

**Zoning Board of Appeals
April 18, 2017**

The Zoning Board of Appeals met for a scheduled meeting on Tuesday, April 18, 2017 at 7:00 p.m. in the Municipal Center courtroom, One Municipal Plaza, Beacon, New York. Chairman Jack Dunne and Members Neil Sullivan, Robert Lanier, Jordan Haug and Judy Smith; Deputy Building Inspector Dave Buckley; and City Attorney Ed Phillips were present.

Mr. Dunne outlined the format of the Board's proceedings for the benefit of the public. He noted all members were present and three votes would be needed to take action on a variance request. The meeting was then opened on a motion made by Ms. Smith, seconded by Mr. Lanier. All voted in favor. Motion carried.

Mr. Dunne called for corrections/additions or a motion to approve the minutes of the March 21, 2017 meeting. Mr. Lanier made a motion to approve the minutes of the March 21, 2017 meeting as presented, seconded by Mr. Sullivan. All voted in favor. Motion carried.

ITEM NO. 1 APPLICATION SUBMITTED BY SUSAN WISNIEWSKI, 158 NORTH WALNUT STREET, TAX GRID NO. 30-6055-77-022114-00, R1-7.5 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-13(G)(1) FOR AN 8 FT. HIGH FENCE ALONG A PORTION OF THE SOUTHERLY PROPERTY LINE (6 FT. HIGH MAXIMUM PERMITTED)

The public hearing on the application submitted by Susan Wisniewski, 158 North Walnut Street, for relief from Section 223-13(G)(1) for an 8 ft. high fence along a portion of the southerly property line (6 ft. high maximum permitted) was opened on a motion made by Mr. Sullivan, seconded by Mr. Lanier.

Ms. Wisniewski explained that her house is approximately 15' from the property line and the adjacent house is a rental. The neighbors when on their deck can see over her 6 ft. fence into her yard and she is requesting an 8 ft. fence to have privacy. Mr. Dunne explained that an 8 ft. fence has never been granted and felt it set precedence if granted.

Mr. Dunne opened the floor for the public to comment however no one wished to speak. Ms. Smith made a motion to close the public hearing, seconded by Mr. Lanier. All in favor.

The Planning Board reviewed the Zoning Board of Appeals application and offered an advisory opinion. Planning Board members felt a 6 ft. fence would provide adequate privacy and that an 8 ft. fence would appear out of place in relatively consistent neighborhood therefore recommended the request be denied.

After a detailed review of the draft resolution and careful consideration, Ms. Smith made a motion to deny the variance as requested, seconded by Mr. Lanier. All voted in favor of denial with the exception of Mr. Haug who voted against the motion. Motion carried 4-1. Variance denied.

ITEM NO. 2 APPLICATION SUBMITTED BY LAUREN MAGARELLI, 89 DEWINDT STREET, TAX GRID NO. 30-5954-36-888838-00, LOCATED IN THE R1-5 ZONING DISTRICT, FOR AN INTERPRETATION AS PROVIDED IN SECTION 223.10(C)(3) TO ADD TWO ROOMS FOR PRIVATE INSTRUCTION AND MASSAGE THERAPY IN ADDITION TO THE EXISTING OFFICE SPACE AND YOGA STUDIO (THE NON-CONFORMING USE OF A BUILDING MAY BE CHANGED ONLY TO A USE OF LESS NON-CONFORMITY AS DETERMINED BY THE ZONING BOARD OF APPEALS)

The public hearing on the application submitted by Lauren Magarelli, 89 DeWindt Street for an interpretation as provided in Section 223.10(C)(3) to add two rooms for private instruction and massage therapy in addition to the existing office space and yoga studio (the non-conforming use of a building may be changed only to a use of less non-conformity as determined by the Zoning Board of Appeals) was opened on a motion made by Mr. Sullivan, seconded by Mr. Haug.

Ms. Magarelli would like to offer services to her clients such as body work that would be private consultations (massage, etc.). Ms. Magarelli would like to partition off some walls within footprint of the building that is currently being used as storage space. Mr. Dunne opened the floor for the public to comment.

Evey Trautman, 8 Belleford Lane, feels the expanded use of body work will be a great addition to the Yoga studio.

Steve Boyd, 17 South Cedar Street, says the yoga studio is amazingly non-intrusive that the parking problems on the street are not related to the yoga studio. There is congestion on the street but it is from an apartment building on street not from the yoga studio. He has no objection to their proposal.

Trish Rothberg, 16 Tompkins Avenue, what Lauren has done is beautiful and wonderful it is a great addition to our town.

Jim Korn, 19 South Brett Street, would like to know if the hours of operation would be increased, Lauren addressed the issue and stated nothing is going to change the hours would not go earlier or later. Jim just wanted to add that the yoga studio has been thus far a good neighbor.

Steve Kidder, 34 South Chestnut, is in favor of the variance and what is being proposed is on a one on one basis.

City Attorney Ed Phillips added that planning board considered it and did not have an opinion one way or another. Mr. Haug made a motion to close the public hearing, seconded by Mr. Lanier. All in favor. Motion carried 5-0. Variance granted.

