

TOWN OF AMHERST
Zoning Board of Adjustment

November 15, 2022

APPROVED

In attendance: Doug Kirkwood (Chair), Danielle Pray (Vice Chair), Jamie Ramsay (Secretary), and Charlie Vars
Staff present: Nic Strong, Community Development Director, and Kristan Patenaude, Recording Secretary (remote)

Doug Kirkwood called the meeting to order at 7:00pm. He explained that the new procedure includes completing Findings of Fact and he is slightly unclear yet as to how this works. The Board could decide it needs to consult with Town Counsel before making a decision. Danielle Pray stated that the Board could still hear the case at this time. Doug Kirkwood noted that the Board may decide not to vote on matters this evening, due to this new process. The result of the Board's deliberation could lead to granting, denial, or tabling of the application.

Attorney Tom Quinn stated that he believes the Board has always made Findings of Fact. Danielle Pray noted that the issue seems to be that the Board has not discussed how to deal with this new aspect of the hearings. Attorney Tom Quinn stated, in Milford last week during a Board meeting, that Board went into deliberations, and each Board member was called on to speak regarding their view of each element of the case. Amherst's Board has perhaps not been quite as formal with this procedure in the past but has done something similar.

Doug Kirkwood stated that the process, as previously followed, will be that the Secretary will read the case. Each applicant will then be asked to present the case. Once completed, the Board will be allowed to ask questions and make comments. Then, the public will have a chance to comment. The input should be specific to what is presented this evening and not reflect the entire project. All questions/comments must be addressed through the Chair. Someone wishing to speak must be recognized by the Chair or are otherwise out of order. The applicant has a right to due process. He explained that each variance test must be addressed by each applicant. Voting on these tests will then be undertaken by the Board. He noted that an applicant has to pass all five tests outlined in the RSAs and if any test does not get the required number of votes, it fails. Doug Kirkwood asked if there were any questions about the process and, there being none, then introduced members of the Board.

PUBLIC HEARINGS:

1. CASE #: PZ16509-102522 –VARIANCE

David & Donna Goldstein (Owners & Applicants), 35 Greenwood Road, PIN #: 024-062-000–Request for relief from Article IV, Section 4.3, Paragraph D to construct a carport within the side setback on the north side of the building and within the front setback being approximately 2 feet from the side setback and approximately 20 feet from the front setback. Zoned Residential Rural.

Jamie Ramsay read and opened the case.

Attorney Tom Quinn, on behalf of the applicants, addressed the Board. He noted that the applicants, as they live out of state, will be joining the meeting via Zoom.

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In response to a question from Jamie Ramsay, Attorney Quinn stated that the applicant is aware that the Board has four members this evening and will need three affirmative votes to be approved and they are ready to proceed.

Attorney Quinn stated that the property consists of approximately 0.14 acres of land with an existing residence situated at 35 Greenwood Rd. The property largely predates the adoption of existing zoning and regulations. The lot has existed since at least 1913, and the property was modified in 1963 by adding a strip of land approximately 70'x70'x12'x69', and again in 1982 by adding approximately 2,632 s.f. of land. The property has approximately 78 ½' of frontage. The existing structure was built in 1947 and consists of approximately 1,200 s.f. of living area. It lacks a garage. Other structures on the site include a shed, back porch, and deck, all located behind the main residence. There were two carports previously located on the lakeside of the property, and there is no clear record as to when these were removed. A new carport is proposed to be located at the northeast corner of the residence. It is proposed to be 11' wide and 19' deep. Given the size of the property, it is not possible to place the structure within the building envelope, as dictated by the literal interpretation of the zoning ordinance. The proposed location of the structure does not comply with the side setback of 20' for accessory buildings and it does not comply with the front setback requirement of 50', thus variances are being requested so that the side setback be no closer than 2' from the north sideline and no closer than 19' from the front sideline.

Attorney Quinn explained that the first two tests are considered together and the court has instructed that, to determine whether a requested variance is not contrary to the public interest and is consistent with the spirit of the ordinance, the Board must determine whether the granting the variance would unduly and to a marked degree conflict with the ordinance, such that it violates the ordinance.

