

**Town of Erwin  
Zoning Board of Appeals Meeting  
And  
Public Hearing**

**August 27, 2013**

**Present:** Frank Thiel, Jay McKendrick, Susan Fontaine, Kris West, Jody Allen

**Absent:** Ruth Fisher McCarthy

**Guests:** Bruce and Anne Broughton, Rita McCarthy

**Call to Order:**

At 7:00 PM, Chairman Frank Thiel called the meeting to order in the meeting room of the Erwin Town Hall, 310 Town Center Road, Painted Post, NY 14870. As is their usual practice, the Zoning Board of Appeals will consider applications up until 9:00 PM, and will continue any unfinished business to the next regular scheduled meeting.

**Prior Minutes:**

The minutes of the May 28, 2013 meeting were approved as corrected by unanimous consent.

- 1. Request from Bruce Broughton for an Area Variance to allow a 2 ft side yard setback where 10 ft is required at 195 Beartown Road. Variance of §130-14 and Density Control Schedule is requested. With Public Hearing.**

Notification of this action was sent to 48 adjacent property owners. A legal notice of this action printed in the Town's official newspaper, The Leader, and in the Star Gazette on August 18, 2013.

This is a Type II action under the State Environmental Quality Review Act. ***No SEQR action is required.***

The property is located in R7.2 District.

Applicant seeks to erect a carport, not an enclosed structure, 2' from the side lot line. A 10 ft side yard setback is required. The applicant is seeking 8 ft relief.

The applicant received an area variance granting the 2 ft side yard setback on September 27, 2011, however, the addition was never built. It has been more than one year since the variance was granted and substantial construction did not occur, therefore the 2011 approval has expired.

The applicant explained that he has a one car garage attached to the house and he desires to extend the roofline for a carport. It is not economical for him to rebuild the entire garage as a two car garage. HE explored the option of going to the back of the property, but there would be additional expense and an extension of the driveway would be required. Also, there is a 100 ft maple tree that would have to be removed.

The applicant pointed out that he will still be 21 feet from the neighbor's house (12 feet from the neighbor's setback), and that the carport will match the exterior of the house and thereby be attractive. The applicant stated there are several carports in the neighborhood. Although the electric meter will have to be moved, there will be one continuous roofline. The requested 8 ft variance will include whatever overhang there is on the carport. The lot is 80' X 160'.

The Chairman opened the Public Hearing at 7:15 pm.

It was noted for the record that Walter Hastings, Beartown Road, called in and stated he had no objection to the requested variance.

All persons wishing to be heard, the Chairman closed the hearing at 7:16 pm.

The Zoning Board of Appeals considered whether the benefit to the applicant if the area variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant. The Zoning Board of Appeals also considered whether:

(1). The requested variance will not produce an undesirable change in the character of the neighborhood:

The Board finds unanimously that the requested variance will not produce an undesirable change in the character of the neighborhood. The neighborhood has many examples of carports that approach the property line. The design of the carport will fit in with others in the neighborhood.

2). The requested variance will not create a detriment to nearby properties.

A majority of the Board finds that the requested variance will not create a detriment to nearby properties. Although the carport could create a detriment to the property owner himself, since there is a large tree in the backyard the removal of which could be complicated by the carport, the carport is not a detriment to the nearby properties. One Board member found that the carport could impede fire truck access and therefore could be a detriment to the adjacent property.

(3). There is no other feasible method available for the Applicant to pursue to achieve the benefit the Applicant seeks other than the requested variance.

The Board unanimously finds that there is no other feasible method to provide shelter from the elements for the applicant's car. Other options were explored and either are economically infeasible or would be a detriment from an appearance standpoint.

(4). The requested area variance is not substantial.

The Board finds unanimously that the requested variance is substantial as it requests a variance for 8 out of 10 feet.

(5). The variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The Board unanimously finds that the variance will not have a detrimental effect on the environmental conditions. A small widening of the driveway may be required, but what little, additional run-off that is created can drain to the existing swale with no effect on nearby properties.

(6). The alleged difficulty was not self-created (this consideration shall be relevant but shall not necessarily preclude the grant of the area variance).

The Board finds unanimously that the difficulty is self-created.

RESOLUTION TO APPROVE APPLICATION 2013-07 BASED ON THE FINDINGS.

MOVED BY: JAY MC KENDRICK

KRIS WEST AMENDED THE MOTION TO INCLUDE THE CONDITION THAT THE STRUCTURE SHALL FOREVER BE MAINTAINED AS AN OPEN STRUCTURE.

JAY MC KENDRICK ACCEPTED THE AMENDMENT.

SUSAN FONTAINE SECONDED THE MOTION AS AMENDED.

DISPOSITION: 5-0

Meeting was adjourned by unanimous consent at 7:25 pm.

Minutes Submitted by Acting Zoning Board Secretary

Rita Y. McCarthy