

# TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

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## MEMORANDUM

EAST GREENBUSH ZONING BOARD OF APPEALS  
MEETING MINUTES  
MARCH 12, 2019

### **Members**

Jeff Pangburn, Chairman  
Dan Smith  
John Conway, Jr.  
Scot Strevell  
Matt Ostiguy  
Bob Seward

### **Also Present:**

William Hessney, Attorney  
Kateri Rhatigan, Stenographer

### **CALL TO ORDER / DETERMINATION OF QUORUM**

Chairman Pangburn called the meeting to order and determined a quorum of six (6) members were present. Tom Hickey was absent. Introductions were made.

**OLD BUSINESS: The Appeal 2019-01 Lemka remains tabled until the next meeting.**

### **NEW BUSINESS:**

### **PUBLIC HEARINGS:**

**ZBA Appeal #2019-02– Schuurman-9 Manistee Street- Area Variance proposes the construction of a single family dwelling with a proposed rear setback of 17’.**

**The following was read and/or referenced as being in the file.**

- Legal Notice
- Rensselaer County Recommendation
- ZBA Application, Short EAF, Denial, Use & Area Variance Criteria
- Bldg. Permit Application & Authorization Form
- Planning Board Recommendation with supplemental report by Matt Polsinello
- Letter from neighbor at

Dave Schuurman presented the proposal to the Board. Dave Schuurman stated that the lot is an unusually sized lot 120’w x 70’d. He wants to build a single family dwelling on it but won’t meet the rear setback of 25’. He is proposing a rear setback of 17’.

Chairman Pangburn asked what the front setback would be & also asked if the garage shown on the plan is staying & if he is looking to purchase the property. Dave Schurrman stated that he meets the 25’ front setback. The proposed house will be 1-story with a 4’ foundation on slab. Dave Schuurman stated he hasn’t been in the garage but hopes to rehab it and he is looking to purchase the property.

Chairman Pangburn asked if anyone from the Board had any questions.

•Dan Smith asked what the setback off the back yard was and who owns the property behind this one and if it was residential or commercial. Dave Schuurman stated that he doesn't know.

•Matt Ostiguy asked if the proposed house is consistent with the other homes in the area & if he has built other homes in the neighborhood. Dave Schuurman stated that he believes so and that he builds about 1 house in Town a year.

•Bob Seward asked if there's a garage there if there was a house there and if he noticed if other houses in the neighborhood meet the setbacks. Dave Schuurman stated that the house that was there burnt down and that the houses are close to the road or right on the property line. He figures that they were built back when there wasn't any zoning.

Chairman Pangburn asked if the lot meets the minimum lot size and if he's opposed to making the front setback 17' from the property line and meeting the rear setback. Dave Schuurman stated that he doesn't have a problem with that.

•John Conway Jr. asked how far along in the plans is he, would he be willing to reduce the size of the house. Dave Schuurman stated that he could do a 26' deep house.

Chairman Pangburn asked the Board if anyone else had any questions.

Chairman Pangburn asked if there was anyone in the public to speak for or against the application.

A woman who lives diagonal to the property stated that when she wanted to build her house that she was told she couldn't build it closer to the rear property line.

•Bob Seward asked if her house is less than 25' feet from the front setback. She stated that is correct that she had to meet the rear setback.

Chairman Pangburn asked if there was anything else from the applicant. There was not.

Chairman Pangburn asked if there was anything else from the Board. There was not.

Motion by Scot Strevell to close the public hearing.

Seconded by Matt Ostiguy. Motion carried by a 6-0 vote.

**ZBA Appeal #2019-03-- Warmt-2 Jennell Drive- Area Variance for previously constructed front porch 5.5' from side setback.**

**The following was read and/or referenced as being in the file.**

- Legal Notice
- Rensselaer County Recommendation
- ZBA Application, Short EAF, Denial, Use & Area Variance Criteria
- Bldg. Permit Application & Authorization Form
- Planning Board Recommendation with supplemental report by Ralph Viola

Mike Warmt stated that five or six years ago he ripped off the rear deck and made it bigger and enclosed it with a screen porch. One corner is 5.5' from the side property fence. He put a couple of outlets in the screen porch and a ceiling fan. He is trying to sell his house and the realtor pointed out that he may need a variance.

Chairman Pangburn asked if the fence in the side yard is on the property line and asked if the lot is pie shaped. Mike Warmt stated it's like 6' or 12' from the side property line and yes its pie shaped.

Chairman Pangburn asked the Board if anyone had any questions.

•John Conway Jr. asked if the only reason he was here in front of the Board was because of the real estate agent and if he worked with an engineer to construct the screen porch. Mike Warmt stated that is correct and he had didn't work with an engineer.

•Dan Smith asked if the applicant had gotten building permits for other things on his property. Mike Warmt stated that he did get a permit for the pool, fence & front addition.

