

Final

Meeting Minutes  
Town of Ghent  
Zoning Board of Appeals  
April 14, 2021

Chairman Streeter opened the virtual meeting at 7:00 pm. Present: Board members Fern Fleckman, Jack Fenn, James Andrews, and Beth Lenahan. Also present Code Enforcement Officer/Building Inspector Chris Keefe, applicant Ian Stewart and several members of the public.

Minutes of the March 10, 2021 meeting were approved on a motion by Jack Fenn, seconded by Beth Lenahan, all voted in favor.

**Public Hearing:**

**84.-1-11 Kathryn Terpstra represented by Ian Stewart** requests an area variance from a side yard setback requirement. Chairman Streeter explains the ZBA review process stating that the application will be reviewed during a public hearing. Chairman Streeter made a motion to open the public hearing which was seconded by Jack Fenn and all voted in favor. He then asks the applicant to explain why a variance is needed.

Ian Stewart states that he needs to locate the storage container at its current location, which is 6 feet from the property line, because there are large trees in the way to place it 10 or more feet away. He also states he can't place it in another location altogether due to his property layout and that his current driveway allows access to this container. He also states that at times he needs to move this container to a project site, so he needs to be able to access it with a truck. He states he can't put in a new driveway off Waltermire Rd. due to the grade change from the road onto this property.

Chairman Streeter asked if any members of the public had comments.

A neighbor, Murdoch McBride located at 7 Waltermire Rd. stated he had sent an email earlier that day to Chris Keefe outlining his concerns. Chris had forwarded that email to ZBA members and Mr. McBride reviewed the email text. A short summary follows. He said he believes the container is permanently installed, it was placed without a permit, the area was excavated to accommodate it, the excavation left a pile of soil behind the container, recent repairs to his stone wall needed to accommodate the location of this container, this is the 6<sup>th</sup> outbuilding on the lot, and the container is unsightly and he is concerned that allowing it to remain diminishes the value of his own home. He completes his comments by stating he holds his neighbor in high regard, but the detrimental impact of this storage container creates a burden and he is hopeful an alternative solution can be reached.

Another neighbor Susan D Ortabas located at 11 Waltermire Rd. asked if this was a commercial use of a structure. The applicant stated he stores tools and equipment that he uses for his work. Chris Keefe states that a commercial use designation is not applied to how the structure is used in this instance. The Town allows this as an accessory structure subject to an approved permit.

At this point the public hearing was closed and some discussion among Board members took place. Chairman Streeter then noticed that two additional callers had not been let into the Zoom meeting. He

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admitted them to the meeting, explained what had transpired and asked for a motion to reopen the public hearing, which was approved.

Chairman Streeter reviewed the discussions that had ensued for the new attendees and asked the ZBA members to add additional information or correct any errors in his summary. He then asked the new attendees if they had any questions or comments and neither had any.

A second motion was made and approved to close the public hearing.

Discussion then took place among the Board members. During the prior meeting Fern Fleckman asked why 6 months has passed from the original letter sent to the property owner, to when the application was received. Chris Keefe, who was not at the prior meeting, stated that many discussions had taken place with the applicant during that time frame and eventually it was determined that the applicant would need to apply for a permit and an Area Variance.

There was discussion regarding whether this container was or should be considered a structure; regarding its appearance including its color; and regarding the location of the structure on the property. Several questions were directed to Chris who stated he understood the questions but that his determination was made based on what is allowed in the Town code which is stated in his August 10, 2020 letter to the applicant.

Chairman Streeter asked the applicant if he wanted the Board to vote on this application tonight or if he wanted to take another 30 days to discuss any issues raised by his neighbors and consider other alternatives to having this container on his property. Ian stated he formerly stored his equipment in a rented self-storage unit (remotely located) but that he could no longer afford to do that, and the purchase of this unit is now saving him money. He stated he was surprised to hear these complaints from his neighbor as they had not been raised before and he doesn't see the need to extend this for another 30 days.

Chairman Streeter then asked the members if they would approve this application if appropriate and reasonable conditions were established stating if three or more members were inclined not to vote in favor, the Board could bring it to a vote thus saving time on discussion of the conditions. All members agreed that the conditions needed to be discussed and understood before they could vote.

The members agreed that trees needed to be planted to obstruct the view to the greatest extent possible and that a deadline for planting needed to be established. While the color and appearance were discussed at length, the members agreed that both color and appearance were subjective, based on one's personal taste and therefore it was agreed that no conditions would be established for these two items.

Chairman Streeter reminded the board that while their concerns were understood, the board's role was to evaluate the difference between a 10-foot set back and a 6-foot set back and to evaluate that change against the five criteria in 190-58 E. He also stated that by establishing reasonable conditions, as allowed by 190-58 some of the concerns of the neighbors could be mitigated. However, if the variance was not approved, the applicant could move this container to some other location on the property and the concerns expressed by the neighbors would not be mitigated.

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Chairman Streeter begins with his findings of facts and states he does not believe any undesirable change will be produced to the character of the neighborhood by granting a 6-foot set back instead of meeting the 10 foot set back and that with the proper conditions, complaints from two neighbors would be partially mitigated. He does not believe the benefit sought by the applicant can be achieved by some other method and he also stated that this request was less than the 50% rule of thumb that the board typically uses to evaluate an area variance. He stated there will not be a detriment to the physical or environmental conditions and that there will not be any detriment to the neighborhood. And while he does believe this was self-created, he would vote to approve if the applicant agreed to the conditions.

James Andrews agreed with those findings of fact although he does not believe this is a structure nor should it be considered a structure by the zoning code.

Fern Fleckman agreed with those findings although she believes approving a 4-foot variance in a 10-foot setback will have an undesirable change and be a detriment to nearby properties as the property owners expressed their concerns. She noted, that while we often use a 50% rule of thumb, there is a difference between 50% of 100 and 50% of 10 in a setback. She also agreed with the concerns addressed by her fellow board members.

Beth Lenahan Agreed with those findings although she was concerned that the erosion from the excavation and soil pile may have an adverse effect and impact the physical or environmental conditions in the neighborhood and that the benefit to the applicant could be achieved by some other method.

Jack Fenn agreed with those findings although he was concerned that the containers appearance will have an undesirable change in the character of the neighborhood.

A motion was made by James Andrews and seconded by Jack Fenn to approve the Area Variance for a 6-foot side yard setback with the following conditions. To provide a visual screen of the storage container, applicant will plant 6, six-foot tall evergreen trees, 6 feet on-center between the storage container and the property boundary to the west. Applicant will plant 3, 3-foot tall white cedar trees equally spaced along the back of the storage container. These trees are to be planted within 60 days of April 14, or by June 13, 2021. Once planted, the applicant will contact the Ghent Code Enforcement Officer to confirm these conditions have been met. All voted in favor.

Meeting was adjourned at 8:30 pm.

Respectfully submitted  
Lewis Streeter, Chairman