

# TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

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## MEMORANDUM

### EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES SEPTEMBER 8, 2020

#### Members

Jeff Pangburn, Chairman  
Matt Ostiguy  
John Conway Jr.  
Tom Hickey  
Bob Seward  
Scot Strevell

#### Also Present:

William Hessney, Attorney  
Alison Lovely, Zoning Board Secretary  
Kateri Rhatigan, Stenographer  
Dalia Szarowicz, Planner & Stormwater Officer  
Adam Yagelski, Director of Planning & Zoning

#### CALL TO ORDER / DETERMINATION OF QUORUM

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

#### PUBLIC HEARINGS:

Reconvene ZBA Appeal #2020-06-Dominy – 8 Hillview Avenue-Area Variance-  
Addition in rear yard

Chairman Pangburn referenced the following as being in the record:

- Legal Notice-was read above
- Rensselaer County Recommendation
- ZBA Application, Authorization Form, Short EAF, Denial, Area Variance Criteria
- Bldg. Permit Application
- Planning Board Member report & recommendation by Nancy Kupiec

Robert Dominy the applicant and property owner was present as well as the representative/contractor Frank Carlascio.

Frank Carlascio stated that the applicant would like to put a 250 square foot addition on the rear of their house. He stated that the proposed addition is no infringing on any side setbacks, if they had to shift it over then it would infringe on the side setback and also would be more expensive to build as it wouldn't be lined up with the house. If they are granted the variance, then the roof lines will match, they plan on side it to match the existing house.

Frank Carlascio addressed the area variance criteria:

1. They feel that it won't reduce the character of the neighborhood and won't create any hardship for nearby properties.
2. No the variance will allow the addition to be constructed more in line with the architectural lines of the house and not diminish the side yard setback.
3. Its how you deem substantial, we will be within 5' of the garage.
4. They don't feel that it will have any effect on the neighborhood.
5. They don't feel it was self-created.

Chairman Pangburn asked if any of the Board members had any questions.

- John Conway asked how far the house is from the garage as it sets now & what the dimensions of the addition are & if it the area used to be a room or something that was attached. Frank Carlascio stated that it's 12'+/- from the house and that its 18' x 12.8' & it used to be a 12' x 12' deck & he's not sure but at the time it may have met the setbacks.

Chairman Pangburn asked if they knew what the offset to the garage was back then. Frank Carlascio said it was shifted off the house so it probably met the 12' required setback, but there not sure.

- Tom Hickey in the pictures, you can see where the old deck was. Robert Dominy stated that is correct.

- Tom Hickey asked the reason they want it in the location their proposing is to keep the pitch the same. Tom Hickey had a discussion about other way they could move the addition and how it would affect other setbacks or structures. Frank Carlascio stated that is correct.

- Matt Ostiguy asked if there are any trees or anything blocking it. Frank Carlascio stated there are not.

Chairman Pangburn asked if that is a neighbor's garage on the west side that is shown in the picture on the southwest side. Frank Carlascio stated that yes it is a neighbors.

Chairman Pangburn asked for clarification that if they connected the garage to the addition that they would lose access from the driveway to the back yard. Robert Dominy stated that is correct.

- Tom Hickey asked if a breezeway would meet that structure since it doesn't have side walls. Chairman Pangburn stated he believes once it's connected they lose the setback issue but there is still a fire code issue. He doesn't know if they can just roof the breezeway without having side walls.

- John Conway asked if this would go back to the Planning Department. Chairman Pangburn stated that no, they just get a recommendation from then and after this it would go back to the Building Department.

Chairman Pangburn asked if there was anything else.

- Bob Seward asked if there were any other garages in the neighborhood that fall within the 12' issue. Robert Dominy stated not that he knows of.

Chairman Pangburn asked if the applicant had anything further.

Frank Carlisio stated that looking at the house you would never see the addition behind it & it will give the homeowner more space to enjoy.

Chairman Pangburn stated that no letters were received in regards to this appeal and asked the member of the audience if he had any comment.

- Dave Terpening stated that the Board had been doing meeting via zoom and why they still aren't. Chairman Pangburn stated that by direction by the Town Board that they felt that public hearings were better to have in person. The meetings are still being streamed on the Town's You Tube channel.

