



## TOWN OF POESTENKILL

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### Zoning Board of Appeals

### ZONING BOARD OF APPEALS July 9, 2019 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.

#### Public Hearing:

Christine Anderson  
125.-1-47

Area Variance – Fence  
609 Snyders Corner Rd

Public Hearing has remained open since June 11, 2019. Clerk Kane read the Public Hearing notice. Applicant Anderson reviews her request and presents additional photos of her yard. She states that the photos show the fence is nearly invisible during leaf season and that the placement of the fence is not directly across from the Van Slyke residence but rather only a small portion. Chairman Jamison asks if there are any comments from the audience in favor of this application. Neighbor Neil Anderson (and brother of Applicant) approves of her request for the fence. Neighbor Don Heckelman has visited Applicant's property, feels the extra two (2') feet of the fence will help reduce the noise and will fit in with the neighborhood. Neighbor Stacy Fazioli agrees that the traffic on the road has significantly increased, is very noisy and approves of the Applicant's request. Applicant adds that she took the additional photos to show the Board that the fence will only be partially visible to Mr. Van Slyke and that another neighbor, Robert Bayly, has signed her petition approving her request, bringing the total to 18 neighbors who have signed her letter of support. Ms. Anderson recounts the location of all the neighbors who have signed her letter of support and only Mr. Van Slyke does not support her request. She states that even Mrs. Van Slyke is in favor of the fence. Further Ms. Anderson states the same type and height of fence is located at 645 Snyders Corner Road and she feels bad that Mr. Van Slyke doesn't care for the color or composition (he wanted an open wooden fence). She can not maintain a wooden fence, tress/shrubs have in the past and will in the future die in front of the fence.

Chairman Jamison asks if anyone wishes to speak against this application. Neighbor Harold Van Slyke refutes his wife's support and stated the signatures on Ms. Anderson petition are not accurate. He could have had each of the signatories sign a letter of support for him but didn't want to do that. He stated that he was willing to compromise with a wooden fence but

that he really doesn't want any fence as he will receive the negative effects of the fence. Not only will the proposed fence be unsightly, he will be subjected to increased noise levels. He disagrees with Applicant's assertion that shrubs will die as a row of tall shrubs or trees would be enough for Ms. Anderson's needs. Mr. Van Slyke feels very strongly that the Town Code is in place to protect the residents and that the Zoning Board of Appeals should follow the Code as written. Ms. Anderson replies that there are other fences in the Town that exceed six (6') feet, a noticeable example being the concrete wall located on Main Street. Further, trees and shrubs will either die or will grow to a point where their removal would be necessary, and she can't physically or financially deal with this. The fence project is very expensive, and she has saved up for a long time to have it. Ms. Anderson also apologizes if she misunderstood Mrs. Van Slyke's comment. Mr. Van Slyke counters with comment that hedges would grow just fine. Member Hoffay asks if fence company will work with Ms. Anderson on cost of the fence. Ms. Anderson says no, that company is calling looking for payment. Members Colello reads the Code to the audience and says he is worried that if this variance is granted, it will set a precedent for other requests. He asks if she is willing to move the fence back to not need the requested variance and Ms. Anderson says no, she would lose over 1,200 square feet of her yard if she did. Member McGrath also discusses the slight slope in the front yard. Chairman Jamison says that compromises between the neighbors have been discussed without a consensus. He further notes that there are no safety issues for traffic and that the Zoning Board of Appeals could grant this variance without concern of setting a precedence. Member Kalafut suggests a perennial like English Ivy would grow well, eventually covering the fence and would help Mr. Van Slyke. Member McGrath states that the fence would not be visible due to the existing vegetation. Town Board Member June Butler suggests checking with the fence company for artificial coverages like the ivy. Chairman Jamison states Board can make the planting of covering plants be a condition of the Resolution.

Having no further comments from the Public, Member Kalafut makes a motion to close the Public Comment portion and motion was seconded by Member Colello and was approved with a vote of five (5) ayes, zero (0) nays and zero (0) abstentions. Chairman Jamison made a motion for an area variance for 609 Snyders Corner Road, to allow the construction of a six (6') foot privacy fence in front of her home, where four (4') foot is allowed per Code, with the condition of screening in front – that the Code Enforcement Officer will review and approve this condition. Motion was seconded by Member Hoffay. 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 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, adequate tree line and proposed fence concealment.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, sound and privacy concerns.
- 3) *Whether the requested variance is substantial.* – Yes, 33% higher.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, as proposed no adverse impact.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, place the fence within the 25' setback.

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 or detrimental to nearby properties.* – No. The neighbor claims the fence will produce an undesirable view from his home when vegetation dies, with added ivy or vines, we will eliminate some brightness.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. She has tried trees several times without success, 6 foot will provide privacy.
- 3) *Whether the requested variance is substantial.* – Yes, 33% substantial for 4 ft. to 6 ft.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, with changes, no impact.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, 6' fence can be built if she would move it back.

