

**TOWN OF DAY ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES - Final**

January 21, 2021

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Pledge

Roll Call

Members Present:

Al Graham
Donald Poe
Harry Brennan
Steve Edwards

Members Absent:

Dave Davidson

Counsel: Matt Fuller

Others Present: On behalf of the Hennessy's, Brandon Ferguson, P.E. Environmental Design Partnership and Dave Guilder, Architect.

Don Poe is sitting in as Chairman since Dave Davidson has recused himself from this application. Don opened the meeting at 7:00PM

Motion, made by member Don Poe, and seconded by member Al Graham to approve the meeting minutes from the December 21, 2020 Regular Zoning Board of Appeals meeting.

Ayes: Steve Edwards, Harry Brennan, Don Poe, Al Graham

Carried: 4-0

Old Business: Application for an Area Variance submitted by Murray and Jean Hennessy, 33.9-1-37, 264 North Shore Road. The application was accepted as complete at the December 21, 2020 ZBA meeting. The public has been notified and the date of the public hearing was set for January 21, 2021, at 7:00pm. Don Poe will chair the Public Hearing this evening.

New Business: Public Hearing on Area Variance Application, Murray and Jean Hennessy, 33.9-1-37, 2634 North Shore Road.

Chair Don Poe opened Public Hearing at 7:03pm. There were not attendees from the public.

Chair Poe questioned Brandon Ferguson about the well on the property and if it was being disconnected. Brandon said that the Hennessy's share a well with their mother who lives next door. Only their house would disconnect from the well, not their mother's house. They will be drilling a new well as shown on the plans. It was determined that there will be no negative affect to the neighbor. Chair Poe also inquired about the lot line adjustment. It was determined that a separate deed was issued (which we have on file) and that it is one single lot. Brandon said a lot line adjustment was already done with Kathan Camps.

Chair Poe referred to letter of denial previously submitted from the Town of Day Code Enforcement Officer and noted that there were two variances requested for this application, and he questioned if we will treat them each separately or together as one variance. Matt Fuller said we can treat them either way, it is up to the Board.

Chair Poe preferred two separate variances, and Al Graham said we should do each separate in case one of them gets denied and the other doesn't. Board members decided to do each separately.

The two variances that are being applied for are as follows:

1. Front line setback for the carport of 38'
2. High water mark/shoreline setback of 5.5'

Chair Poe referred to the first variance front setback from 50' to 12' for variance of 38'. He read from the **New York Planning Federation, Summary of Area Variance Criteria** and asked the Zoning Board of Appeals members to consider:

Whether benefit can be achieved by other means feasible to applicant: Al, not sure what feasible is, it's a very small lot and not sure how it could meet the commitments to get to the setback from road. They would need a variance either way. Don said the topography of the land lends itself to what he speaks to. Steve sees no other way and believes that this is the best location on the property for the carport so a front yard setback is needed. No -all Board Members in agreement.

Undesirable change in neighborhood character or detriment to nearby properties;

Steve said he feels that the project that they are proposing will enhance the neighborhood in that they will take down the existing home and make it look a lot nicer. Agreed to by Harry and Don, and Al said that are other homes on the road with the same issue with buildings close to the road. No - all Board Members in agreement.

whether request is substantial; By appearing before the ZBA it is substantial, Steve did not see a problem and Al does not think it's substantial— No - all Board Members in agreement.

whether request will have adverse physical or environmental effects Harry did not see anything adverse, Steve feels that it's is a good designed system on the set of plans submitted, he sees no problem. Al see's nothing environmental, and Don think's it good. No - all Board Members in agreement.

whether alleged difficulty is self-created (which is relevant, but not determinative); Don does not think it's self-created, and Steve seconded it. No -all Board Members in agreement.

Chair Poe asked that the Board Members make a proposal. Al Graham motioned to grant the variance request, seconded by Steve Edwards.

Polled:

Member Al Graham, yes

Member Steve Edwards, yes

Member Harry Brennan, yes

Member Don Poe, yes

All granted, variance #1 is accepted.

The next review is of Area Variance #2 for the shoreline setback of 5.5':

Whether benefit can be achieved by other means feasible to applicant: Al does not think it can be achieved any other way. All Board Members agreed - no.

Undesirable change in neighborhood character or detriment to nearby properties; Steve does not see it as undesirable, what they have on the plans and has been explained to everyone is fine. Al feels it would be a nicer looking place than what is there now. No - all Board Members in agreement.

whether request is substantial; No. All Board Members in agreement.

whether request will have adverse physical or environmental effects; No - all Board Members in agreement.

whether alleged difficulty is self-created (which is relevant, but not determinative); Don does not think it's self-created. No -all Board Members in agreement.

Motion from the Board on area variance #2. Harry Brennan motioned to approve the variance and Steve Edwards seconded the motion.

Polled:

Member Al Graham, yes
Member Steve Edwards, yes
Member Harry Brennan, yes
Member Don Poe, yes

All granted, variance #2 is accepted.

Matt said we don't have to go through part two of the SEQUR (reference 617.5c17).
Chairman Poe called the Public Hearing closed at 7:35pm

Continuing Business: None.

Correspondence: None

Secretary's Report: None

Motion made by Steve Edwards seconded by Al Graham to **adjourn** this regular meeting of the Town of Day Zoning Board of Appeals was made at 7:35 PM.

Ayes: Harry Brennan, Al Graham, Don Poe, Steve Edwards

Carried 4-0

Respectfully Submitted,
Diana Edwards, Clerk

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