Attorney Quinn addressed the tests. The first test is to determine whether the variance would alter the essential character of the neighborhood, and the second is to determine whether granting the variance would threaten the public health, safety, or welfare. He stated that he does not believe that granting the variance will alter the essential character of the neighborhood. The property is an undersized, nonconforming lot, which has existed for decades. The property is used for residential purposes, which is a permitted use in the district. Many other properties in the area are also nonconforming in size. The applicant is proposing to construct a carport, as there is currently no garage on site. A carport is an accessory structure, making it a permitted and reasonable use. The variance is only required due to the limited size of the lot. There is nothing about this proposal that will alter the essential character of the neighborhood. Nor is there anything about this proposal that will threaten the public health, safety, or welfare. There is an existing adequate septic system, and a potable water system on site. Also sight distance is not an issue for this project.

Attorney Quinn stated that the next test is that granting the variance would do substantial justice. The only guiding rule in determining this factor is that any loss to the applicant caused by the

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strict application of the ordinance, that is not outweighed by a gain to the public, is an injustice. The proposed use is consistent with the uses in the Baboosic Lake area and this neighborhood, in particular. It is only the limited size of the property that necessitates a variance. Granting the variance will permit the applicant reasonable use of the property. Attorney Quinn submitted a picture of a similar carport three doors down on the same street. The plan is to replicate this type of carport, but for a single vehicle rather than two. This is a modest proposal and is consistent with the way this neighborhood has been developed. Denying the variance would deny the applicant full reasonable use of the property, without a significant benefit to the general public.

Attorney Quinn stated that granting the variance will not diminish the value of surrounding properties. He previously submitted an opinion letter from Jim Spellman, a local real estate agent with over 40 years' experience. Jim Spellman's review included his opinion that there is nothing about this proposal that would diminish values of surrounding properties in the neighborhood, in the Baboosic Lake area, or the Town. The proposal is consistent with the neighborhood and the carport will be built in an attractive manner so that there is nothing about it that would detract from the value of surrounding properties. This will actually be an improvement to this property and, by extension, an improvement to the neighborhood.

Regarding the last test for hardship, Attorney Quinn stated that there are special conditions of the property that distinguish it from other properties in the district. The property has existed in its current form since 1992 and is only 0.14 acres. Given the small size of the lot and the application of the various setbacks, it is difficult to build anything on this site. There is no place on the lot that a carport or garage could be built to be in compliance with the regulations. The minimum lot size, frontage, and setback requirements make sense in regard to a new subdivision but applying those same rules fairly and reasonably to a neighborhood such as the Baboosic Lake area, which has existed since the beginning of the last century is very difficult. The test also looks to show that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property. It is not possible on this lot to meet the setbacks and develop the full and reasonable use of the property. The property is located in a neighborhood made up of generally small lots. This variance can be granted without undermining the objectives of the ordinance. In this neighborhood, it is not uncommon to see properties with sheds and garages built right up to the property line. The last part of the test is that the proposed use is a reasonable one. This property does not have a garage and would like to add a carport. There is nothing excessively unreasonable about this proposal. The purpose of allowing variances on individual properties is to provide a relief valve for special circumstances where the objectives of the zoning ordinance can be largely respected without causing injury to or damage to abutters or the neighborhood.

Charlie Vars noted that the Meridian Land Services survey plan shows the lot at 0.15 +/- acres. The lot size is shown as 0.4 acres on the Staff Report. He asked about these discrepancies. Attorney Quinn stated that he believes the 0.4 acres is a mistake. Amherst Survey Associates completed a survey in 1991. This showed the original area of the lot to be 3,495 s.f., with an additional 2,632 s.f. added to it at that time, for a total of 6,127 s.f. or 0.141 acres. Most of the lots in this area are similarly sized. Charlie Vars noted that the owners more recently received a

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survey from Meridian Land Services showing the lot size to be 0.15 +/- acres, and this should likely be referred to on the plans.

In response to a question from Charlie Vars regarding an area of the plot plan that shows what looks to be gravel, Attorney Quinn stated that this is broken up, decaying concrete. He believes this may have originally been the location of one carport.

