

TOWN OF KIRKWOOD
ZONING BOARD OF APPEALS
February 19, 2019

A Public Hearing was held on February 19, 2019 at 7:00 p.m. at the Joseph A. Griffin Town Hall, 70 Crescent Drive, Kirkwood, NY on the application of Brandon Buck regarding property located at 5 Don Street in the Town of Kirkwood known as Tax Map No. 162.16-1-12 and located in a Residence District, for an Area Variance to place an 8' X 10' shed in the front of the house to store equipment.

Present: Duane Travis, Chairman
Ed Egan, Member
Cyndi French, Member
Mike Maciak, Member

Other Present: Keegan Coughlin, Attorney
Chad Moran, Building & Code Inspector

Absent: Bruce Nemcek, Member

Chairman Travis called the meeting to order at 7:00 pm.

APPROVAL OF MINUTES:

Motion by Mike Maciak and second by Cyndi French to approve the minutes of the October 15, 2018 meeting as submitted. All voted in favor. Motion carried.

PUBLIC HEARING:

Chairman Travis read the notice of public hearing. Chairman Travis commented that we have the affidavit of posting by the Town Clerk on the sign board, the affidavit of publication in the Press & Sun Bulletin and the Country Courier, and affidavit of service by mail to property owners within 500 feet. The Broome County Planning Department had comments, which were read into the record and are included in the file. Chairman Travis stated since this is a Type II variance no EAF is required.

Chairman Travis opened the public hearing at 7:05 pm.

Hearing no comments Chairman Travis closed the public hearing at 7:05 pm.

Chairman Travis stated that the concern is not so much that the shed is in the front yard but that it would block visibility at the intersection. In the Town Code it states on corner lots, clear vision shall be maintained within the triangular area formed by the intersecting street lines and a straight line at points which are 20' distant from the points of intersection measured along said street lines. In such area no shrubbery, fence or other obstruction shall be permitted higher than 3' from the accepted street grade, nor shall branches or foliage of trees be permitted less than 10' from the ground. That is what the County was concerned with.

Mike Maciak asked if there was a stop sign on that corner or just a drive around and Chairman Travis stated no, no stop sign. Mr. Grant Buck stated just drive around and it is not near the fire hydrant and is back 50 feet farther from the road. Mike Maciak stated regardless if they are coming around the corner they have the right of way anyways, coming down the hill. Mr. Buck stated you aren't supposed to go fast through there anyways.

Cyndi French asked if the setbacks are okay and Chairman Travis stated yes, they are within the setbacks. Because it is a corner lot you have two front yards basically. The front setback is 30 feet. Mike Maciak asked if the front of the house is considered Don Street and Mr. Buck stated yes. Chairman Travis stated the front door is facing Don Street. Mike Maciak asked if he moved the shed over and be in line with the house would that be ok and Mr. Buck stated it is on an angle. Mike Maciak asked if the driveway is on an angle and Mr. Buck stated it is a circular driveway, on an angle from the house. It really isn't in front of the house either way.

Chairman Travis stated from the code, right now, the shed would have to be 30 feet back from the roadway and 15 feet from the side yard. Mike Maciak stated and with the property line at 50 feet that is impossible.

Mike Maciak asked if it was a removable shed and Mr. Buck agreed. Mike asked if that was any different and Mr. Coughlin stated no, it is still an accessory structure. Mr. Buck stated it is on four blocks. It could be picked up but not now because it is so wet. Mike Maciak stated he thought it was a different rule for sheds that are movable. Chairman Travis stated they are all accessory buildings.

Cyndi French stated the setback isn't correct from the side road, Harry L Drive. Chairman Travis stated by code it should be 30 feet. Mr. Coughlin stated by code it should be 30 feet from both Don Street and Harry L and it should be in that little back corner behind their house technically. Chairman Travis asked if there was any way to get back behind the house and Mr. Buck stated no. Cyndi French asked if we knew how many feet it is from Harry L Drive and Mr. Buck stated at least 50 feet, 40-50 feet from Harry L Drive, either road it is because it is kind of centered.

Mike Maciak asked what is it from the back of the shed to the road and Mr. Buck stated between 30 to 50 feet, either way Harry L Drive or Don Street. Chairman Travis stated because of the size of that lot and the position of the house there is no way that shed can go in the backyard.