ITEM NO. 3 APPLICATION SUBMITTED BY MICHAEL & STEPHANIE MORA, 478 SOUTH AVENUE, TAX GRID NO. 30-5954-16-777351-00, LOCATED IN THE R1-40 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-17(C) TO CONSTRUCT A COVERED FRONT PORCH WITH A 12 FT. FRONT YARD SETBACK (50 FT. REQUIRED) AND A 0 (ZERO) FT. SIDE YARD SETBACK (25 FT. REQUIRED)

The public hearing on the application submitted by Michael & Stephanie Mora, 478 South Avenue seeking relief from Section 223-17(C) to construct a covered front porch with a 12 ft. front yard setback (50 ft. required) and a 0 (zero) ft. side yard setback (25 ft. required) was opened on a motion made by Mr. Lanier, seconded by Mr. Haug. All voted in favor. Motion carried.

Mr. Mora stated that he would like to add a roof to the existing uncovered patio. Mr. Mora also stated the adjacent property is also owned by him.

Mr. Dunne opened the floor for the public to comment however no one wished to speak. Mr. Sullivan made a motion to close the public hearing, seconded by Mr. Lanier. All in favor.

After a detailed review of the draft resolution and careful consideration, Mr. Lanier made a motion to grant the variance as requested, seconded by Mr. Haug. All in favor. Motion carried 5-0. Variance granted.

ITEM NO. 4 APPLICATION SUBMITTED BY MARVIN BENJAMIN JUNGE, 14 CATHERINE STREET, TAX GRID NO. 30-5954-35-863850-00, LOCATED IN THE R1-5 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 226-26(C)(1) TO CREATE OFF-STREET PARKING IN THE REQUIRED FRONT YARD

The public hearing on the application submitted by Marvin Benjamin Junge, 14 Catherine Street, seeking relief from Section 226-26(C)(1) to create off-street parking in the required front yard was opened on a motion made by Mr. Haug, seconded by Lanier. All voted in favor. Motion carried.

Mr. Junge explained that he does not have a driveway and could put a driveway in the side yard without a variance which would require paving more of his property. Mr. Junge stated he would not like to do that because he likes green space and that is where his garden is located, he is also proposing a ribbon style driveway.

Mr. Dunne opened the floor for the public to comment however no one wished to speak. He read the following letters into the record.

I own and reside at 20 South Walnut Street, Beacon, New York. I have read and reviewed the proposed by Benjamin Junge of 14 Catherine Street, Beacon, New York to obtain a variance to create an off street parking space in the front yard of 14 Catherine Street. I have no problem and no objection to the application.

Linda Jane Katountas
20 South Walnut Street
Beacon, New York

As the resident of 13 Catherine Street I agree to the creation of a driveway for the residence of 14 Catherine Street as it is a necessity. I approve of a driveway for Benjamin Junge for 14 Catherine Street. Please contact me with any questions. Thank you!

Sharon LaDue
13 Catherine Street
Beacon, New York

In regards to the variance application of off street parking at 14 Catherine Street, owned by Marvin Benjamin Junge. We the owners of 17 South Brett Street and adjacent to the property asking for the variance are in support of the off street parking in question. We do not have any problems with the driveway being added to the property.

Patricia (McIntosh) Way Lloyd
Frederick Lloyd
17 South Brett Street
Beacon, New York

The Planning Board reviewed the Zoning Board of Appeals application and offered an advisory opinion. Planning Board members felt adequate space existed to elongate the proposed parking area so vehicles would not be parked in the front yard and therefore recommended the request be denied.

There were no further comments from the public and no additional correspondence had been received regarding this appeal. Ms. Smith made a motion to close the public hearing, seconded by Mr. Lanier. All voted in favor.

After a detailed review of the draft resolution and careful consideration, Mr. Haug made a motion to grant the variance as requested, seconded by Ms. Smith. All voted in favor with the exception of Mr. Dunne who voted against the motion. Motion carried; 4-1. Variance granted.

ITEM NO. 5 APPLICATION SUBMITTED BY MY FOUR DAUGHTERS REALTY CORP., 123 ROMBOUT AVENUE, TAX GRID NO. 30-5954-35-794799-00, R1-5 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-17(C) FOR A USE VARIANCE TO ALLOW MULTI-FAMILY APARTMENTS (10 UNITS) IN A SINGLE FAMILY ZONING DISTRICT

The public hearing on the application submitted by My Four Daughters Realty Corp., 123 Rombout Avenue, seeking relief from Section 223-17(C) for a Use Variance to allow multi-family apartment building (10 units) in a single family zoning district was opened on a motion made by Mr. Haug, seconded by Lanier. All voted in favor. Motion carried.