In response to a question from Charlie Vars regarding if this carport was proposed to be turned into a garage in the future, Attorney Quinn stated that he does not believe this would change the equation much. This application is only for a carport. If someone wanted to enclose it to become a garage, he believes that applicant would need to come back before the Board. He stated that the issues would not change, the arguments would not change, but visually it might be a little different.

Charlie Vars stated that it appears the back of the carport is proposed to be parallel with the front of the house. He noted that he does not believe the carport could be placed back further on the lot, as the lot rapidly drops off from there.

Charlie Vars asked if the owner has communicated with the owner of Lot 63 regarding the proposed carport. David Goldstein, owner and applicant, stated that the owner of this lot lives in Massachusetts. He stated that he has communicated with the owner's daughter regarding the plan, and she has not expressed any concerns. He has also communicated with his neighbor to the north, who also expressed no concerns.

In response to a question from Danielle Pray, Attorney Quinn stated that Lot 63 is 0.171 acres. David Goldstein noted that the abutting property to the south contains a two-car garage with a second floor 30' from his house. The abutting house to the north does not have a garage but that lot owns a piece of land on the north side of Greenwood Road, in order to park vehicles on.

Danielle Pray asked for more information regarding the special conditions of this property. Attorney Quinn that there is a mixture of lots in this neighborhood. This test should look at a larger area than simply to the right and left of the residence. The Residential Zone calls for 2 acre lots, which is not possible on this lot. Some lots in the neighborhood own additional lots across the street to park their vehicles. There is no other reasonable space on this lot to place the carport due to locations of existing buildings. The carport could be moved further south on the lot, away from the sideline, but that would place it directly in front of the house. Meridian Land Services recommended the proposed location in order to keep the area in front of the house open for a new septic system in the future.

Danielle Pray asked if the owner would consider a condition that the carport could not be converted to a garage in the future. David Goldstein agreed to this proposed condition. He stated that he does not need a garage and thinks it looks better to have a carport. He reiterated that he was comfortable if this limitation was added to the approval.

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There were no other comments or questions from the Board at this time.

2. CASE #: PZ16510-102522 –VARIANCE

Philip & Melissa Damiano (Owners & Applicants); 15 Green Road, PIN #: 005-125-001–Request for relief from Article IV, Section 4.3, Paragraph D.3. to construct a detached garage approximately 6 feet from the sideline where 20 feet is required. Zoned Residential Rural.

Jamie Ramsay read and opened the case.

Attorney Tom Quinn stated that the property is located in the Residential Rural District and consists of approximately 3 acres of land, with approximately 180' of frontage on Green Road. The lot meets all the dimensional requirements of the district. The property is improved by a single-family residence, consisting of approximately 7,700 s.f., a swimming pool, shed, and playground. The existing residence also includes a three-car garage under it, which was built as part of a substantial addition between 2011 and 2012. The property is served by a paved driveway, with an apron for entering and exiting the garage. The proposal is to construct an additional garage on the property in the area as shown on the plan. The location of the proposed garage does not meet the side setback requirement of 20'. The proposed garage will be approximately 6' from the side setback.

Attorney Quinn reviewed the tests. The first test is that the variance will not be contrary to the public interest and will be consistent with the spirit of the ordinance. This test reviews that the variance will not alter the essential character of the neighborhood, nor threaten the public health, safety, and welfare of the community. He stated that his view is that granting the variance will not change the essential character of the neighborhood. The property is located in the Residential Rural Zone and used for residential purposes. The proposed garage is an accessory structure and, although the proposed setback is less than the 20' required, the proposed location is significantly set back from Green Road, making it difficult to observe from the road. As Green Road is a scenic road, there is a 100' setback on it, and the proposed location of the garage is an additional 60'+ from there. The structure will not be regularly visible from abutting properties and will not encroach in any way visually. The abutters to the north support the application and they are the ones that would be most directly impacted by it. As this is only a setback issue, the proposal will not threaten the public health, safety, and welfare.

