Rt. 355

ZBA Clerk, Lynn E. Kane, read the Public Hearing Notice into the record. Secretary Lantry reviews the project to allow construction of a back porch with a side setback of seventeen (17) feet. Secretary Lantry asked the audience if there were any public comments. There are none. Applicant Diehl produces hand written letters from neighbors Jeff Rano and Mark Burton not opposing to Applicant's plan.

Motion by Member McGrath to close the Public Hearing, seconded by Member Lantry, three (3) ayes, zero (0) nays and zero (0) abstentions. Secretary Lantry polled the Board and Members decided to vote on the application of this meeting. Member McGrath makes a motion to approve a variance for construction of a back porch with a side setback of seventeen (17) feet. Member Lantry seconded. The Members were polled for their vote and the reasons for that vote.

After considering all of the mandatory area variance factors, Board Member Lantry 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. Applicant's proposed deck would not be visible from the street. It would be visible to neighbors who do not object.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. Options are limited.
- 3) *Whether the requested variance is substantial.* – Yes. House built in 1955, conforms to others in neighborhood.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. None known.

- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – No. Based on age of house and similar structures in the neighborhood.

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. Houses built before current code, it is similar to other house setbacks.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. Building direction back from existing house, septic system on other side of house.
- 3) *Whether the requested variance is substantial.* – Yes. 25” side required, 8’ requested, 17’ variance.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. Adjoining owners signed notes not objecting to construction.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes. Addition is not a necessity.

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. No undesirable change, no neighbor issues.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. Addition shares house line, home on variance side.
- 3) *Whether the requested variance is substantial.* – Yes. 8’ as opposed to 25’, grandfathered in..
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. No adverse impact.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – No.

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. There will be no noticeable change from the front of the property and a back porch is consistent with the neighborhood character.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. Any structure would require a variance.
- 3) *Whether the requested variance is substantial.* – Yes. It is a large fraction of the requirement.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. No physical or environmental impact.

- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes. The deck is a desired, not a required addition/improvement.

Resolution: Variance granted, Applicant has sixty (60) days to obtain a building permit.

Allen Yetto
125.05-4-20

Area Variance
17 Circle Drive

ZBA Clerk, Lynn E. Kane, read the Public Hearing Notice into the record. Applicant Yetto explains he wants 1) to keep the garage farther from the rear property line, in effort to not to disturb abutting neighbors; 2) by moving closer to road, the garage will line up and/or match the other structures on the road; 3) wants a thirty-five (35') foot setback instead of fifty (50) feet and whole parcel has one (1) tax map number. Neighbor Dave Anderson from #10 Weatherwax Road had following comments 1) what will prevent others from doing same thing as Applicant? 2) he drove around the Town, looking at similar neighbors and this proposal doesn't fit character and 3) if the Board is going to approve this application, he would agree to the area variance "to accept as request", smaller footprint would work better. Neighbor Kevin Danish of #19 Circle Drive stated no objects to request and stated it would be better to have garage closer to road than rear of property.

Motion by Secretary Lantry to close the Public Hearing, seconded by Member McGrath, three (3) ayes, zero (0) nays and zero (0) abstentions. Secretary Lantry polled the Board and Members decided to vote on the application of this meeting. Member Hoffay makes a motion to approve a variance to allow a garage to be positioned with a front setback of thirty-five (35) feet. Secretary Lantry seconded. The Members were polled for their vote and the reasons for that vote.

After considering all of the mandatory area variance factors, Board Member Lantry 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. Neighborhood will lose open space for neighbors who have no established or legal rights to the property, Owner wishes to use his property.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – Yes. Applicant could move property back where a variance would then be required for rear setback.
- 3) *Whether the requested variance is substantial.* – No. Based on other existing properties.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. None known.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes. By Applicant's desire for a specific size garage.

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.* – Yes. No other dwellings have garages on other side of Town road. Planning Board did not impose restrictions on revised lot. Planning Board had no planning concerns with garage.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. No room on existing property before Lot Line Adjustment to build large garage.
- 3) *Whether the requested variance is substantial.* – Yes. 50' setback required, 35' requested, 15' difference.
- 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. This fifth argument is not in and of itself grounds for denial.* – Yes. Garage does not need to be built.

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. Structure would align with existing Circle Drive home setbacks.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. Variance needed for desired depth of structure.
- 3) *Whether the requested variance is substantial.* – Yes. 8' as opposed to 25', grandfathered in..
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. Outdoor structure with no impact.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – No. Depth of lot was issue.

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. While it is slightly unusual to have a stand-alone garage across from house, garages are not undesirable and the Applicant has made the effort to blend in with the neighborhood.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – Yes. It is possible to build a garage that meets the setback requirements but it would have a more negative impact to the character of the neighborhood.
- 3) *Whether the requested variance is substantial.* – Yes. A thirty (30) percent setback variance is substantial, but it puts the structure in line with other buildings on the street.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. No physical or environmental impact.
- 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 improvement.

Resolution: Variance granted, Applicant has sixty (60) days to obtain a building permit.

Minutes

The minutes of the Board meeting on March 14, 2017 were reviewed. A motion to accept the minutes as written was made by Secretary Lantry, seconded by Member McGrath approved by a vote of three (3) ayes, zero (0) nays, and zero (0) abstentions.

Organizational Item:

Motion made by Secretary Lantry to enter Executive Session, seconded by Member McGrath at 8:25 pm. Motion to exit Executive Session by Member McGrath, seconded by Secretary Lantry at 8:40 pm.

There being no further business, a motion to adjourn was made by Secretary Lantry and seconded by Member Hoffay and approved by three (3) ayes, zero (0) nays and zero (0) abstentions. The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Lynn E. Kane
Clerk to ZBA