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, neighbor directly across from the fence would be adversely impacted if no mitigation is put in place.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – Yes, fence can be the required 4' fence or be moved back an additional 12'-15'.
- 3) *Whether the requested variance is substantial.* – Yes.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, other neighbors don't have any objections.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, fence is not required as proposed.

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, with the addition of the condition that screening be added, there should be no change to the character of the neighborhood. There is no safety issue, and the fence is minimally visible in the summer due to the screening from the roadside trees. Added evergreen screening will eliminate the visibility issue during the winter months.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – Yes. There are several possible alternatives, such as moving the fence further from the property line or choosing a different type of fence to minimize visibility.
- 3) *Whether the requested variance is substantial.* – Yes, the fence is 50% high than permitted by Code.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. I would not expect any impact on the physical or environmental conditions. The issue of reflected sound was raised by a neighbor, but it is difficult to assess the validity of this concern. What seems clear is that any

negative impact on the neighbor will be slightly less than the benefit to the applicant in this regard.

- 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, and the applicant purchased the fence without consideration of the Code requirements that apply to it.

After considering all of 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. Applicant presented a letter with a number of neighbors' support. Only one neighbor presented objections while 18 supported application.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – Yes. While there are alternatives, Applicant already purchased the fencing which requires the least maintenance.
- 3) *Whether the requested variance is substantial.* – Yes, it is substantial.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. The fencing is behind trees and with the conditions put forth to include cover for the fence, impact is minimal.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes. Choice to purchase fence not realizing Code challenges.

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: Grant Area Variance for 6' Fence in front of house.*

**Joseph Grieco**

**125.5-4-14**

**Area Variance – Square Footage**

**12 Weatherwax Rd.**

Secretary read the Public Hearing notice. Chairman Jamison reviewed the Code and states that a SEQRA review is not necessary for an Area Variance. Further, Chairman Jamison reviews that the Planning Board sent this application as a Home Occupancy I, where the use is incidental to residing there. As the request is to use more than 1,500 sf with less than 1,000 sf for residential use, Chairman Jamison questions if the business is incidental. There is some discussion whether this application should be listed as "light industry". Town Board Member June Butler questions if it is possible to separate the work spaces into different categories, i.e. the basement as Class I and the Garage in Class II? Chairman Jamison responds no. Chairman Jamison asks if there is anyone who wishes to speak for or against this application? Neighbor Dave Anderson of 10 Weatherwax Rd. states he has no problem, that there will be no additional traffic, no environmental concerns and the residence and property look so much better than it has in the past seven years. A man in the audience questions if there are two issues, i.e. type of business and amount of space for business. Chairman Jamison explains the amount of area is the issue to be considered. Mr. Grieco

states that his business falls into the Home Occupancy I category. Neighbor Mrs. Boggs (lives directly next to garage) states there is no disruption, that the Griecos are good neighbors and that she is ok with the proposed use. Member McGrath reads the comment form the Rensselaer County Economic Development and Planning office, questioning how materials will be disposed of. Mr. Grieco explains that for fish and small game, he disposes the innards in the garbage and for bigger pieces such as deer, he gets only the head (after the butcher) and sends the head to the off-site tannery. Member Kalafut questions if there are hazardous materials and if so, what are they. Mr. Grieco says there are no hazardous materials. Mrs. Grieco addresses that some of the space designated for the business is actually common area, such as the office and storage of household items in both the garage and basement. Member Hoffay recounts his recent visit to the site and says the business site is very understated, looks just like other houses in the neighborhood, that Mr. Grieco is only using the basement and garage and has need for separate areas for separate tasks. There are no negative comments made from the audience.

Chairman Jamison requests that Mr. Grieco give the Board an itemized list of tasks (thorough description) of his business, with a list of all chemicals (MSDS to be provided) and Applicant is to more thoroughly calculate actual square footage needed, for review at the August 13, 2019 meeting of the Zoning Board of Appeals and suggests the Public Hearing be held open until that date. Fellow Board Members all agree.

*Resolution: Public Hearing is held open until August 13, 2019*

**Minutes:**

The minutes of the Board meeting on June 11, 2019 were reviewed. A motion to accept the minutes was made by Member Kalafut, seconded by Member McGrath and approved by a vote of five (5) ayes, zero (0) nays and zero (0) abstention.

**Old Business: None**

There being no further business, a motion to adjourn the meeting was made by Member Colello, seconded by Member Hoffay and approved by five (5) ayes, zero (0) nays and zero (0) abstentions. The meeting was adjourned at 9:05 pm.

Respectfully submitted,  
Lynn E. Kane, Secretary