

Onekama Township Zoning Board of Appeals

August 18, 2021—Meeting Minutes

7:00 pm—Onekama Township Fire Hall

Meeting called to order at 7:00 pm by Chair Pomaranski.

In attendance: Chair Jim Pomaranski, Member Judy Spohn, Alternate Member Dave Wallace. Guests: Applicants—members of the Cook family, Richard Wilson—attorney for the Cook family. Kristyn Houle—attorney for the Marty family, Katie Mehl—Manistee County Planning & Zoning Department, and Mike Szokola—Planning Director for County Planning & Zoning Department. The meeting was well attended by members of the general public.

The purpose of the meeting is to review and issue a decision on the four variance requests made by the Cook family for construction of a home and garage on their property within the RR3 residential zoning district.

Motion to approve meeting agenda as presented by Member Spohn, 2nd by Member Wallace. **AIF, motion carries.**

There are no previous meeting minutes to approve, as they were already approved previously.

Public comment on today's agenda: none

Public hearing portion of the meeting started at 7:05 pm.

Written correspondence—Member Spohn

10 letters have been received since the previous Variance meeting. All were opposed to granting the requested variances due to concerns regarding public safety, environmental impact, size of proposed dwelling, and a negative impact on future zoning enforcement. One letter received was from a previous ZBA Member in Ohio who stated "if this appeal was brought before our Board we would have turned it down without question because of the precedent it would set."

Applicant presentation—Richard Wilson, attorney for the Cook family

--This proposed home and garage do not present a safety hazard any more than any other house in the neighborhood. How is a single car garage more dangerous to public safety than a large parking lot allowed to be constructed next door?

--Impact on the lake will be negligible. There will be adequate permeable surfaces and we will comply with all floodplain and erosion requirements.

--Granting these three variances will not impact future zoning enforcement. Each variance is granted on its own merit. Granting of a variance does not create legal precedent in terms of zoning.

--Listing of the variances being requested:

- 1) The dwelling to be placed within 20' of the waters edge and a front setback of 16'.
- 2) The dwelling to be placed with a rear setback of 8' 10".
- 3) The dwelling to be placed with a north setback of 8'.
- 4) The property to have an impervious surface calculation that exceeds the allowed 35%.

--The Township ordinance sets conditions upon which variances can be granted.

1) Special conditions existing on the property—lot as platted is substandard in size, and there is a misaligned public road that goes through the property, occupying approximately 40% of the original lot. Size of the lot as a whole is approximately 8,000 sq ft.

2) The applicant can't be seeking rights not commonly enjoyed by others in the district. We are only seeking the right to construct a single family dwelling on the property, which is a permitted use in the RR3 zoning district, and which the other owners in the district enjoy.

3) The hardship is not self-created. The Cooks are not responsible for either the original size of the platted lot or the location of Portage Point Drive, both of which predate their ownership of this property by many years. The fact that the Cooks had prior knowledge of the size of the parcel and the location of the road does not make this a self-created hardship.

4) The variance must still preserve the nature and character of the neighborhood. We believe the central nature of the neighborhood is a single family dwelling on a parcel, which is what we are wanting to construct. There are architectural features in the proposed plan that tie it into the neighboring properties so that it carries forward early 20th century style.

5) We are not relying on previously granted variances as precedent for the granting of ours.

There is a provision in the ordinances which requires the structure has to be 20' in width throughout its core living area and 800 sq ft in the ground floor living space. If we meet that provision, that structure cannot be sited on that property given the setback requirements without the granting of a variance.

There is no other currently permitted use for this property. Even a boat dock must be an accessory to a dwelling. Therefore, there is no reasonable use that can be exercised with this parcel without granting a variance, making this property worthless. "Reasonable use" means more than just a vacant lot with access to the water.

Ordinance requires percentage of impervious surfaces. Our calculations, not including the portion of the road, show that we come in under the 35% limit.

(Chair Pomaranski suggests the road surface should be included in the calculations whether the Cooks own the road or not, which would put the impervious surface at approximately 47%. Planner Katie Mehl offered two different percentage calculations depending on the road inclusion or not.)

We believe we have met the special circumstances required to grant a variance and that we meet the intent of the ordinances governing this district.

Chair Pomaranski expressed concern regarding virgin material being excavated in the building process. The setback requirements are a buffer intended to protect the health of the lake from negative run off. You're asking that we lose a full half of this filtering medium. Changing waterside setbacks are a huge environmental concern, and changing roadside setbacks is a huge safety concern. This would create an "error likely situation."

Zoning Administrator comments—Katie Mehl:

The Township can put stipulations regarding drain field, septic system, and impervious surface calculations on the granting of variances as a condition of approval.