Mr. Siegel who was representing the owner explained the property was an existing lumber yard that has been vacant for several years and it no longer has a permitted use at the moment that is in a single family zoning district. The owner is proposing to renovate the existing one story building into 10 one bedroom loft style apartments. These apartments would be high end apartments not geared for families with kids. Neighbors from the area were invited to an open house at the property last week because they knew there may be some concerns with a project like this in the neighborhood and had a pretty good turnout. From that meeting, they actually extended the parking lot from 13 parking spaces to 18.

Taylor Palmer, Esq. from Cuddy and Feder provided additional detailed financial support to the Zoning Board. Exhibit A includes some detailed photographs of the adjacent properties. To the east of the property is a currently existing 10 unit apartment building with a roof mounted cell tower on top of it and other properties on School Street are all multi family. The property is an existing commercial property previously used as a lumber yard and is a storage warehouse. The applicant must prove that he cannot realize a reasonable return under the existing zoning. Enclosed in exhibit C is a copy of a financial analysis of the proposed development prepared by Romesh Budhram FRICS, MBA, or RPB NY Inc.

Mr. Lanier asked if there was any intention for retail and Mr. Palmer answered that there is no intention for retail. The lot will remain as is and it is purely residential.

Mr. Palmer also provided the board with a letter from Jonathan Miller which also included several comps.

City Attorney Eric Gordon had two comments while the applicant is here with his financial consultant he suggested to ask whether other residential development options were explored other than the 3 and 4 lot subdivision and also wanted to point out that a lot of information was given to the board some of which they have seen for the first time if the board feels they need more time to review the information they should feel free to do that and not make a decision tonight. Mr. Haug asked if there were any other scenarios other than the 3 or 4 lot subdivision and 10 unit that is proposed. Mr. Budhram stated that due to the shape of the land 3 or 4 lots would only be feasible. Dave Buckley asked if they had a map that showed what the preliminary subdivision looked like 3 houses versus 4, or possible 6 houses versus 10 houses. Mr. Palmer stated they submitted with the original submission the economics behind it but no map. Part of the issue would be flag lots and other development issues that would likely impact neighbors as well. Mr. Haug asked how the parking will work and Mr. Siegel explained they would connect to the existing parking lot. Mr. Dunne opened the floor for the public to comment.

Carmine Lapine, 78 Vail Avenue, stated he owns the adjacent property behind the lumber yard and wanted it to be known there is no easement to get in or out through his property and the property is land locked he would let someone get in if there was an emergency.

Jeffrey Young, 145 Rombout Avenue, thinks the proposal is a good design but his concern is he lives next to the apartment building with the cell tower and it has changed hands a couple of times and it is not maintained. His only concern would be that if it changed hands.

Katy Hope, 130 Rombout Avenue, they were away and did not find out about this until Thursday and feel it was not enough time and would like the board to take their time with the consideration of the proposal. The office building and warehouse building has been sporadically occupied and welcomes use of the building and is not necessarily opposed to the conversion. She does not have a great degree of trust in who owns the building currently and would like to know what the plans for the office building are.

The Planning Board reviewed the Zoning Board of Appeals application and offered an advisory opinion to allow a 10-unit apartment building in a single family zoning district. The majority of the members recommended the Use Variance be denied, however if approved, members recommended the board take a hard look at the financial summary justifying the request and require the applicant to return to the planning board for site plan review if approved. Mr. Dunne read the following letters into the record.

I am the abutting property owner to 123 Rombout Avenue, which is currently classified in the R1-5 Zoning District. I have had a chance to review the application of My Four Daughter's Realty Corp. (Applicant) and speak to them regarding their plans. They have been quite accommodating to my concerns and IF the zoning change can have a stipulation of no more than 10 units, I have no objection. If the zoning change cannot be stipulated than I must object. I do believe the applicant has the best of intentions for the property, but I can't condone any larger a project.

Theresa DeMattei
119 Rombout Avenue
Beacon, New York

I am (we are) the abutting or neighborhood property owner(s) of 123 Rombout Avenue, Beacon, New York (the "Premises"), which is classified in the R1-5 Zoning District. This letter will serve to confirm that I (we) have had a chance to review the application of My Four Dghtr's Realty Corp. (the "applicant") to the Zoning Board of Appeals of the City of Beacon, requesting a use variance or a new apartment building on the premises. I (We) have reviewed the application material and/or have walked the property and have become familiar with the proposal. This shall confirm that I (We) have no objection to the issuance of the approval described above. Further, it will have no adverse impact on the neighborhood. Indeed, I (We) feel the proposed residential use will be an enhancement to the community and the proposal is in keeping with the character of the neighborhood. I (We) therefore recommend the Zoning Board of Appeals approve the Applicant's application for a use variance.

James Schaeufele
Kristen Mosher
55 South Brett Street
Beacon, New York

There were no further comments and Mr. Lanier appreciated the information and due to the fact that new information was provided he would like the time to review it and made a motion to adjourn the public hearing to the next scheduled meeting, seconded by Mr. Haug. All voted in favor. Motion carried.

There was no further business to discuss and Mr. Lanier made a motion to adjourn the meeting, seconded by Mr. Haug. All voted in favor. Motion carried. The meeting adjourned at 8:30 p.m.