



Memorandum

Zoning Board of Appeals

TO: Mayor Randy Casale and Members of the City of Beacon City Council
Planning Board Chairman Gunn and Planning Board Members

FROM: Zoning Board of Appeals Chairman Lanier and Zoning Board Members

RE: Advisory Opinion
23-28 Creek Drive
Applicant: 23-28 Creek Drive, LLC

DATE: September 20, 2019

At its July 16, 2019, August 20, 2019 and September 17, 2019 meetings, the Zoning Board of Appeals (“ZBA”) reviewed an application by 23-28 Creek Drive, LLC (the “Applicant”) for (1) a variance of 20 parking spaces, where 113 parking spaces are required pursuant to City Code § 223-26.F and 93 parking spaces are proposed; (2) a 750 square foot variance for two apartment units, where the maximum permitted dwelling unit size is 2,000 square feet pursuant to City Code § 223-41.14.C and two apartment units are proposed to be 2,750 square feet; (3) a one story height variance, where the maximum permitted building height is three stories pursuant to City Code § 223-41.14.F and the proposed building height is four stories; and (4) a 13 foot 4 inch building height variance where the maximum permitted building height is 40 feet pursuant to City Code § 41.14.F and the proposed building height is 53 feet-4 inches, in connection with the Applicant’s proposal to construct a mixed use development with eight apartments and 20,000 square feet of commercial space, on property located at 23-28 Creek Drive in the Fishkill Creek Development (“FCD”) Zoning District (the “Property”). On September 17, 2019, the ZBA granted the above-referenced variances.

Of the 113 parking spaces, thirteen (13) parking spaces are required for the eight (8) residential units and 100 are required for the commercial use. The ZBA recognized that the office spaces are likely to be vacant on weekends and therefore the ZBA also discussed the possibility of the site being used for public parking on the weekends. To further the opportunity for public parking on the Property, the ZBA adopted the following condition: “The Applicant is encouraged to consider allowing shared weekend parking to the general public on at least a portion of the Property, as a majority of the sites off-street parking spaces are not otherwise anticipated to be used during the weekend.” The ZBA wrote the condition as a recommendation and not as a required mitigation measure because this Board does not have the legal authority to

do so as such condition does not minimize any adverse impacts on the neighborhood or community resulting from the Applicant's variance for twenty (20) parking spaces. It is therefore beyond the authority of the Zoning Board to mandate such a requirement.

Additionally, in connection with the Applicant's variance request of twenty (20) parking spaces, Members considered the following condition to minimize any adverse impacts on the neighborhood or community resulting from grant of the variance: "To allow for shared parking between the residential use and commercial use, the Applicant shall not reserve parking for residents from 9 a.m. to 5 p.m. Monday-Friday, or during the office hours of the commercial tenant." A lengthy discussion took place regarding the potential unintended consequences of such a condition. The ZBA Members discussed their concern that not all residents will work from 9 a.m. to 5 p.m. and concluded that residents should be able to have a spot on the Property to park their car during business hours. In addition, the traffic studies prepared indicate that the site includes sufficient parking to accommodate the number of employees. The Fishkill Creek Development Zone relies on general parking standards, while similar mixed uses in the adjacent Linkage and CMS Zoning Districts would require far fewer spaces. After careful consideration, Members voted to remove this condition from the final Resolution. A copy of the ZBA's Resolution and the Applicant's Site Plan are attached.

The ZBA submits this memorandum to recommend the City Council or Planning Board consider requiring the Applicant provide general public parking on at least a portion of the Property on weekends. The ZBA believes such a condition will benefit the community as a whole and possibly alleviate parking issues on Main Street. As always, the final decision will be based on your review of the application, but the ZBA felt the aforementioned condition should be offered as an advisory viewpoint.