



TOWN OF POESTENKILL

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Zoning Board of Appeals

ZONING BOARD OF APPEALS August 13, 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:

<u>Joseph Grieco</u>	<u>Area Variance – Square Footage</u>
<u>125.5-4-14</u>	<u>12 Weatherwax Rd.</u>

Clerk Kane read the Public Hearing notice. Chairman Jamison recounted that several Board Members have visited the site. Mr. Grieco provided the Board with an itemized list of tasks (thorough description) of his business, said list indicates no hazardous materials are used and a series of photos of the interior workspace was provided. After significant discussion, it is determined that the living space consists of 2,457 square feet and the business consists of 1,092 square feet. Chairman Jamison, with consensus of other Board Members, amended the application to indicate the change of square footage (from 1,554 sf to 1,092 sf) and change of percentage of area (to 45%). Further, Chairman Jamison stated that the Applicant would not be able to make any change in or to the house that would make it unsuitable for future use as a residence.

Chairman Jamison asked if anyone would like to speak in favor of the application. June Butler, Vice President of the Poestenkill Business Association stated she is in favor of the application and feels the business will be a good addition to the community. PBA Member, Harold Van Slyke, added he is also in favor of the application. Chairman Jamison asked if anyone would like to speak against the application. There was no comments.

Having no further comments from the Public, Member Colello made a motion to close the Public Comment portion of the Public Hearing. The motion was seconded by Chairman Jamison 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 12 Weatherwax Road, to allow 1,092 square feet for a taxidermy business which is 45% of useable space, where 25% of total square feet or 500 square feet, whichever is less, is allowed per Code.

Motion was seconded by Member McGrath. 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, business conducted inside is small in volume.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, space is required for business conditions within.
- 3) *Whether the requested variance is substantial.* – Yes, 118% more area required that permitted.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, the only concern was if chemicals were used and parking is not an issue.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, requesting Home Occupation.

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 business is quiet and by appointment only, with no increase in traffic and neighbors are ok with it.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. The home is the only issue and it would be too costly to move.
- 3) *Whether the requested variance is substantial.* – Yes. 118% variance is substantial – 1,092 sf where 500 sf allowed.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, low traffic, no skulls or dangerous chemicals.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, Applicant could have applied before purchasing house and moving business in.

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.* – No, there is no outward sign of business on property.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No, using space available in house.
- 3) *Whether the requested variance is substantial.* – Yes, 45% of property used rather than 25% allowed.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No, there is no negative comments from the neighbors.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, business could be smaller or in another location.

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, the business will not have any impact on the neighborhood aside from a small increase in traffic (a few visitors per month).
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No.
- 3) *Whether the requested variance is substantial.* – Yes. This is a very significant increase in the area compared to what is allowed, however the business activity is innocuous and not noticeable to the neighborhood. No permanent change to the property or structure.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. Based on the process description, there will be no environmental impact.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes, this is not a required change.

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. The business is contained within the existing structure, so no undesirable change is produced.
- 2) *Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance.* – No. The Applicant made a strong case to support the need for this Variance so that his business can flourish.
- 3) *Whether the requested variance is substantial.* – Yes. The requested variance is substantial.
- 4) *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?* – No. The Applicant supplied a detailed list of the procedures and materials used in his shop, none of which was environmentally unsound.
- 5) *Whether the alleged difficulty was self-created. This fifth argument is not in and of itself grounds for denial.* – Yes. Applicant bought the property without fully exploring the current Code for restrictions for home businesses.

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 to use 1,092 square feet for taxidermy business

Minutes:

The minutes of the Board meeting on July 13, 2019 were reviewed. Chairman Jamison requested an additional comment be placed on page 1, line 16, after "...Mrs. Van Slyke is in favor of the fence...". Said additional comment to read "The Zoning Board of Appeals received a letter after the Public Hearing from Mrs. Van Slyke, disputing the claim by Applicant Anderson that she (Mrs. Van Slyke) was in favor of Ms. Anderson's application. Mrs. Van Slyke stated she was not in favor of the variance application." A motion to accept the minutes with the proposed amendment was made by Member Kalafut, seconded by Member Hoffay and approved by a vote of five (5) ayes, zero (0) nays and zero (0) abstention.

Old Business:

Clerk Kane reviewed the training hours requirement with the Board Members and advised them that on-line training is available for free at the NYS Department of State or at the Associations of Towns website

There being no further business, a motion to adjourn the meeting was made by Member Colello, seconded by Member McGrath and approved by five (5) ayes, zero (0) nays and zero (0) abstentions. The meeting was adjourned at 8:35 pm.

Respectfully submitted,

Lynn E. Kane, Secretary