Chad Moran stated Don Street has 140 feet of frontage and Harry L has 109.56. Chairman Travis stated so the depth on Don Street is 150 feet basically and Chad agreed. Chad Moran stated the house is 30 feet off the street, the front of the house, on Don Street.

Chairman Travis stated his recommendation is that we grant an area variance with repositioning the shed so that it is at least 30 feet back from Harry L and at least 15 feet off the property line between that. Mr. Buck stated it is hard to do because it is corner lot. Mike Maciak suggested they turn the shed around to where the driveway goes straight in. Mr. Buck stated it is just for storage of his gas equipment. There was a lengthy discussion of where and how the shed could be positioned.

Chad Moran stated entering the driveway from Harry L as you are heading south, the first part of the driveway that is even with the end of the house is basically 47 feet from the driveway back towards the first house, the neighboring house. From the back of the house the property line to the back of the garage is 47 feet. The house is 30 feet off the right-of-way. Chad Moran stated he is looking at the original building permit.

Chairman Travis asked if they were to set that shed back 30 feet off the property line on Harry L, the north side of the driveway could it be moved there and Mr. Buck stated he didn't know there was ever a law. That is why he put it where it is.

Ed Egan asked how long has the shed been there and Mr. Buck stated September or October.

Cyndi French asked if the setbacks are 30 X 30 and Mr. Coughlin explained the setback is 30 from Don and 30 from Harry L. They would still need an area variance because this is placing an accessory structure in the front of their house. Even if it's behind the front line of the house on Don Street it is still in the front line on Harry L. Cyndi French asked are we doing the 30 X 30 for the SEQR and Mr. Coughlin stated the County didn't provide any comment. They did say make sure there is line of sight and the line of sight comes from the Kirkwood Code. Cyndi French asked if the building could still be in front of the house and Chairman Travis stated we don't have a choice because there isn't enough room in the backyard to put the shed in. It doesn't show it here but there is also a playground for kids.

Ed Egan asked what are we supposed to be deciding tonight and Chairman Travis stated an area variance. Chairman Travis stated he thinks we can grant the area variance if they would move the shed so it is within the setbacks. Mike Maciak asked if they don't, according to the setbacks then he still needs a variance to put the shed there and Cyndi French stated it will still be in the front yard. Chairman Travis stated unfortunately when you have a corner lot you have two front yards.

Chairman Travis stated his recommendation would be to grant it with the 30 foot setback off of the Harry L side and anything over the 15 feet of the back property line so it could be whatever he wants. Mr. Coughlin stated we have to say 30 feet from Don Street too.

There was a discussion as to where Mr. Buck should place the shed and it was determined it should be moved to the other side of the driveway and 30 feet from the Harry L side property line back. Mr. Buck asked about a time line to do that and Mr. Coughlin stated we can set a time table of 30 days pending weather and cooperation with the Town Code Enforcement Officer. Chad Moran agreed.

Chairman Travis reviewed the area variance criteria as follows:

1. Whether benefit can be achieved by other means feasible to applicant? Board: Yes for the fact that what we are asking for it can be achieved by another feasible means and the answer is No with respect to the accessory structure in front of the building due to the unique characteristics of the property.
2. Undesirable change in neighborhood character or to nearby properties? Board: No.
3. Whether the request is substantial? Board: No.
4. Whether the request will have adverse physical or environmental effects? Board: No.
5. Whether alleged difficulty is self-created? Board: Yes, he put it in the wrong way, can fix it by moving.

Motion by Cyndi French and second by Mike Maciak to allow the accessory structure in front of the primary residence with the change of moving the structure 30 feet back from Don Street and 30 feet back from Harry L Drive and complying with side setback and weather permitting allowing the moving of the structure.

Roll Call Vote:	Mike Maciak	Yes
	Ed Egan	Yes
	Cyndi French	Yes
	Duane Travis	Yes

Motion carried.

ELECTION OF OFFICERS:

Motion by Cyndi French and second by Ed Egan to nominate Mike Maciak as Co-Chair for 2019. All voted in favor. Motion carried.

Motion by Mike Maciak and second by Ed Egan to nominate Cyndi French as Secretary for 2019. All voted in favor. Motion carried.

Motion by Cyndi French and second by Ed Egan to adjourn the meeting. The meeting was adjourned at 7:38 pm.

Respectfully Submitted,

Mary Kay Sullivan, Acting Secretary
Zoning Board of Appeals