

**Onekama Township Zoning Board of Appeals  
May 26, 2021  
Minutes of Special Meeting/Public Hearing**

**Subject: Variance Request**

**David and Paula Vanecek**

**8793 Portage Point Drive, Onekama, Michigan 49675**

**Parcel: #51-11-370-103-00**

- I. Call to Order by Acting Vice Chair Jim Pomaranski at 6pm.**
- II. Pledge of Allegiance**
- III. Roll Call/ Purpose of the Meeting**  
**Acting Chair – Jim Pomaranski**  
**Secretary – Judy Spohn,**  
**Alternate – Dave Wallace**

**Acting Chair Jim Pomaranski states the purpose of this hearing is that Applicant (David Vaneck) is seeking a variance from the Onekama Township Zoning Ordinance from a 25' rear yard setback to a 5' rear setback. This would allow the applicant to place an addition on their existing garage, creating a 25' x 45' or 1,125 sq. ft. structure within the rear yard setback.**

- IV. Approval of Agenda**  
Motion was made by Dave Wallace to approve the agenda, 2<sup>nd</sup> by Judy Spohn.  
Motion passed with 3 ayes.
- V. Approval of Minutes**  
No unapproved minutes of previous meetings are outstanding.
- VI. Public Comment on Agenda Related Items**  
No comments made.
- VII. Public Hearing – 605pm**
  - 1. Secretary Judy Spohn read a letter from Linda Ray and Jim Stokes not to approve the variance. (See attachment #1).**

**David Vanecek** – Went from a summer to full time resident in 2017. States the garage is too small, not weather tight. States the cottage was built in 1916. Has a utility pole in an open area of his property. He would like to maintain the structure; fix it, add an addition to it. Has had Consumers Energy out x 2. Has 5 other cottages feeding off this pole. He states that his power is underground. Jeff Kelly (Consumers Energy) states he would need to cut down the trees, if relocating pole. Cost would be \$10-15,000 and he would need to get easements from the neighbors. Some of the neighbors would not agree to easements. States his only option is to go to the East. Would like to integrate the old garage with the new. States has rain water in his garage from the neighbors.

**Jim Pomaranski** – There are options, you could relocate septic field, rework the plumbing, maintain structure.

**Katie Mehl** – (Zoning Administrator) showed the zoning board pictures of the garage. If variance is granted, it would be additional 700 sq. ft.

**Dave Wallace** – An option from the neighbor, move the garage, which would then be a loss of lawn.

**Winnie Baker** - (neighbor) States Ray's are good neighbors. They tried to fix the run off from the neighbor's garage.

The Public Hearing was closed at 630pm.

## VIII. Business Session

### Action on Pending Cases – David Vanecek Variance

#### A. Review of "Findings of Fact" Bearing on the Variance Request:

As to the variance requested above, the Zoning Board of Appeals considered the standards for variance contained in Section 9603 of the Onekama Township Zoning Ordinance and found:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district. **Yes**, because of the utility pole is not a hardship shared by the neighbors. (Per Judy Spohn & Dave Wallace).
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Ordinance.

**NO.** Per Dave Wallace. Per Judy Spohn – The parcels are generally consistent with others. All share the same zoning restrictions.

3. That special conditions and circumstances do not result from the actions of the applicant. **YES** – the utility pole per Judy Spohn.

4. That granting the variance will not alter the essential character of the area. **YES.** Per Dave Wallace – the area is old, before any zoning ordinances were put in place. This is an area of small cottages. Per Judy Spohn – **Yes & No.** Approving the variance would be 45' long; that is a pretty big appearance present.

Consensus was reached. **Yes**

5. That no nonconforming use of neighboring lands, structures, or buildings, in the same district, and no permitted use of lands, structures or building in other districts shall be considered grounds for the issuance of a variance. **Yes**

B. The Board of Appeals shall make findings that the requirements of this Ordinance have been met by the applicant for a variance.

**Not applicable.**

C. The Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The Board made a finding that variance is **NOT** the minimum variance that will make possible the reasonable use of the land. In fact, the applicant has several different sizing options that would not need a variance request. These options were discussed.

D. The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of the Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

The Board discussed the proposed structure, being 45' x 24' wide, would not be in harmony within the neighborhood and fell short of meeting "the intent of the Ordinance" ensuring that it would **NOT** be injurious to the neighborhood and that substantial justice is secured. The concept of substantial justice raises the issue of "fairness" to the immediate neighbors and the community.

- E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance and including requirements for buffering between uses by landscaping, fencing, vegetation or similar methods. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 9803 of this Ordinance.

**Not applicable**

- F. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

**The variance request was for "non-use" or dimensional/area variance only.**

### **Decision Determination**

Following the "Finding the Facts – Justification, the ZBA members conducted a discussion around the aforementioned findings.

Chairman Pomaranski requested a motion to be made.

- Motion by Dave Wallace to DENY the variance to the results of the "Finding of Facts Justification". More specifically the applicant DID NOT demonstrate the following;
  1. That the variance is the minimum variance that will make possible the reasonable use of the land.
  2. That the addition to an already nonconforming structure would NOT be injurious to the neighborhood and that substantial justice has been served.

- Motion seconded by Secretary Judy Spohn
- Chairmen asked for further discussion – None
- Chairmen restated motion on the table.
- Roll Call Vote

Acting Chair Jim Pomaranski - Yes  
Secretary Judy Spohn - Yes  
Alternate Dave Wallace -Yes

Motion to disapprove carried 3 (tally)

#### Old Business

Reminder that on Friday, May 28, 2021 meeting at the Township Hall to approve the minutes of today's hearing/meeting.

The continuing of the Cook Hearing on June 3, 2021, 6pm

Dave Wallace will be the alternate for Jim Trout as Jim will be unable to participate due to health reasons.

Cook Hearing will be:

Acting Chair – Jim Pomaranski

Secretary – Judy Spohn

Alternate – Dave Wallace

Other Business of the Board of Appeals - None.

Misc. Nothing

#### IX. Public Comments and Communications

Winnie Baker (neighbor) you have rules, to follow the rules, not to break the rules.

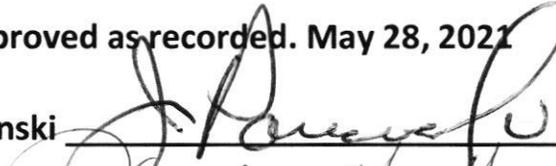
Katie Mehl – If there is an increase of variances, then the ordinances may need to be adjusted.

#### X. Adjournment – Made at 7pm by Jim Pomaranski

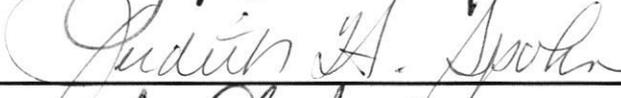
Recorded by Pat Pomaranski.

Minutes approved as recorded. May 28, 2021

Jim Pomaranski

 6/3/21

Judy Spohn

 6/3/21

Dave Wallace

 6/3/2021