Attorney Quinn stated that granting the variance would do substantial justice. The applicants desire additional garage space and the most suitable location for this is shown on the plan. He explained that it is difficult to back out from the existing garage in a conventional way due to a severe drop off in topography at the edge of the pavement. As a result, more space is needed between the existing garage and the proposed garage. The location of the proposed garage suggested itself given the configuration of the property. The purpose of the side setback requirement is to prevent encroachment of structures on one property upon structures on an adjacent property. This is not an issue due to the layout of abutting properties. 11 Greenwood

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Road, an immediate abutter, has approximately 35' of frontage and a strip of land approximately 450' long behind the subject lot that extends well beyond to the main portion of the property where the existing house is situated. To the north of that property is another property with approximately 17 ½' of frontage for a 35' common driveway. Another abutting lot contains 35' of frontage, encumbered by a private driveway easement. Thus, even though the proposed garage encroaches into the setback, this can be done without compromising the abutters' use of their property. The owner of three of the abutting lots has submitted a letter of support for this application. This letter shows that their interests are not being compromised in any way.

Attorney Quinn stated that granting the variance will not diminish the value of surrounding properties but will improve the applicant's property. This project will be completed in such a way that it is largely unobtrusive from Green Road, and unobtrusive from the immediate abutters. Jim Spellman, a local real estate agent with 40 years' experience, has stated in a letter submitted to the ZBA that he sees no diminution in value to surrounding properties. The request is a permitted use and consistent with the neighborhood.

Attorney Quinn addressed the special conditions of this site. The proposed location for the garage is the best one and, practically speaking, the only suitable location, due to the way the existing three car garage and the addition to the house are laid out and the drop off from the pavement. This garage cannot be brought any closer to the existing structure. To the rear of the driveway is a very steep slope with a substantial drop off. There would be a lot of additional work and expense to try to build retaining walls and drainage to address the grade in this area. There is no fair and substantial relationship between the general public purposes of the setback requirement and the specific application of that provision to the applicant's property, as this proposal will not dominate the landscape or the neighbors' either visually or in terms of limiting abutters' ability to build on their property. Due to the way adjacent properties have been developed, this variance can be granted without jeopardizing the public purpose of the ordinance. This is a very nice property which has been expanded and upgraded, in a way that keeps with the neighborhood. The proposed garage will also be attractive and will not undermine the character of the neighborhood.

In response to a question from Charlie Vars, Attorney Quinn stated that there is a row of trees that will need to be removed on the north side of the wall. The doors to the proposed garage will face the existing garage.

Charlie Vars noted that, due to the space between the two structures, there will be no space for parking in order to back out. He suggested that the structure could be rotated 90 degrees, with the doors facing out to the road. This would be in the slope of the area, and there could be storage underneath. Philip Damiano, owner and applicant, stated that the drop off in this area is approximately 10' and he was concerned with the retaining wall being the focal figure.

In response to a question from Charlie Vars, Philip Damiano stated that the intention as part of this project is to remove an existing temporary canvas carport.

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Charlie Vars stated that the proposed garage will not be seen from Green Road due to landscaping on the site.

In response to a question from Danielle Pray regarding if the existing pavement extends into the setback, Philip Damiano stated that this appears to be true, based on the plan.

In response to a question from Danielle Pray regarding the lots to the north, Attorney Quinn explained that those lots have a combined 35' strip running down them along the side of this lot before those lots open up.

Danielle Pray asked about a propane tank that was mentioned. Philip Damiano indicated the 1,000-gallon propane tank and noted that from the edge of the driveway there was an 8' drop the playground level and the bottom of the slope was more than 10' from driveway level.

There were no other comments or questions from the Board at this time.

**Charlie Vars moved to enter into deliberations. Jamie Ramsay seconded.
Voting: 4-0-0; motion carried unanimously.**

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David & Donna Goldstein (Owners & Applicants), 35 Greenwood Road, PIN #: 024-062-000–Request for relief from Article IV, Section 4.3, Paragraph D to construct a carport within the side setback on the north side of the building and within the front setback being approximately 2 feet from the side setback and approximately 20 feet from the front setback. Zoned Residential Rural.

**Danielle Pray moved no regional impact. Jamie Ramsay seconded.
Voting: 4-0-0; motion carried unanimously.**

Jamie Ramsay stated that this is a fairly typical Baboosic Lake area variance request. There are many preexisting, nonconforming lots in the area. The request is not an unusual one for the Board to consider.