Public Comment:

1) The Planning Commission is looking at amending the ordinance to no longer require docks to be an accessory structure to a primary dwelling, so this increases what the Cooks will be able to do with this parcel. The proposed garage will stop traffic from coming through safely.

2) The setbacks they're asking for are "extreme with no justification for the size of this house." That parcel has historically been used as a way to enjoy the lake, which is a reasonable use of the parcel. And there is no room on this property to site a septic system.

(Mr. Wilson added they have an amended license agreement to allow siting of the septic system on the other side of the road. Katie Mehl stated that well and septic licenses must be in place before a land use permit can be granted.)

3) An immediate neighbor stated she believes her beach lot, which has higher property taxes than her dwelling lot, would be devalued if this home were built. She would then expect the township to decrease her levied property taxes.

Also, the Cooks, people, and toys have been over there using that lot all summer long, recreationally, as that lot is intended.

4) We are opposed for several reasons:

--"Build what you can. Build what is legal and what is right."

--We are concerned about the environment and water quality.

--"They knew it was a small lot when they bought it. Live within the boundaries and don't come asking for a bunch of variances."

5) Concern about the effect on the watershed.

6) Kristyn Houle—attorney for the Marty family

--Granting of variances should be a rare occurrence. The ZBA acts as a lever to ensure there are few granted. The Township Ordinance 9603 C requires that the minimal possible variances be granted. Setbacks are in place to protect property values, protect the environment, to provide safety for the traveling public.

--Ordinance 9603 A1 requires the applicant to prove that their lot is "plagued by special conditions and that these special conditions do not apply to any other lands in the same district." All those lots along the plat are impacted in the same way so this is not a special condition that only applies to the Cooks.

--Ordinance 8001 says that a non-conforming use is allowed to continue until it is discontinued. In this case, they have the right to use the lot as they have for 56 years. They can continue to use their dock.

--Ordinance 4202 B grants them the right to use the lot as a private non-commercial recreation area.

--This is a large safety problem because of people crossing the road to get to the lake, as well as people driving along the road because of diminished sight lines.

--The ZBA can't grant a variance for a dwelling that can't be there without a septic system. Under Ordinance 1006 it is required that for a dwelling to be built there must be an adequate septic system on the site plan. They don't have that included, nor do they have the right to build one anywhere. Even if the Road Commission granted them the right to build their septic system on the platted Avenue A, because that's considered a public road, all other residents along the road would have to agree to allow the Cooks to build their septic system there.

--The way that lot has been used for 56 years, today the value of that lot is \$288,400. Not being able to build on this lot does not negate the value of the lot.

7) Attorney Wilson—attorney for the Cook family:

--Denying this variance request is not going to improve the safety of the public. Without the garage there is no limit to the number of cars that can be put there. Having a home there with a single car garage would limit the number of cars that may be there.

--Onkama Township has already defined reasonable uses of property. The first one is as a dwelling (Ordinance 4202 A).

--We will adhere to reasonable conditions and stipulations regarding protecting water quality.

--We can't build anything "legal and right" on this property based on its size and existing ordinances.

--We have nothing legal in writing confirms the dock on this lot constitutes non-conforming use.

--We will plan to install septic and drain field and well that meets all requirements of the code or we won't be able to proceed.

--We believe the location of Portage Point Drive and the substandard size of the lot are special conditions that meet the requirements of Michigan law.

- 8) Common sense says this lot is too small to build on. If the ZBA grants this variance it'll be a tragedy to the community.
- 9) One boat dock for private use is a valid use of the property.
- 10) If you grant them the ok to build a house what would stop all other owners from building a seawall and backfilling it to provide more land to build on?

Public hearing portion of the meeting is closed at 8:23 pm.

Business section:

New business:

The ZBA used the Onekama Township Zoning Ordinance Section 9603 - Finding of Fact Justification - to evaluate the variance requests. Due to the fact that there were multiple variance requests, the ZBA used the "Finding of Facts Justification" worksheets to carefully consider each variance against the standards set forth in Section 9630. Attached to these minutes are copies of the worksheet used for each variance request. As previously stated, the variances to be determined are:

- 1) The dwelling to be placed within 20' of the waters edge and a front setback of 16'.
- 2) The dwelling to be to be placed with a rear setback of 8' 10".
- 3) The dwelling to be placed with a north setback of 8'.
- 4) The property to have an impervious surfact calculation that exceeds the allowed 35%>

There was discussion as to whether the square footage of the road crossing the property be included in the calculations to determine percentage of impervious surface. No motion was made on this issue, therefore the calculation which yielded a surface calculation of 34.99% will be accepted.

