

TOWN OF KIRKWOOD
ZONING BOARD OF APPEALS
October 17, 2022

A Zoning Board of Appeals meeting was held on October 17, 2022 at 7:00 p.m. at the Joseph A. Griffin Town Hall and via Zoom Video Conference on the application of **Kim Petrylak** regarding property located at 23 Kirkwood Avenue in the Town of Kirkwood known as Tax Map No. 178.02-3-46 and located in a Residence R Zoning District, for an Area Variance for a 22 X 20 X 8 carport at the end of the driveway.

Present: Duane Travis, Chairman
Mike Maciak, Member
Marc Latini, Member

Other Present: Keegan Coughlin, Attorney

Absent: Cyndi French, Member
Bruce Nemcek, Member

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

APPROVAL OF MINUTES:

Motion by Marc Latini and seconded by Mike Maciak to approve the minutes of the September 19, 2022 meeting as submitted. All voted in favor. Motion carried.

PUBLIC HEARING:

Chairman Travis read the notice of public hearing and commented that we have the affidavits of posting by the Town Clerk on the sign board, the affidavits of publication in the Press & Sun Bulletin and the Country Courier, and affidavits of service by mail to property owners within 500 feet. A 239 m review was filed. Broome County Department of Planning had not identified any significant countywide or inter-community impact associated with the proposed project. It is a Type II action under SEQR so an EAF is not required.

Chairman Travis opened the Public Hearing at 7:04 PM.

Gary Phelps, 1128 US Route 11, Kirkwood, asked if there was a video of the markings or lines for this project and Chairman Travis explained the owner did submit those to us. Mr. Phelps asked if anyone else could see them and Mr. Coughlin stated you are more than welcome to come up and look, which he did. It is part of the public hearing notice that anyone can come in to see them at the Code Office. It is for a carport to be built in front of the house, at the back of the driveway and will be 35 feet from the road. Mike Maciak commented it is the only place for it because everything in the back of the house slopes down. Mr. Coughlin commented town code says you can't have anything in front of the house. Mr. Phelps commented it shouldn't be a problem for site line for anyone.

Hearing no other comments, Chairman Travis closed the public hearing at 7:08 PM.

Ms. Kim Petrylak was present and presented another photo to the Board. Ms. Petrylak explained she added crusher run and moved it back to only 8 feet in front of the house.

Chairman Travis reviewed the area variance criteria with the Board:

1. Whether benefit can be achieved by other means feasible to applicant? Board: No, the lay of the land and adding crusher run and moving it back away from the road ever more.
2. Undesirable change in neighborhood character or to nearby properties? Board: No.
3. Whether the request is substantial? Board: No, there could have been an argument at 20 feet but that it is moved back as far as can be, 8 feet doesn't seem to be.
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 lay of the land.

Motion by Mike Maciak and seconded by Marc Latini to grant the area variance for 10 feet in front of the house.

Roll Call Vote:	Mike Maciak	Yes
	Marc Latini	Yes
	Chairman Travis	Yes

Motion carried.

INTERPRETATION – ANTHONY CROSBY:

Mr. Crosby was present.

Chairman Travis explained next is an interpretation on one of our zoning laws from Mr. Anthony Crosby. He is asking if he can subdivide his property, breaking it in half.

Mr. Crosby explained he would like to see if he could subdivide his property and make each one approximately 1.1 acres. It is in an ARR district and the code does require 2 acres for a legal building lot. Referring to the footnote section Mr. Coughlin stated or the most common lot size on the block in which it is located. Mr. Crosby provided a picture with his information showing what it would look like. Referring to that picture, just down the road there are 5 lots less than 2 acres. A city block is approximately 1320 ft. On the west side of the road 7 of 10 lots are under the size of what he would be looking to do.

Chairman Travis explained the definition of a block in our code is the length of street between two intersections. The two intersections would be Fox Hollow Road and Old State Road. There are 43 lots on Fox Hollow Road and of those 43 there are a few, 9, that are under the 2 acres. Not sure how those were derived. Looking at our law as written dividing that down to 1.1 acres would be creating a variance not fitting with in our code. Most properties up there are larger properties, many are 35-40 acres.

Mike Maciak asked what is the town code on the size of the lot for building a house on the other parcel and Chairman Travis stated 2 acres. Mike Maciak asked what if he built the house now on the other parcel and Mr. Keegan explained only one primary use is allowed on the parcel.

Mr. Keegan stated let's say the three of you all agreed with Duane because the definition of block you can't say that the most common lot size on the block is less than 2 acres so the interpretation would be that's not true so the 2 acres would still apply. It doesn't preclude Mr. Crosby from applying for a variance to build on a smaller lot and to subdivide, it just changes the process. He isn't automatically allowed to split it and apply for a building permit. It isn't fully closing the door.

Chairman Travis explained there are two avenues and am not sure if one of them is available to Mr. Crosby. One of them is to file for a variance to subdivide the lot and the other is to try to approach a neighbor who has about 40 acres around you to see if he would be willing to sell you a 2-acre lot. Mr. Crosby explained most of the what is available with road frontage is not buildable at all, swamp land or a creek.

Mike Maciak asked if he knew the owner that owns the 40 acres behind him and Mr. Crosby stated yes. There was a discussion of where he could possibly get the land, not just with road frontage, possibly behind his land or to the side, to get to the acres needed. He would need 1.7 acres then he could divide and would have 2 acres on both lots.

Mr. Coughlin commented if you had made the determination that the 1.1 was the average lot size then anyone up on Fox Hollow would be able to parcel out 1.1 acres anywhere, not just in Mr. Crosby's neighborhood, where there are a few more.

Motion by Marc Latini and seconded by Mike Maciak to determine that the most common lot size on the block in which the area is located on Fox Hollow Road is not less than 2 acres.

Roll Call Vote:	Mike Maciak	Yes
	Marc Latini	Yes
	Chairman Travis	Yes

Motion Carried.

Chairman Travis explained we have determined that the 2 acres is the minimum in that area and we have also given you a couple of options to look at. You can talk to Chad more on that. Mr. Coughlin stated if Chad has any question he can call me.

Motion by Mike Maciak and seconded by Marc Latini to adjourn the meeting. The meeting was adjourned at 7:26 pm.

Respectfully Submitted,

Mary Kay Sullivan, Secretary
Zoning Board of Appeals