Danielle Pray suggested that Board members include findings of fact in with the vote. Board members can still agree with what was stated previously by other Board members but should make it clear what these items are.

Doug Kirkwood addressed the five variance tests.

1. The Variance will not be contrary to the public interest.

- C. Vars – true, there is more to be gained by the applicant than any impact it would have on the public interest. This is essentially on a dead-end road, and this is the only placement for this structure on the lot both aesthetically and practically. This will not alter the character of the neighborhood and will not affect the public health, safety, and welfare.

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- J. Ramsay – true, his decision is based on the facts presented. He echoed Charlie Vars’ statements that this does not alter the character of the neighborhood, nor the health, safety, and welfare of the public. Past cases are not precedent setting, but this is a reasonable request for this very tight neighborhood.
- D. Pray – true, the applicant’s lot size is 0.15 acres, as presented this evening. The Residential Rural Zone requires a front setback of 50’ where 19’ is being applied for, and a side setback of 20’ where a 2’ setback is being applied for. She does not find that those setback reductions alter the essential character of the neighborhood, and nor do they threaten the public health, safety, or welfare. She agreed with previous comments made by her colleagues regarding the location of the property. Facts were presented tonight that there are other properties in the area that also have accessory structures, lending to the proposal being in compliance with the character of the neighborhood.
- D. Kirkwood – true, there will be no adverse impact to the neighborhood and thus the spirit of the ordinance is observed. The health, safety, and welfare of the general public will not be harmed by this proposal.

4 True

Danielle Pray noted that, in past practice, the Board has addressed the second test, that “the Variance is consistent with the spirit and the intent of the Ordinance.” However, as Attorney Quinn has previously pointed out, this is often combined in the language of the first test. She stated that she would like the record to reflect that she would use the same arguments made for the first test, for this second test. Jamie Ramsay stated that he believes merging the two tests is appropriate. Doug Kirkwood stated that the same facts submitted for the first test were also used to support the vote for the second test regarding the spirit of the ordinance.

- J. Ramsay – true, same facts as used to support the first test.
- D. Pray – true, same facts as used to support the first test.
- C. Vars – true, same facts as used to support the first test.
- D. Kirkwood – true, same facts as used to support the first test.

4 True

3. Substantial justice is done.

- D. Pray – true, the case presented tonight showed no harm to the general public. As there is no harm shown, there is no harm to outweigh the potential benefits to the owner.
- C. Vars – true, he is convinced, with the evidence shown this evening, that the proposal is a reasonable use of the property that outweighs any negative impact to the public.
- J. Ramsay – true, his opinion is based on the facts presented and echoed Charlie Vars’ opinion. The proposed use is reasonable. The applicant has a right to protection of property. This lends itself to enjoyment of property by the owner.

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- D. Kirkwood – true, he agrees with the facts presented by his colleagues. Based on those facts, substantial justice would be done.

4 True

4. The values of the surrounding properties will not be diminished.

- C. Vars – true, based on the evidence, in his opinion, the adjacent property values will not be diminished. This is better than one of the original canvas carports which was on site.
- J. Ramsay – true, he echoed Charlie Vars’ opinions.
- D. Pray – true, the letter from Jim Spellman agreed that there will be no reduction in housing prices. There was no evidence shown from anyone else this evening.
- D. Kirkwood – true, he echoed his colleagues’ opinions. Jim Spellman has an extensive history of real estate in Amherst.