ZBA to address variance request:

Chair Pomaranski: The ZBA understands a motion to deny is a declaration that the request failed to meet one or more of the requirements or standards of the Zoning Ordinance.

Motion: After some discussion, a motion to deny the variance requests was made by Member Spohn and seconded by member Wallace. Further discussion followed and the Chairman called for the question. The vote of ZBA members was in favor of the motion, a unanimous vote of 3 – 0. The variance requests were denied.

Old business: None

Public Comment:

Attorney Wilson—We are disappointed that reasonable allowances, stipulations, and ideas were not even considered for discussion.

Motion to adjourn by Chair Pomaranski, 2nd by Member Wallace. AIF. Meeting adjourned at 9:11 pm.

J. POMARANSKI - J. Pomaranski P.E. 8/25/21
JUDITH SPOHN Judith Spohn 8/25/21
DAVID WALLACE David Wallace 8/25/2021

Submitted by Michelle Swanson,

Recording Secretary

1. The dwelling to be placed within 20' of the waters' edge and a front setback of 16'.

Variances - Finding of Fact Justification

Applicant Information
Name: <u>J. Andrew & Barbara Cook</u> Address: <u>17435 Tiller Court Westfield, IN 46074</u>
Property Information
Address: <u>S Portage Point Drive</u> Parcel #: <u>51-11-410-055-00</u> Appeal Docket #: <u>01-2021</u>
The following text is pulled directly from Section 9603 of the Onekama Township Zoning Ordinance and should be used by the ZBA members to make final determinations on any variance request.
9603 – Variances
A survey of the subject parcel by a licensed surveyor is required to be included with all applications for a variance. A variance from the terms of the Ordinance shall not be granted by the Board of Appeals unless and until:
A. A written application for a variance is submitted demonstrating:
1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
Justification: The ZBA found that no special conditions or circumstances were peculiar to the land involved which were not applicable to other lands in the same district. Onekama Township Plat Maps and letters from parcel owners in the same district included in the Record as well as observation by ZBA members confirm that neighboring parcels are nonconforming (small) and that constructed Avenue A bisects these parcels. Setbacks are very important and the applicant is asking to eliminate most all of them.
ZBA vote: NO
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
Justification: The ZBA found that literal interpretation of the provision of this Ordinance

would not deprive the applicant of rights commonly enjoyed by other property owners in this district under the terms of this Ordinance. If the damage happens, it's too late for the lake. If you have to call EGLE, it's too late (for the lake). The nonconforming parcels on the east side of Portage Point Drive south of the Cook parcel are all used for lake access. The Cooks have used their parcel for lake access for the sixteen years they have owned it. See letters from parcel owners in the Record.

ZBA vote: NO

3. That the special conditions and circumstances do not result from the actions of the applicant.

Justification:

The ZBA found that the special conditions and circumstances do not result from the applicant. The same special conditions and circumstances of other non-conforming parcels on the east side of Portage Point Drive south of the Cook parcel do not result from the parcel owners.

ZBA vote: YES

4. That granting the variance will not alter the essential character of the area.

Justification:

The ZBA found that granting the variance would alter the essential character of the area. The placement of a 2,200+ sf dwelling with attached garage on a significantly nonconforming lot is not in keeping with the essential character of the area. The Portage Point neighborhood is made up of modest historic homes and cottages. See Kristyn J. Houle letter dtd 5/23/2021 and letters from parcel owners in the same district in the Record.

ZBA vote: NO

5. That no nonconforming use of neighboring lands, structures, or buildings, in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

Justification:

The ZBA found that no nonconforming use of neighboring lands, structures or buildings, in the same district, and no permitted use of lands, structures or buildings in other districts would be grounds for the issuance of this variance.

ZBA vote: YES

B. The Board of Appeals shall make findings that the requirements of this Ordinance have been met by the application for the variance.

ZBA vote: NO

The requested variance is a 50% reduction of the required setback and to ignore the setback requirement would create an undesirable precedent going forward.

No one individual parcel owner should be relieved of hardships that are shared by many, if not all, of the parcel owners in the district.

C. The Board of Appeals shall further make findings that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

ZBA vote: NO

The ZBA found that the reasons set forth do not justify the variance and clearly it is not the minimum variance necessary to make possible the reasonable use of the land. See the Record and A 1-4 above.

