

**TOWN OF KIRKWOOD**  
**ZONING BOARD OF APPEALS**  
**July 15, 2019**

A Public Hearing was held on July 15, 2019 at 7:00 p.m. at the Joseph A. Griffin Town Hall, 70 Crescent Drive, Kirkwood, NY on the application of Gary and Leanna Allen regarding property located at 48 William Street in the Town of Kirkwood known as Tax Map No. 162.15-2-25 and located in a Residence Multi District, for an Area Variance to keep the existing carport over the driveway.

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

Other Present: Keegan Coughlin, Attorney  
Marc Latini, Associate 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 June 17, 2019 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 239 comments were received. Chairman Travis read the following into the record: The Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project. Chairman Travis stated there is no SEQR required because this is a Type II proceeding.

Chairman Travis opened the public hearing at 7:04 pm.

Mrs. Allen presented to the Board photos of the carport and the hardware, which is bolted to the driveway for safety purposes. The photos have pictures of the carport structure itself as well as the hardware. Mrs. Allen explained that her husband has had three heart attacks, has COPD, and only has 30% lung function and 30% heart function. He requires a break to even walk across the street to the mailbox. That was their reasoning to put this up. They put it up two years ago. Even though they have a two car garage they are unable to have vehicles in the garage because even with the doors open the fumes come into the house, since it is an attached garage, cause him problems. He also needs a covered area to be outside generally because of the sun due to his medications, steroids, etc. It helps him if it is raining to get in and out because obviously they have paraphilia that they are carrying in and out. Just for him to go across the street to their son's house he has to take a 4-wheeler or his vehicle because he can't walk that far.

Mrs. Allen went on to say they did what they thought was their due diligence in looking it up and her only other point is if possibly as far as the zoning listing it might be a little more clear to anyone else in the future that might have this issue because where it falls under accessory building, which is what they would consider this, it

says not permitted in the front yard. Most people don't consider their driveway their front yard. Maybe if it were to say the frontage of the property, something more along the lines of frontage to be a little more inclusive rather than front yard. They thought they were ok because it was the driveway.

Hearing no other comments Chairman Travis closed the public hearing at 7:06 pm.

Cyndi French asked if this was a temporary structure and you can take it down and Mrs. Allen explained yes, they can take it with them when they leave. It is bolted to the driveway for safety sake but it can be disassembled and taken if they were to move.

Cyndi French stated she is assuming that it being in the proximity of the track that it will stop some of the dirt and dust from getting into the house and Mrs. Allen stated maybe yes and maybe no. When he is inside everything has to be closed up. They even had to leave it away from the house a little bit so if a vehicle is running there is room for exhaust to escape and not go towards the house.

Ed Egan asked if it was put in by a professional contractor and Mrs. Allen stated yes.

Mike Maciak asked if there was room on the side of the house to put it and Mrs. Allen stated no because the property slopes down to the lower driveway and it would no longer assist him in getting in and out. If there was a possibility they would have done it. This was the only option. When they had it done they ordered it particularly so anything that sheds from it, only sheds on our property, not towards the street. They tried to be conscientious as possible.

Bruce Nemcek commented it is quite a unique structure but it is somewhat temporary.

Ed Egan asked if the posts were permanently in the ground and Mrs. Allen explained that everything is pinned, which you can see in the photos. It has pins and a couple of brackets also to help. If we move we can unpin it and disassemble it.

Bruce Nemcek asked since it is a temporary structure could an area variance say that it had to be removed once there is a change in ownership and Keegan Coughlin said no. Cyndi French commented it goes with the lay of the land and Keegan agreed.

Chairman Travis reviewed the area variance criteria as follows:

1. Whether benefit can be achieved by other means feasible to applicant? Board: No, not with the lay of the land. The property itself doesn't lend it to be done in any other way.
2. Undesirable change in neighborhood character or to nearby properties? Board: No.
3. Whether the request is substantial? Board: Yes. The structure is 28 X 21. Whether it is a substantial number wise yes but given the mitigating circumstance it is not primarily a huge change. The structure is approximately 15 feet from the edge of the road. It is not even with the fence line, it is back towards the house. Keegan Coughlin stated if you want to say yes it is substantial one way to mitigate that is by saying that because it is an open air side and cars are parked in the driveway anyways. That can also be made a condition.
4. Whether the request will have adverse physical or environmental effects? Board: No.
5. Whether alleged difficulty is self-created? Board: No, based on the information shared by the Allen's of their medical needs.

Keegan Coughlin recommended to the Board that if they are going to make a motion to approve this they should place some conditions on it that it stays in good repair, no sidewalls be added, and not permanent foundation be added.

Ed Egan asked if the building has had any structural problems since it was installed and Mrs. Allen stated no, it hasn't moved. It is basically to cover the driveway and shed the rain and snow. Mrs. Allen, relaying what her husband had said, stated that when he ordered it, it was designed for State parameters as far as snow, what weight it would hold.

Bruce Nemcek stated it looks very solid.

Mike Maciak asked if it had any electric and Mrs. Allen stated if he is out there in the evening he will take an extension cord out of the garage but it is not wired for electricity.

Motion by Ed Egan and second by Bruce Nemcek to grant the area variance with the following conditions:

1. Must stay in good repair.
2. No sidewalls be added.
3. No permanent foundation be added but must be adequately secured.
4. No electricity be added.

Roll Call Vote:	Mike Maciak	Yes
	Ed Egan	Yes
	Cyndi French	Yes
	Bruce Nemcek	Yes
	Chairman Travis	Yes

Motion carried.

Motion by Cyndi French and second by Ed Egan to adjourn the meeting. The meeting was adjourned at 7:22 pm.

Respectfully Submitted,

Mary Kay Sullivan, Acting Secretary  
Zoning Board of Appeals