



TOWN OF POESTENKILL

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Zoning Board of Appeals

ZONING BOARD OF APPEALS April 9, 2019 Minutes

Attendees:

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

Absent:

Michael Colello

Chairman Jamison opened the meeting at 7:30 pm with the Pledge of Allegiance.

Public Hearing:

<u>Kimberly Gardner</u>	<u>Area Variance – Sign</u>
76 Plank Road	126.-1-45.2

Secretary read the Public Hearing notice. Chairman Jamison asks Mrs. Gardner to please summarize her request. Mrs. Gardner stated she would be using her existing professional sign, to be placed back from the road to not to have sign destroyed by out of control vehicles – there has been several accidents in front yard. Chairman Jamison recounted Town concerns of this area becoming a business district, that there is already one business next door, now there will be second and that if there was a third request, it would have to be reviewed and addressed carefully. Member McGrath comments that the Home Occupation is allowed and that perhaps the Code pertaining to size of sign should be changed. Chairman Jamison stated it is not the Board's purpose, rather the Board is to follow the Code. A photograph of the sign was shared with the Board. Chairman Jamison asks if there are any comments from the audience in favor or against this application. Having no further comments from the Public, Member Hoffay makes a motion to close the Public Comment portion and motion is seconded by Member Heckelman and is approved with a vote of five (5) ayes, zero (0) nays and zero (0) abstentions. Member Kalafut made a motion for an area variance for 76 Plank Road, to allow the placement of a business sign with an area of six point five (6.5) square feet, Motion is seconded by Member McGrath. All voting members completed the Area Variance Findings and Decision form for this application.

After considering all 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.* – No, another existing business nearby with similar sign.

- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, no other way to find business
- 3) *Whether the requested variance is substantial.* – No, it is only a small sign 36” x 26”.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, business next door has similar sign.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – No, the sign is needed to do business in the rural area. Customers are not familiar with this area.

After considering all 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, Adjacent property has same size sign. No neighbors appeared at Public Hearing in opposition.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – Yes, a smaller sign could be made.
- 3) *Whether the requested variance is substantial.* – Yes, twice the size allowed by Code.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, sign is not unappealing.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, larger sign does not need to be placed.

After considering all 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, this is a close call since the neighbor already has a similar sign. Two is probably okay but more than this may change the character from residential to commercial.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, a slightly smaller sign might be possible but the size according to the Code is insufficient.
- 3) *Whether the requested variance is substantial.* – Yes, the doubling of the sign size relative to the Code requirement is significant.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, it won't have any 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 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, the sign is modest given its proposed location and the spacious size of parcel it is located on.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, a sign meeting Town Code would be too small for Applicant's needs. Situation very similar to neighbors sign variance.

- 3) *Whether the requested variance is substantial.* – Yes, over 6’ square feet where 3’ square feet allowed.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, where location is proposed – no issues.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, starting a home occupation.

After considering all the mandatory area variance factors, **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, the sign is professionally done. No comments were received from neighbors indicating negative impact or concern.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, sign size is comparable to another sign on the street. Smaller would be insufficient.
- 3) *Whether the requested variance is substantial.* – Yes, the variance is substantial.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, none known or cited.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, the Owner would like the sign. Although she could work without it, it would be problematic.

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 for sign was approved.

New Applicant:

Valerie & Jeff Rayno	Area Variance – In-law
293 Rt. 355	125.-1-3.22

Applicant, Mrs. Rayno explained to Board that the addition would for “living space” would be for son and daughter-in-law to have some privacy while being readily accessible in case she needed assistance. She is visually impaired and needs help with daily activities. She and her husband would like to stay in their home of 29 years. Chairman Jamison stated that this application was a very significant ask, especially for caregiving and seems more like an additional residence. He asked the Raynos if they had explored other options to this large addition. Mrs. Rayno stated for dignity and privacy, more space was needed for the family. She also stated that she doesn’t drive, doesn’t shop, needs assistance with many things and she wants to remain in her home while giving her son’s family some privacy. Further, she stated the house is a two-bedroom Cape Cod and with the addition on the rear of the house, it would not be noticeable from the road. Mrs. Rayno’s daughter-in-law stated they need instant access to the home from the addition and need the space requested due to the one child who lives there and four other children that spend time periodically with them. When

questioned where the couple and child would sleep in the addition, she responded they have two bedrooms that they are already using in the basement, that they already moved in.

Chairman Jamison read the Town Code, Chapter 150, Article 28, Section 2, Paragraph B, with special attention given to "...unit may only be utilized by family member, ...unit must be a single-story structure..." and that the Code envisions a single person providing care to family member, not entire family. Town Board Member June Ross the "in-law" apartments are expected to be much smaller and the Town's Code is in line with surrounding municipalities. Chairman Jamison discussed the Code, specifically the District Schedule of Use Regulations, that indicate 2 family dwelling in the Residential zone would require a Special Use Permit approved by the Planning Board AND an Area Variance would be needed from the Zoning Board of Appeals for the lack of acreage (currently 1.77 acres, two acres required). Member McGrath agrees. There was additional discussion and it was determined this Application would remain open until further discussion with Planning Board, etc. could be done.

Resolution: Application remains open.

Minutes:

The minutes of the Board meeting on March 12, 2019 were reviewed. A motion to accept the minutes was made by Member Kalafut, seconded by Chairman Jamison and approved by a vote of five (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 Hoffay and approved by five (5) ayes, zero (0) nays and zero (0) abstentions. The meeting was adjourned at 8:50 pm.

Respectfully submitted,

Lynn E. Kane, Secretary