D. The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of the Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

ZBA vote: NO

The ZBA found that granting the variance would not be in harmony with the Ordinance. The 40' buffer zone around Portage Lake is extremely critical to ensuring water protection. Pursuant to *Protecting Michigan's Inland Lakes – A Guide for Local Governments* that is included in the Record, "one of the most effective ways to protect inland lakes, streams, and wetlands is to require minimum setbacks with the maintenance and development of an undisturbed buffer of native vegetation within a certain distance from specified natural features". The Onkama Township Permanent Zoning Ordinance of 1991, Article 1, Section 102. Purpose: states "A. To promote the health, safety, and general welfare. B. To encourage the use of lands and water in accordance with their character and capabilities and to limit the improper use of the land and water. E. To ensure that uses of the land and water shall be appropriate for the area in which the uses are located. M. To prevent economic and ecological damages due to unwise development within the environmental areas and to prevent the degradation of the shore lands." See letters of parcel owners in the district included in the Record

E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with the Ordinance and including requirements for buffering between uses by landscaping, vegetation or other similar methods. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 9803 of this Ordinance.

Not applicable to this case.

F. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Not applicable to this case.

Name (printed) S. POMARANSKI Samuel P.E. Date 8/25/21

Name (printed) JUDITH SPOHN Judith Spohn Date 8/25/21

Name (printed) DAVID WALLACE David Wallace Date 8/25/2021

2. The dwelling to be placed with a rear setback of 8' 10".

Variances - Finding of Fact Justification

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A. A written application for a variance is submitted demonstrating:
1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
Justification: The ZBA found that no special conditions or circumstances were peculiar to the land involved which were not applicable to other lands in the same district. Setbacks are, among other things, for public safety and for emergency services vehicle access. Onekama Township Plat Maps and letters from parcel owners in the same district included in the Record as well as observation by ZBA members confirm that neighboring parcels are nonconforming (small) and that constructed Avenue A bisects these parcels.
ZBA vote: NO
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

Justification:

The ZBA found that literal interpretation of the provisions of this Ordinance would not deprive the applicant of rights commonly enjoyed by other property owners in this district under the terms of this Ordinance. The nonconforming parcels on the east side of Portage Point Drive south of the Cook parcel are all used for lake access. The Cooks have used their parcel for lake access for the sixteen years they have owned it. Of great concern is the safety factor of such a small setback with a garage opening onto a narrow road that has a high volume of vehicle, pedestrian and bicycle traffic during the summer season. See letters from parcel owners in the Record.

ZBA vote: NO

3. That the special conditions and circumstances do not result from the actions of the applicant.

Justification:

The ZBA found that the special conditions and circumstances do not result from the applicant. The same special conditions and circumstances of other non-conforming parcels on the east side of Portage Point Drive south of the Cook parcel did not result from the parcel owners

ZBA vote: YES

4. That granting the variance will not alter the essential character of the area.

Justification:

The ZBA found that granting the variance would alter the essential character of the area. The placement of a 2,200 sf + dwelling with attached garage on a significantly nonconforming lot is not in keeping with the character of the area. The Portage Point neighborhood is made up of modest historic homes and cottages. See Kristyn J. Houle letter dtd 5/23/2021 and letters from parcel owners in the same district in the Record.

ZBA vote: NO

5. That no nonconforming use of neighboring lands, structures, or buildings, in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

Justification:

The ZBA found that no nonconforming use of neighboring lands, structures or buildings, in the same district, and no permitted use of lands, structures or buildings in other districts would be grounds for the issuance of this variance.

ZBA vote: YES

B. The Board of Appeals shall make findings that the requirements of this Ordinance have been met by the application for the variance.

ZBA vote: NO

The ZBA found that the requirements of this Ordinance have not been met by the applicant for a variance. The requested variance is a significant reduction of the required setback. To ignore the setback requirements would create an undesirable precedent going forward. No one individual parcel owner should be relieved of hardships that are shared by many, if not all, of the parcel owners in the district.

C. The Board of Appeals shall further make findings that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

ZBA vote: NO

The ZBA found that the reasons set forth do not justify the variance and clearly it is not the minimum variance necessary to make possible the reasonable use of the land. See the Record and A 1-4 above.

D. The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of the Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

ZBA vote: NO

The ZBA found that the granting of the variance would not be in harmony with the general purpose and intent of this Ordinance, and will be injurious to the neighborhood, or otherwise detrimental to the public welfare. The 25' rear setback is extremely critical for public welfare and safety. To compromise this setback would completely undermine the intent, spirit and purpose of the Onekama Township Master Plan and the Preamble of the Onekama Township Zoning Ordinance. (See exhibits). Avenue A (Portage Point Road) is heavily traveled by pedestrians and bicyclists as they make their way to Lake Michigan at Onekama Township's Langland Park. A truck in this driveway would "hang out" onto Avenue A (Portage Point Road). This creates serious safety concerns. Granting this variance could compromise emergency vehicles entering and exiting this south portion of Avenue A. See parcel owner letters in the Record.

