



## TOWN OF POESTENKILL

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### Zoning Board of Appeals

#### ZONING BOARD OF APPEALS

July 11, 2017 Minutes

(Distributed before Approval)

Attendees:

Paul Jamison, Chair  
Terry Lantry  
Kevin McGrath  
Tim Hoffay

Non-Voting Member:

Patrick Tomaselli, Esq.

Absent:

Cheryl Sargeant

Chairman Jamison opened the meeting at 7:45 pm with the Pledge of Allegiance and moved to the Public Hearing.

Public Hearing:

Diane Wagner  
125.-1-2.11

Interpretation  
12 Grandview Drive

Clerk Lynn Kane read the Public Hearing notice into the record. Chairman Jamison read the portion of the code in question - #150-21, (c) ó opens Public Comment portion of the Hearing. Chairman Jamison also requests that all comments be addressed to the Board and not to any of those in attendance. Chairman requests Applicant Diane Wagner give an overview of her issue. Mrs. Wagner reviews the history of her situation through maps and other documents with the Board and Town Attorney, Patrick Tomaselli. Mrs. Wagner also has issue with height of fence, maintenance. Attorney Tomaselli has questions: 1) How long has fence been up? (Since permit issued in May 2016), 2) Did you make a complaint at the time the fence was erected? (Yes, to CEO Bob Brunet. Did not feel the placement of fence was accurate, pin was then put in. Don't feel permit should have been issued until pin put in place, fence was of poor quality, called Bob who said there was no code for fence, that if fence was in wrong location, it would have to be moved. Mrs. Wagner also states the height of the grass was an impairment to her property), 3) Is this the first time you are appearing in front of this Board (Yes). Per Chairman Jamison, the Wagners are looking for an interpretation of the code ó is the fence within two (2) feet of any front lot line, specifically their front lot line. Height issue is part of part (a) of this code. Attorney Tomaselli thinks the Town Board meant this code to be when a parcel has two (2) front lot lines, such as a corner lot. He feels this code can be interpreted both ways.

Chairman Jamison asked that speakers to identify themselves for the record.

Sandra & John Shuhart: "What is a front lot line?" They feel a front lot line in on a public highway, even if corner lot where there is two front lot line. Chairman Jamison states that the issue tonight is the placement of the fence within two (2) feet of the Wagner's front lot line. Mrs. Shuhart stated that she has the right, as an agriculture business (farm), that she can put up any type of fence including poles with barb wires, that Bob Brunet told her that she could install a six (6) foot privacy fence if she chose to, permit was issued. Mr. Shuhart states that if fence has to be moved, that the Town Highway Department will have to come move it. Mrs. Shuhart states if she has to move the fence, she will also want the Town to move the water line from her property. The Shuhart's review with the Board was with the use of a map, they discussed the various issues including the lot lines, unfinished road work, lack of a CO, that the Komdat's lands are similar to theirs "forever wild", not mowed, etc. Further discussion on the zones of each parcel of Shuharts in Residential Agriculture, Wagners in Residential. Mrs. Shuhart questions how Wagners could sell parcel as it lacks proper footage. Mr. Shuhart feels there has been a great deal of harassment and that it must end. He feels he has been very cooperative but if necessary, he will get attorneys involved and sue the Zoning Board, the Town, the Wagners. He erected fence to keep Wagners off his property (to stop them from mowing) and they continued to be on his land. He has sought relief from these actions by the Wagners through the NYS Police and the Town, without success. Mrs. Shuhart says they run a working farm, with 400 chickens, goats, horses, 2 greenhouses, etc. Chairman Jamison states the only issue before the Board is if the fence is legally placed. Mrs. Shuhart states she will install a barb wire fence if needed. Member McGrath, recounts as a previous Planning Board Member, that the parcels in question received a subdivision, that the current footage requirements were not in place back then and the Wagners would be able to sell if chose to. Chairman Jamison reiterates that it is the Board's job to decide what the code means and we will move on from there.

David Hass: Feels this is an unusual situation, thinks the purpose of the code originally was to keep the fence back from the road and it would be best if the neighbors could work the situation out between them.

Paul Barringer, CEO: The two (2) feet listed in the code was to prevent damage to fence when the Town would plow snow. Regarding the issue of the maintenance of the fence, Highway Superintendent Toby Chadwick says it is all good as is. Further, that his interpretation of the code is the front lot line is determined from the street.

Diane Wagner: Her property is Residential, Shuharts is RA and that in accordance with the code, a wire fence may not be erected and that the Shuharts must maintain their property, i.e. mow.

Sandra Shuhart: My property is RA, isn't it all RA. Chairman Jamison says being RA doesn't exempt from setback requirements.

Paul Barringer, CEO: He addressed the Board that this situation is a neighbor vs. neighbor dispute and such disputes are easily taking up twenty-five (25%) percent of his time. He requests the Board direct neighbors to settle issues instead of coming to the Zoning Board. Further, Mr. Barringer states the Wagners have filed two (2) complaints against him with NYS regarding this matter.

Chairman Jamison asks the audience if there are any other comments to be made. Seeing no response, he makes a motion to close the Public Hearing, motion seconded by Member Lantry, approved by four (4) ayes, zero (0) nays and zero (0) abstentions. Chairman Jamison states that the Board has sixty-two (62) days to issue their decision

***Resolution: Public Hearing continued until August 15, 2017***

**Minutes**

The minutes of the Board meeting on June 13, 2017 were reviewed. A motion to accept the minutes was made by Chairman Jamison, seconded by Member Hoffay, approved by a vote of four (4) ayes, zero (0) nays, and zero (0) abstentions.

**Organizational Items:**

Motion made by Member Lantry to enter Executive Session at 8:45 pm, seconded by Chairman Jamison, four (4) ayes. Motion to exit Executive Session was made by Chairman Jamison, seconded by Member Lantry at 8:54 pm.

Chairman Jamison makes a motion to recommend to the Town Board to remove Member Sargeant due to excessive absences, to appoint Michael Colello as Member and to appoint Nicole Heckelman as Alternate. Motion is seconded by Member Lantry, four (4) ayes, zero (0) nays, and zero (0) abstentions. Chairman Jamison also directs Clerk Kane to send memo to Town Ethics Board requesting opinion that it is acceptable for Nicole Heckelman be on the Zoning Board of Appeals while husband, Don Heckelman, is member of Planning Board.

There being no further business, a motion to adjourn was made by Member Lantry, seconded by Chairman Jamison and approved by four (4) ayes, zero (0) nays and zero (0) abstentions. The meeting was adjourned at 9:17 p.m.

Respectfully submitted,

Lynn E. Kane  
Clerk to ZBA