•Dan Smith asked why he didn't think he needed a permit for this.

Mike Warmt stated that he's not sure.

•Scot Strevell asked the applicant if it fits in the neighborhood. Mike Warmt stated that he thinks so.

•Matt Ostiguy asked if the edge closest is blocked by sight by the fence. Mike Warmt stated that is correct and also a small tree.

•John Conway Jr. asked if the person who wrote the letter is the closest neighbor. Mike Warmt stated that is correct, the neighbor who wrote the letter is the closest one affected.

Chairman Pangburn asked if there was anyone in the public to speak for or against the application.

There was no one in the audience to speak for or against.

Motion by Bob Seward to close the public hearing.

Seconded by Scot Strevell. Motion carried by a 6-0 vote.

**SEQR DETERMINATIONS & RECOMMENDATIONS:**

**ZBA Appeal #2019-02– Schuurman-9 Manistee Street- Area Variance proposes the construction of a single family dwelling with a proposed rear setback of 17'.**

**MOTION for: Zoning Board of Appeals to Declare SEQR Lead Agency**

In regards to **ZBA Appeal #2019-02– Schuurman-9 Manistee Street- Area Variance** proposes the construction of a single family dwelling with a proposed rear setback of 17'.

This is a type II Action-there is no further action necessary.

**ZBA Appeal #2019-03– Warmt-2 Jennell Drive- Area Variance for previously constructed front porch 5.5' from side setback.**

**MOTION for: Zoning Board of Appeals to Declare SEQR Lead Agency**

In regards to **ZBA Appeal #2019-03– Warmt-2 Jennell Drive- Area Variance** for previously constructed front porch 5.5' from side setback.

This is a type II Action-there is no further action necessary.

WORKSHOPS: ZBA Members deliberated on the appeal.

ZBA Appeal #2019-02– Schuurman-9 Manistee Street- Area Variance proposes the construction of a single family dwelling with a proposed front setback of 17’.

**Resolved,** That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as all the other homes have a similar or less front setback than what is proposed.
2. There is no other method available to the applicant as to the size of the lot is only so large and a permissible size of a house is only so large.
3. The requested variance is not substantial as the required variance is only 8 feet, it is not substantial.
4. The proposed variance will not have an adverse effect on the neighborhood since all other homes within sight of this property have similar front setbacks.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

**Resolved,** that the application for an Area Variance for construction of a 28’ x 50’ single family dwelling with a 17 foot front setback be GRANTED.

This resolution was moved by Bob Seward III and seconded by John Conway Jr. at a meeting duly held on March 12, 2019.

A vote was taken as follows:

John Conway	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Tom Hickey	<u>Absent</u>
Jeff Pangburn	<u>Yes</u>
Bob Seward III	<u>Yes</u>
Dan Smith	<u>Yes</u>
Scot Strevell	<u>Yes</u>

ZBA Appeal #2019-03– Warmt-2 Jennell Drive- Area Variance for previously constructed front porch 5.5’ from side setback.

WORKSHOP: ZBA Members deliberated on the appeal.

**Resolved,** That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as the current screened in porch has just the point that’s in the 8 foot setback area.

2. There is no other method available to the applicant as the screened porch was previously constructed.
3. The requested variance is not substantial noted during discussion that the fence was not quite on the property line, thus the actual distance from the corner to the property line is probably more like 6 ½ feet.
4. The proposed variance will not have an adverse effect on the neighborhood through discussion and SEQR the Board said it fits the neighborhood.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

**Resolved**, that the application for an Area Variance for the construction of a 10' x 12' screen porch in the side yard with a 5.5 foot setback be GRANTED.

This resolution was moved by Scot Strevell and seconded by Dan Smith at a meeting duly held on March 12, 2019.

A vote was taken as follows:

John Conway	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Tom Hickey	<u>Absent</u>
Jeff Pangburn	<u>Yes</u>
Bob Seward III	<u>Yes</u>
Dan Smith	<u>Yes</u>
Scot Strevell	<u>Yes</u>

**NEXT MEETING:** The next meeting on March 26, 2019

**APPROVAL OF MINUTES:**

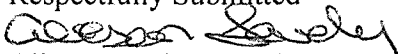
Motion by Chairman Pangburn to approve the meeting minutes from the November 27, 2018 meeting. Seconded by John Conway Jr. Motion carried by a 4-0-2 vote. Bob Seward III & Scot Strevell were both abstain.

Motion by Dan Smith to approve the meeting minutes from the January 22, 2019 meeting. Seconded by Scot Strevell. Motion carried by a 4-0-2 vote. Matt Ostiguy & Bob Seward abstain.

**MOTION TO ADJOURN**

There being no further business before the Board, the meeting was adjourned upon a motion by Scot Strevell. Seconded by Dan Smith. Motion Carried by a 6-0 vote.

Respectfully Submitted

  
Alison Lovely, ZBA Secretary