- Dave Terpening stated that he feels the Board should do both so that the members of the public could see the documents and that also people don't want to come out and he feels that zoom is very positive. He lives off of Hillview Avenue on View Street and doesn't understand why people have to go through all this fuss just to increase the value of their home. He feels that the private home under is under a lot more scrutiny then some of the larger building entities.

Chairman Pangburn asked if anyone had anything else. There was nothing.

Motion by Bob Seward to close the public hearing. Seconded by Scot Strevell. Motion carried by a 6-0 vote.

**ZBA Appeal #2020-07-DeJulio – 5 Rose Bud Court-Area Variance**-Shed in rear yard

Chairman Pangburn referenced the following as being in the record:

- Legal Notice-was read above
- Rensselaer County Recommendation
- ZBA Application, Authorization Form, Short EAF, Denial, Area Variance Criteria
- Bldg. Permit Application
- Planning Board Member report & recommendation by Don Pantone

Chairman Pangburn asked Bill Hessney to address deed restrictions. Bill Hessney stated that the Town has no authority or enforcement in deed restrictions, they are private and anyone should consult with an attorney if they have questions their deed restrictions. Chairman Pangburn stated that the only action in front of the Board tonight is the 16' x 18' shed and the rear setback. Chairman Pangburn asked the applicant to go through the five Area Variance criteria.

Anthony DeJulio stated that he lives at 5 Rose Bud Court and went through the criteria.

1. He doesn't feel that it would reduce the character of the neighborhood and won't create any hardship for nearby properties in any way.
2. He doesn't understand the question, he feels the shed will be feasible in every way. Chairman Pangburn stated that this is asking if there is another way to build the shed without requiring a setback variance. Anthony stated no, that's why he's here today.
3. He doesn't feel it will be substantial, it's right behind a cemetery road by 6'. It won't degrade anyone's homes at all.
4. It is not a wetland, there is no environmental condition that will occur.
5. He doesn't understand what it means. Bill Hessney, stated if you could put this shed somewhere else do that it didn't violate the setback requirement, if not, then it's a self-created problem. Anthony DeJulio stated that due to the space limitations on his yard and it being .33 of an acre and that positioning it where he wants to be in his best interest.

Chairman Pangburn asked the Board if anyone had any questions.

•Bob Seward asked how high the shed will be. Anthony DeJulio stated 8' high with the arc 12'-14' high.

•Bob Seward stated do you realize in the R-2 zoning district that you're in, you're allowed to build a 10' x 12' shed and be only a 5 foot setback. Anthony stated that he is aware of that. Bob Seward asked if there is a reason why he needs it bigger than a 10' x 12' shed. Anthony DeJulio stated that he eventually wants to put a pool in and will need a larger shed & also doesn't want it to sit in the middle of the yard.

•Matt Ostiguy asked if this is why it's in the back corner, because the applicant wants to put a pool in. Anthony DeJulio stated that it would look more esthetically pleasing.

•John Conway ask if the shed is going on a concrete slab & if he had a fence. Anthony DeJulio stated that yes he poured a slab and no fence.

•Tom Hickey asked what the distance was from the back of the garage to the property line. Anthony DeJulio stated that it maybe 35' from the garage.

•Tom Hickey stated then if you turned the shed around it still wouldn't meet the setbacks. Anthony DeJulio stated that it might meet them but he wants it to be a certain way, a certain look.

Chairman Pangburn asked if Anthony had reached out to the cemetery association or Board and it's a tree lined roadway on his side and how far off the property line are the trees. Anthony DeJulio stated that no he had not talked to anyone and yes it's a tree lined road only on his side and are well within the cemetery property line.

Chairman Pangburn asked if anyone had anything else. There was not. Chairman Pangburn read the letters from residents that were received. There were 7 letters in total.

- First letter wished to remain anonymous, no date.
- Second letter was dated September 1, 2020-letter for disapproval
- Third letter was dated September 1, 2020-letter for disapproval
- Fourth email was dated September 4, 2020-letter for disapproval
- Fifth letter was dated September 7, 2020-letter for disapproval
- Sixth email was dated September 4, 2020-letter for disapproval
- Seventh email was dated September 6, 2020-letter for disapproval

Chairman Pangburn asked if there were any members of the public that wished to speak.

