



## TOWN OF POESTENKILL

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### Zoning Board of Appeals

### ZONING BOARD OF APPEALS September 11, 2018 Minutes

#### Attendees:

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

Chairman Jamison opened the meeting at 7:30 pm with the Pledge of Allegiance. A moment of silence was observed for the victims and rescuers of the September 11, 2001 tragedy.

#### Public Hearing:

<u>Gregory Hansen</u>	<u>Area Variance</u>
136.00-1-6/136.00-1-7/136.00-1-9-2	16 Jefferson Way

Member McGrath rescued himself from this proceeding as he was the surveyor on the project. Secretary read the Public Hearing notice. Chairman Jamison recounts from previous meeting the discussions regarding the possibility of a number of variances, that were of concern to the Planning Board, and that upon speaking with Town Attorney, it was decided that the side setbacks ó common lot line between two houses - for 296 Snyders Corners Road and 300 Snyders Corner Road, are the only actions needed from this Board. Applicant Hansen briefly explains his situation of following mother's death in December 2017, he needs to sell her residence, was directed by mother to give land to abutting neighbor Geerhpt due to location of shed, that he wishes to retain 2 acres in rear, that there is not fifty (50) feet between the two houses. Chairman Jamison asks if there are any comments from the audience in favor or against this application. Neighbor Chuck Brand stated in favor of the application and Secretary Kane advised Board that neighbor Russell Bonesteel, who has taken over property from George Bachaus, is also in favor of application. Chairman Jamison reads the Planning Board Advisory which states they have no negative issues. Chairman Jamison made a motion for an area variance for 296 Snyders Corners Road (owner Greg Hansen) to allow a side setback of twenty-one point seven (21.7) feet where twenty-five (25) feet is required by Code. Motion is seconded by Member Colello, approved by vote of five (5) ayes, zero (0) nays and zero (0) abstentions. Chairman Jamison made a motion for an area variance for 300 Snyders Corners Road (owner Chrissy Geerhpt) to allow a side setback of twenty-one point seven (21.7) feet where twenty-five (25) feet is required by Code. Motion is seconded by Member Kalafut, approved by 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 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, the change is minimal.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, with the situation, this is the best way to remedy Mr. Hansen's situation.
- 3) *Whether the requested variance is substantial.* ó No, it will have minimal effect.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, neighborhood will remain the same with minor lot line adjustment.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó No, this is the best way to deal with the property left to Mr. Hansen. He cannot afford the taxes on both properties and does not want to create tension with new neighbors.

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, two neighbors presented in favor of the variances requested.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, none were presented to the Board.
- 3) *Whether the requested variance is substantial.* ó No, side variance is not substantial.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, no adverse impacts noted. Minor line adjustments.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó No, situation is "grandfathered" in, multi-generations of family with existing building.

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.* ó No, simple lot line adjustment between existing homes.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, distance between homes is set.
- 3) *Whether the requested variance is substantial.* ó No, less than 4 ft.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, simple side lot line issue.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó No, space between units grandfathered.

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, houses are on the property now, no detriment to realty property.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, needs to sell mother's property to pay taxes and the piece to Chrissy Geerhpt promised by mother to her.
- 3) *Whether the requested variance is substantial.* ó No, less than 4 feet.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, houses existed since 1973.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó No, mom passed away, unable to pay property taxes.

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, there will be no physical change, so the character of the neighborhood should not change.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, Applicant sought to come as close as possible to the required set back.
- 3) *Whether the requested variance is substantial.* ó No, the request is for less than 20% of the required dimension..
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, there will be no change to the environment or the neighborhood.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó No, the property layout existed prior to zoning.

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. Variances approved by a vote of five (5) ayes, zero (0) nays and zero (0) abstention.

*Resolution: 2 side setback Area Variances approved.*

<u>Keith Hankle</u>	<u>Area Variance</u>
136.-9-11	3 Cherokee Lane

Mrs. Hankle presented their plans to the Board as wanting to build a detached garage on the property due to recent addition to family and the need to store garage items in the garage. The only lot map the Applicant has available is a dated plan for the original sanitary system. Chairman Jamison asks if there are any comments from the audience in favor or against this application. 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 five (5) ayes, zero (0) nays and zero (0) abstentions. Chairman Jamison made a motion to allow a side setback of fifteen (15) feet where twenty (20) feet is required by Code and to allow a front setback of forty-two (42) feet where fifty (50) feet is required by Code. Motion was seconded by Member McGrath and motion was approved by 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 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 nearby, no comments.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, garage is now used for storage, only way to store vehicles.
- 3) *Whether the requested variance is substantial.* ó No, the difference of 8 feet and 5 feet is minimal.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, similar properties in the area, no adverse effect on physical and environmental conditions.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó

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 comments from neighbors.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, very limited space. Chimney on side prohibits attached garage.
- 3) *Whether the requested variance is substantial.* ó No, front 42ø(50øreq.) ó 8 ft., side 15ø(20ø req.) ó 5 ft.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, homes in neighborhood have similar garages.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó Yes, while applicant desires a new garage, it is not essential (so self created).

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.* ó No, detached garages common.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, limited space.
- 3) *Whether the requested variance is substantial.* ó No, 5 ft. on rear corner.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, standard garage.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó Yes, minimum width of 2 car garage is 24ø

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.* ó No, neighbors have similar situations with detached garages.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó Yes, could attach garage to house.
- 3) *Whether the requested variance is substantial.* ó No, 15ø vs. 20ø and 42ø vs. 50ø is not substantial.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, similar lot configurations exist on neighboring properties.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* ó Yes, garage doesn't need to be built.

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, several other nearby properties have detached garages and this would be in keeping with these.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* ó No, other locations were considered but this is the most sensible and aesthetically pleasing option.
- 3) *Whether the requested variance is substantial.* ó No, both are less than 25%.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* ó No, there should be no significant 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 rather than a required addition

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.

*Resolution: Area Variance approved for side/front setbacks*

### **Minutes:**

The minutes of the Board meeting on August 14, 2018 were reviewed. Corrections ó under Provost, change "public meeting" to "public hearing"; correct spelling of Member Heckelman's name through out minutes. A motion to accept the minutes with corrections was made by Member Kalafut, seconded by Chairman Jamison, and approved by a vote of four (5) ayes, zero (0) nays and zero (0) abstention.

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,  
Lynn E. Kane, Secretary