E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with the Ordinance and including requirements for buffering between uses by landscaping, vegetation or other

similar methods. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 9803 of this Ordinance.

Not applicable to this case.

F. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Not applicable to this case.

Name (printed) S. POMARANSKI  P.E. Date 8/25/21

Name (printed) JUDITH SPORN  Date 8/25/21

Name (printed) DAVID WALLACE  Date 8/25/2021

3.The dwelling to be placed with a north setback of 8’.

Variances - Finding of Fact Justification

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A. A written application is submitted demonstrating:
1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
Justification: The ZBA found that no special conditions or circumstances were peculiar to the land involved which were not applicable to other lands in the same district. Onekama Township Plat Maps and letters from parcel owners in the same district included in the Record as well as observation by ZBA members confirm that neighboring parcels are nonconforming (small) and that constructed Avenue A bisects these parcels.
ZBA vote: NO
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
Justification: The ZBA found that literal interpretation of the provisions of this Ordinance would not deprive the applicant of rights commonly enjoyed by other property

owners in this district under the terms of this Ordinance. The nonconforming parcels on the east side of Portage Point Drive south of the Cook parcel are all used for lake access. The Cooks have used their parcel for lake access for the sixteen years they have owned it. See letters from parcel owners in the Record.

ZBA vote: NO

3. That the special conditions and circumstances do not result from the actions of the applicant.

Justification:

The ZBA found that the special conditions and circumstances do not result from the applicant. It was noted that the same special conditions and circumstances of other non-conforming parcels on the east side of Portage Point Drive south of the Cook parcel did not result from the parcel owners

ZBA vote: YES

4. That granting the variance will not alter the essential character of the area.

Justification:

The ZBA found that granting the variance would alter the essential character of the area. The Portage Point neighborhood is made up of modest historic homes and cottages. The placement of a 2,200+ dwelling with attached garage was not in keeping with the character of the area. After the first variance case was submitted (and subsequently withdrawn), the property owner made no effort to adapt the structure design to reasonably comply with the setback. It was and is too large for the lot. See Kristyn J. Houle letter dtd 5/23/2021 and letters from parcel owners in the Record.

ZBA vote: NO

5. That no nonconforming use of neighboring lands, structures, or buildings, in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

Justification:

The ZBA found that no nonconforming use of neighboring lands, structures or buildings, in the same district, and no permitted use of lands, structures or buildings in other districts would be grounds for the issuance of this variance.

ZBA vote: YES

B. The Board of Appeals shall make findings that the requirements of this Ordinance have been met by the application for the variance.

ZBA vote: NO

The requested variance is a 20% reduction of the required setback and to ignore the setback requirements would create an undesirable precedent going forward.

C. The Board of Appeals shall further make findings that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

ZBA vote: NO

See A 1-4 above.

D. The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of the Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. The ZBA could not make findings that the proposed structure would not be injurious to the neighborhood or detrimental to the public welfare in the district.

ZBA vote: NO

See other parcel owners' letters in the Record.

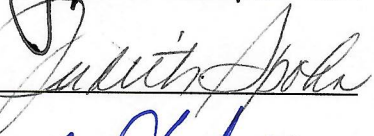
E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with the Ordinance and including requirements for buffering between uses by landscaping, vegetation or other similar methods. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 9803 of this Ordinance.

Not applicable to this case.

F. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Not applicable in this case.

Name (printed) S. POMARANSKI  P.E. Date 8/25/21

Name (printed) JUDITH SPOHN  Date 8/25/21

Name (printed) DAVID WALLACE  Date 8/25/2021

4. The property to have an impervious surface calculation that exceeds the allowed 35%.

A variance to the Ordinance was not originally submitted by the applicant. A difference of opinion occurred between the Applicant and the Zoning Administrator as to whether or not the square footage (+/- 1520 sf) of constructed Avenue A (Portage Point Road) which bisects the parcel should be included in the impervious surface calculation. The ZBA requested and heard arguments from the Applicant and the Zoning Administrator. If the square footage of Avenue A (Portage Point Road) was included in the calculation, the impervious surface would be greater than 45%. In the end, the ZBA remained divided on this issue by a 2 to 1 margin and the request for a variance to the impervious service Ordinance was dropped.

Name (printed) J. POMARANSKI J. Pomanski, P.E. Date 8/25/21

Name (printed) JUDITH SPORN Judith Sporn Date 8/25/21

Name (printed) DAVID WALLACE David Wallace Date 8/25/2021