4 True

5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

- J. Ramsay – true, the proposed use is reasonable. Many properties in the Baboosic Lake area have quirks, none are the same as the others, and all are encumbered by setback issues. Setback required cannot be reached by many of these lots, leading to the hardship for this applicant. He included facts presented in this case as part of his opinion.
- D. Pray – true, the applicant has satisfied the special conditions requirement. There is a diversity of lots in this area, with various sizes. Some properties in the area own land across the street. This property is different from those in that it does not have any room for a carport or vehicle storage, aside from the location proposed. There were two previous carports on the property. No two properties in this area are the same, likely in terms of setbacks as well. The general purposes of the ordinance are for the health, safety, and welfare of the public and she finds that there is no fair and substantial relationship between those purposes and applying that to this particular property. This is a reasonable use for the property.
- C. Vars – true, his opinion based on the information submitted tonight is that it would be a hardship not to grant this variance. There are special conditions of this property that others do not have. He echoed previous Board members comments.
- D. Kirkwood – true, the applicant has shown that unnecessary hardship is easily distinguished on this property. The zoning ordinance was adopted in 1963 and many of the properties in this area existed before that time. It is more than reasonable to request a place to store one’s car.

The Chair stated that the application, as it passed all of the tests, is granted, with the condition that the carport shall not be converted into a garage, as agreed to by the applicant during the presentation. A building permit shall not be issued for

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enclosing this structure until an additional application is reviewed by the Board of Adjustment.

CASE #: PZ16510-102522 –VARIANCE

Philip & Melissa Damiano (Owners & Applicants); 15 Green Road, PIN #: 005-125-001–Request for relief from Article IV, Section 4.3, Paragraph D.3. to construct a detached garage approximately 6 feet from the sideline where 20 feet is required. Zoned Residential Rural.

**Jamie Ramsay moved no regional impact. Charlie Vars seconded.
Voting: 4-0-0; motion carried unanimously.**

Doug Kirkwood addressed the five variance tests.

1. The Variance will not be contrary to the public interest.

- D. Pray – true, the applicant proposes to build a garage that will be set 6.7’ from the side setback, where 20’ is required. She does not find that the proposal is contrary to the public interest. A garage does not alter the character of the neighborhood, nor does its proximity to the sideline. It does not threaten the public, health, safety, or welfare of the Town.
- C. Vars– true, his opinion is that, based on the evidence presented, that the spirit of the ordinance is being observed. He echoed comments made by Danielle Pray.
- J. Ramsay – true, his opinion is based on the applicant’s presentation and Charlie Vars’ previous comments.
- D. Kirkwood – true, he agreed with his colleagues. He used the facts presented to support this opinion.

4 True

2. The Variance is consistent with the spirit and the intent of the Ordinance.

- C. Vars – true, based on the facts presented and excessive grade to the rear of the driveway, this is a reasonable request. It will not have an impact on the value of surrounding properties.
- J. Ramsay – true, based on the facts presented, this proposal does nothing to impact the public health, safety, or welfare of the general public.
- D. Pray – true, the spirit of the ordinance is observed and there is no threat to the public health, safety, or welfare from a 6.7’ setback, rather than a 20’ setback, which the ordinance requires.
- D. Kirkwood – true, based on the facts presented by the applicant and those comments made previously by his colleagues in their decisions.

4 True

3. Substantial justice is done.

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- J. Ramsay – true, based on the presentation made, his opinion is that this proposal furthers the applicant’s enjoyment of the property without impinging on the rights of abutters or the public.
- D. Pray – true, substantial justice is done because the only harm presented to the public during the presentation would be potential minimal view of the garage from the street. There is a private driveway on the side and a line of trees as well. The harm to the general public does not outweigh the benefit to the property owner to build a garage. The owners have a right to build.
- C. Vars – true, based on the testimony, this is a reasonable use of the property, and the owner of the abutting driveway has indicated no issue with the proposal.
- D. Kirkwood – true, he echoed the reasons stated by his colleagues. The applicant’s representative pointed out that denial of the variance would deny the owner reasonable use of the property, without significant benefit to the public.

4 True

4. The values of the surrounding properties will not be diminished.

- D. Pray – true, no evidence was presented that the values of surrounding properties would be diminished. A letter from a real estate expert echoed the opinion of the applicant, that the values of surrounding properties would not be diminished.
- C. Vars – true, his opinion is that adding a two-car garage 6.7’ from the property line will not diminish the value of any property in the neighborhood.
- J. Ramsay – true, based on the arguments presented by the applicant. His opinion would be different if the proposed structure would take away from the aesthetics of the existing house. This is an appropriate detached structure, however. It would be less appropriate if attached to the existing structure.
- D. Kirkwood – true, the evidence submitted by the applicant shows that, if the variance was denied, an unnecessary hardship would be created as the applicant would be denied a reasonable use, and this would also not benefit the general public.

