



Town of Poughkeepsie

Planning & Zoning

1 Overocker Road
Poughkeepsie, NY 12603

845-485-3650 Phone
845-486-7885/790-4772 Fax

Town of Poughkeepsie Zoning Board of Appeals

In the Matter of 95 Spackenkill Road (John Diaz) Area Variance Application

Whereas, the Town of Poughkeepsie Zoning Board of Appeals (hereinafter "ZBA" or "Board") has received an application from John Diaz for an area variance involving property located at 95 Spackenkill Road, tax lot number 6160-03-443493-0000, for relief from Article IV, §210-16(E), of Chapter 210 to allow a proposed home addition to be located 29 feet from the rear lot line where a minimum of 30 feet is required; and

Whereas, the project site is located in the Residence, Single-Family 20,000 Square Foot (R-20,000) District; and

Whereas, the granting of the area variance is a Type II action under the State Environmental Quality Review Act (SEQRA) regulations; and

Whereas, pursuant to §239-m of the General Municipal Law, the matter was referred to the Dutchess County Department of Planning and Development which indicated that the application was a matter of local concern; and

Whereas, after due and proper notice a public hearing was held on this matter on July 13, 2015; and

Whereas, a motion was made and seconded to grant the variance requested; and

Whereas, after due deliberation, including careful consideration of the standard of review for an area variance, namely *"the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant,"* the ZBA has determined that the criteria for issuance of an area variance have been met, specifically:

A) *Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the area variance;*

After review of the facts and testimony, and the July 8, 2015 Staff Report, as well as the Board's observation of site conditions, the Board finds that it is in agreement with Staff's assessment of the application and hereby adopts the reasons set forth in the Staff Report, as amended, in support of the variance, namely:

The site of the proposed addition to this existing single-family home would be located 13.4 feet from the side lot line and not create an undesirable change to the character of the neighborhood.

B) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance:

After review of the facts and testimony, and the July 8, 2015 Staff Report, as well as the Board's observation of site conditions, the Board finds that it is in agreement with Staff's assessment of the application and hereby adopts the reasons set forth in the Staff Report, as amended, in support of the variance, namely:

The addition cannot be relocated so as to reduce or eliminate the need for a side yard variance based on the existing location of the home and driveway on the property.

C) Whether the requested area variance is substantial:

After review of the facts and testimony, and the July 8, 2015 Staff Report, as well as the Board's observation of site conditions, the Board finds that it is in agreement with Staff's assessment of the application and hereby adopts the reasons set forth in the Staff Report, as amended, in support of the variance, namely:

The requested deviation from the side yard would allow a setback of approximately 6.6 feet where 20 feet is required. This variance request is not significant and the proposed addition is appropriate to the lot and with neighboring residential properties.

D) Whether the proposed variance will have an adverse effect or impact on the physical or environment conditions in the neighborhood or district:

After review of the facts and testimony, and the July 8, 2015 Staff Report, as well as the Board's observation of site conditions, the Board finds that it is in agreement with Staff's assessment of the application and hereby adopts the reasons set forth in the Staff Report, as amended, in support of the variance, namely:

The encroachment of the proposed addition into the side yard setback area of this property is minimal with respect to dimensional characteristics; the proposed use and its construction are consistent with the existing home and neighborhood.

E) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

After review of the facts and testimony, and the July 8, 2015 Staff Report, as well as the Board's observation of site conditions, the Board finds that it is in agreement with Staff's assessment of the application and hereby adopts the reasons set forth in the Staff Report, as amended, in support of the variance, namely:

Although the difficulty is self-created, the relative size of the requested variance and the potential impact of the proposed addition to surrounding property and to the community would be small, and the fact that the hardship is self-created does not preclude the granting of the variance.

Now Therefore Be It Resolved, the ZBA grants the Area Variance Approval requested by John Diaz for an area variance involving property located at 95 Spackenkill Road, tax lot number 6160-03-443493-0000, for relief from Article IV, §210-16(E), of Chapter 210 to allow a proposed home addition to be located 29 feet from the rear lot line where a minimum of 30 feet is required.

Motion: Christine Soricelli Second: Arthur Grace

James Challey, Chairman	<u>Aye</u>
Elizabeth Bomba	<u>Aye</u>
Karmen Buckey	<u>Aye</u>
Anthony D'Aquanni	<u>Aye</u>
Arthur Grace	<u>Aye</u>
Larry Slomin	<u>Absent</u>
Christine Soricelli	<u>Aye</u>
Paul Lahey (alternate)	<u>Recused</u>
Phyllis Capone (alternate)	<u>Aye</u>

The above resolution was duly adopted by the vote of a majority of the members of the Town of Poughkeepsie Zoning Board of Appeals at a regular meeting held on July 13, 2015.

By: _____
Sandra A. Lane, Clerk
Town of Poughkeepsie Zoning Board of Appeals