



TOWN OF POESTENKILL

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Zoning Board of Appeals

ZONING BOARD OF APPEALS

August 14, 2018 Minutes

Attendees:

Paul Jamison, Chairman
Kevin McGrath
Michael Colello
Susan Kalafut
Nicole Heckelman

Absent:

Tim Hoffay
Lynn Kane

Chairman Jamison opened the meeting at 7:40 pm with the Pledge of Allegiance.

Public Hearing:

<u>Janet Provost</u>	<u>Area Variance</u>
137.00-2-7.21	576 Oak Hill

Member McGrath recused himself from these proceedings as he was the surveyor on this project. Chairman Jamison read the public notice for the area variance requested by Ms. Provost. Ms. Provost presented the plans and further explanation was given by Mr. McGrath. The variance is for Lot 2 of the proposed three lots subdivision, which does not have sufficient road frontage (on Caitlin Road) to meet the code requirements. Currently, there are no nearby neighbors who would be impacted should the variance be granted. There were no public comments given. Motion made by Member Kalafut to close the public meeting. Motion was seconded by Member Colello. Motion was approved by four (4) ayes, zero (0) nays and one (1) abstention. Chairman Jamison noted that there were no negative issues from the Town Planning Board. 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 Colello** 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.* ó No, similar properties in area.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, with the layout of the land, it looks to be the best way.
- 3) *Whether the requested variance is substantial.* ó Yes, variance of 93.5ø where 200ø is code.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, it will remain residential and keep characteristics of neighborhood.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó Yes, could have chosen to divide into two parcels.

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.* ó No, no objections noted from neighbors or Planning Board.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, no alternative due to insufficient road frontage.
- 3) *Whether the requested variance is substantial.* ó Yes, almost 50%.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, not any environment impact noted.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó Yes, applicant is selling home plus property and subdividing lots. Could have divided into 2 lots.

After considering all of the mandatory area variance factors, **Board 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.* ó No, no change to neighborhood.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No.
- 3) *Whether the requested variance is substantial.* ó Yes, over 50% road frontage.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, no environment impact.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó Yes.

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.* ó No, no change in the character of the neighborhood would be noticeable.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, there is not sufficient road frontage to divide into 2 lots and meet the Code.
- 3) *Whether the requested variance is substantial.* ó Yes, It is almost 50% variance from Code.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, there will not be any environmental impact.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó Yes, this is a desired change, not necessary.

Chairman Jamison polled the members for their responses. There were unanimous decisions on all questions on the form as well as the final record of vote. Chairman Jamison moved to approve the variance. Member Heckleman seconded the motion. Motion was carried by four (4) ayes, zero (0) nays and one (1) abstention (McGrath).

Resolution: Area Variance for Lot 2 was approved.

New Applicants:

<u>Charles Mero</u>	<u>Area Variance</u>
125.12-3-7	20 Davis Drive

Mr. and Mrs. Mero presented their plans to the Board. Applicants are seeking a variance so they can add a detached garage to their property. Mr. Mero reviewed the plan and indicated that one of the buildings on the property, and 8X12 shed, is being removed. Mrs. Mero also shared an enhanced Plot Plan that had a stamp from the town inspector with additional measurements. The dimensions of the property as to the lot size and the building sizes were discussed at length. For the hamlet, the maximum building coverage has to be less than 25%. It appears that the Mero property may exceed this by approximately 5%. The minimum open space required by current code is more than 40%. It appears that the open space available on the Mero property meets this requirement. Chairman Jamison is going to seek input from counsel after some discussion regarding the inclusion of the driveway in the open space footage. Chairmen Jamison also asked Mr. Mero if a smaller garage was considered. Mr. Mero replied that a smaller garage would not accommodate his vehicles as well as the contents of the shed that is being taken down. Chairman Jamison suggested the Meros should consider obtaining a more current survey to clarify the lines of the lot. A fence that has been well-inside the Mero property for over thirty years may have some impact on whether or not a variance for the setbacks would be required. Based on the presentation and subsequent discussion, Member McGrath noted this might be a minor variance. Member Colello made a motion to schedule a public hearing. Member Heckleman seconded the motion. The motion was carried by a vote of five (5) ayes, zero (0) nays and (0) abstentions. The applicants will appear at the public hearing to be held at the next scheduled Zoning Board meeting, September 11, 2018 at 7:30 pm. The Meros will amend their application as agreed to include a request for variance from the maximum building coverage requirement as well at the suggestion of the Board.

Resolution: Public Hearing scheduled for September 11, 2018

<u>Gregory Hansen</u>	<u>Area Variance</u>
136.00-1-6/136.00-1-7/136.00-1-9-2	19 Jefferson Way

Member McGrath recused himself from this proceeding as he was the surveyor on the project. Mr. Hansen presented his plans to the Board with assistance from Mr. McGrath. Mr. Hansen was referred to the Zoning Board after receiving a conditional approval from the Planning Board for a lot line adjustment agreed to by the owner of the other property. Mr. Hansen wants to sell his property but one of the property lines currently runs through a building owned by the neighbor. The new lot line would run between two buildings and neither would meet the setback requirement. Board members reviewed the plans and Chairman Jamison added that he does not believe additional variances are required to address issues related to other property line which are not changing, but do not meet code because they were pre-existing prior to the zoning code. Chairman Jamison will confirm with town counsel. Member Colello moved to schedule a public hearing. Motion was seconded by Member Kalafut. The motion was carried by a vote of four (4) ayes, zero (0) nays and one (1) abstention. The applicant will appear at the public hearing to be held at the next scheduled

Zoning Board meeting, September 11, 2018 at 7:30 pm. Mr. Hansen will amend his application as agreed per discussion with the Board.

Resolution: Public Hearing scheduled for September 11, 2018

Keith Hankle

Area Variance

136.-9-11

3 Cherokee Lane

Mr. Hankle presented his plans to the Board as he wants to build a detached garage on his property. The only lot map Mr. Hankle has available is a dated plan for the original sanitary facilities. A building permit for this project was denied by the Town of Poestenkill Code Enforcement Officer, Paul Barringer, on August 2, 2018 as the plan failed to meet front and side setbacks for the accessory structure. Chairman Jamison asked Mr. Hankle if he considered an attached garage? Mr. Hankle said he discussed this option with the Building Inspector but it was not feasible as he has a chimney on the side of his house. Applicant has discussed the plan with neighbors and has not met with any objections. After discussion by the Board, Member Heckleman moved to schedule a public hearing. Member Colello seconded the motion. The motion was carried by a vote of five (5) ayes, zero (0) nays and zero (0) abstentions. The applicant will not be available to appear at the public hearing to be held at the next scheduled Zoning Board meeting, September 11, 2018 at 7:30 pm but said his wife would be available to attend.

Resolution: Public Hearing scheduled for September 11, 2018

Minutes:

The minutes of the Board meeting on July 10, 2018 were reviewed. There were some minor edits identified (in the fourth line the word **recuses** was misspelled as recues. In the last line add "she" following "Member Heckleman advised **she** has known." And add **period** to final sentence of paragraph.). A motion to accept the minutes with the afore-mentioned edits was made by Member Kalafut, seconded by Member Heckleman, and approved by a vote of four (4) ayes, zero (0) nays and one (1) abstention from Chairman Jamison as he was not at the 7/10/18 meeting.

There being no further business, a motion to adjourn the meeting was made by Member Kalafut, seconded by Member Colello and approved by five (5) ayes, zero (0) nays and zero (0) abstentions. The meeting was adjourned at 9:00 pm.

Respectfully submitted,

Susan Kalafut, Member
Acting Secretary