4 True

5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

- C. Vars – true, based on the evidence given, it would be an unnecessary hardship. The property has special conditions with the existing severe drop-off. There is no substantial relationship existing between the driveway to the rear of the property and the location of the proposed garage being 6.7’ from the property line. This is a reasonable use.
- J. Ramsay – true, his opinion, based on facts presented in the applicant’s statements, is that there are likely other places on the property that a two-car garage could be built, but this would not be reasonable. These would be far from the house and make it look like a satellite garage. There is no place to put this reasonably on the property, other than to the left/north of the house. This will not be seen from the road. This meets all the criteria for a hardship.

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- D. Pray – true, there are special conditions for this property, as previously mentioned by her colleagues. The location of the current driveway and garage impacts the location of the proposed additional garage. The drop off behind the existing garage does not make it feasible to place the new garage there. This particular house's driveway was built very close to the lot line, which is an additional special condition, as it constrains placement of a new garage. This property is located next to a property with only a driveway abutting, which cannot be built on. This is an additional reason that the proposed location is reasonable. There is no fair and substantial relationship between the general public purposes of health, safety, and welfare that should deny the garage being built in the proposed location. The use is a reasonable one as most everyone has a garage, with some people having more garages than others.
- D. Kirkwood – true, he agreed that the evidence presented indicates that there is no fair and substantial relationship between the general public purposes of the ordinance and application of that provision to the property. The proposed use is a reasonable one. This lot indicates one area that would be reasonable to place the garage. The location will be almost invisible from Green Road and the applicant has the right to do what s/he wants with the property. Reasonable use of the property will only be possible through placing the garage in the proposed location.

4 True

The Chair stated that the application, as it passed all of the tests, is granted, as submitted.

Charlie Vars moved to exit deliberations. Jamie Ramsay seconded.

Voting: 4-0-0; motion carried unanimously.

OTHER BUSINESS:

1. Minutes: July 19, 2022 & August 16, 2022

Danielle Pray moved to approve the meeting minutes of July 19, 2022, as submitted.

Jamie Ramsay seconded.

Voting: 4-0-0; motion carried unanimously.

Danielle Pray moved to approve the meeting minutes of August 16, 2022, as submitted. Charlie Vars seconded.

Voting: 4-0-0; motion carried unanimously.

2. Any other business that may come before the Board

The Board discussed the Findings of Fact issue. Danielle Pray stated that she would like the Board to present a set of facts for each hearing, that each Board member could then base his/her vote off. Charlie Vars stated that he believed this would add a lot of time to each meeting. He

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515 stated that he believes the Board is already doing what is being required. A controversial
516 application could include additional information regarding the facts of the hearing. He does not
517 see any value of how the meeting was run this evening. Danielle Pray stated that she believes the
518 meeting this evening was run very similarly to other meetings. She believes the votes took
519 approximately the same amount of time. Charlie Vars stated that he does not enjoy this end of
520 things. Danielle Pray stated that she believes this new requirement likely placed a similar burden
521 on a lot of boards. Doug Kirkwood stated that he would like to check with Town Counsel
522 regarding the Board's interpretation of the Findings of Fact. Charlie Vars noted that the Board
523 has not had many cases taken to court. The Board could spend additional time on each aspect of
524 an application if it seems to be controversial. He does not believe anything is gained from the
525 way the meeting was run this evening. Danielle Pray noted that any case can be appealed by
526 anyone in the general public, thus the decision needs to be clear during the vote process. She
527 stated that she believes the votes this evening were perhaps voiced slightly stronger than in the
528 past. She suggested sending a copy of the minutes from this meeting to Town Counsel to see if
529 the Board's interpretation of the Findings of Fact was appropriate.

530
531 **Danielle Pray moved to adjourn the meeting at 9:40pm. Charlie Vars seconded.**
532 **Voting: 4-0-0; motion carried unanimously.**
533

534 Respectfully submitted,
535 Kristan Patenaude

536
537 Minutes approved: December 20, 2022