- A resident spoke up and stated that rules are rules and are made for a reason. It's a large variance with a very large setback. The shed should be placed within the setbacks.

- John Snyder of 2 Rose Bud Court stated he knows the deed is a legal issue. The deed is there to maintain the character of the neighborhood. When they talk about the deed restrictions, it's really talking about the character of the neighborhood.

- A resident spoke up and stated if we allow a shed that needs a variance, then what will the pool be, in-ground or above ground, and will that need a variance.

Chairman Pangburn asked if anyone else from the public had anything. There were no other comments.

Chairman Pangburn asked if Anthony DeJulio had anything else to say. Anthony DeJulio stated that yes, he does drive his cars on the lawn as the only spigot he has in in the back of his house and as far as the pool goes, he's not sure what he's going to do. Chairman Pangburn asked if anyone from the Board had anything else. There was nothing else from the Board.

Motion by Tom Hickey to close the public hearing. Seconded by John Conway. Motion carried by a 6-0 vote.

**SEQR DETERMINATIONS & RECOMMENDATIONS:**

**Reconvene ZBA Appeal #2020-06-Dominy – 8 Hillview Avenue-Area Variance-**  
Addition in rear yard

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

**Reconvene ZBA Appeal #2020-07-DeJulio – 5 Rose Bud Court-Area Variance-**Shed  
in rear yard

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

**WORKSHOPS:**

**Reconvene ZBA Appeal #2020-06-Dominy – 8 Hillview Avenue-Area Variance-**  
Addition in rear yard

**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 proposed structure fits the character of the neighborhood, there will be no changed looking back from the street and it sits within the existing lines of the house.
2. There is no other method available to the applicant as it's a 50' wide slim lot, and for cost and stylist reasons being: the gable roof, the pitch and the existing roof line, it needs to be in this location.
3. The requested variance is substantial but the shape proposed tries to maximize the distance between the buildings; you would lose access to the back yard if the house was connected to the proposed structure; and at five foot, it meets the fire code.
4. The proposed variance will not have an adverse effect on the neighborhood, the applicant wants to extend along the existing lines of the house and there is ample space in the back yard to do so.
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 a rear setback of 5 feet be GRANTED with the following conditions:

1. That the applicant coordinate with the Building Department on the fire code requirements.
2. That the stylist design be consistent with the existing house and siding material.

This resolution was moved by Scot Strevell and seconded by Matt Ostiguy at a meeting duly held on September 8, 2020.

*(Discussion)*

A vote was taken as follows:

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

Motion carried 6-0

**ZBA Appeal #2020-07-DeJulio – 5 Rose Bud Court-Area Variance**-Shed in rear yard

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

1. There will be an undesirable change in the character of the neighborhood as surrounding properties do not have accessory storage buildings in the rear yard along this street.
2. There are other methods available to the applicant as the lot has additional space and a smaller shed could be placed within the lot meeting the setback requirements.
3. The requested variance is substantial as it is a reduction of twenty-five feet down to only six feet and would place it nearby a tree lined street with esthetic character.
4. The proposed variance will have an adverse effect on the neighborhood as the scale and location of the building in proximity to the property line would be out of character with surrounding houses.
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 a rear setback of 6 feet be DENIED.

This resolution was moved by Jeff Pangburn and seconded by Bob Seward III at a meeting duly held on September 8, 2020.

*(Discussion)*

A vote was taken as follows:

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

Motion Carried 6-0

**NEXT MEETING:** The next scheduled meeting is September 22, 2020

**APPROVAL OF MINUTES:**

Motion by John Conway to approve the August 11, 2020 meeting minutes. Seconded by Tom Hickey. Motion carried by a 5-0 vote. Scot Strevell abstained.

**MOTION TO ADJOURN**

There being no further business before the Board, the meeting was closed by Chairman Pangburn.

Respectfully Submitted

A handwritten signature in cursive script that reads "Alison Lovely".

Alison Lovely, ZBA Secretary