

**Zoning Board of Appeals
September 19, 2017**

The Zoning Board of Appeals met for a scheduled meeting on Tuesday, September 19, 2017 at 7:04 p.m. in the Municipal Center courtroom, One Municipal Plaza, Beacon, New York. Chairman Jack Dunne and Members Robert Lanier, Judy Smith, and Jordan Haug; Building Inspector Tim Dexter and City Attorney Drew Gamils were present. Member Neil Sullivan was excused.

TRAINING SESSION

City Attorney Drew Gamils provided a training session about the difference between use and area variances, with examples of each. She provided members with a packet of information which included NYS and City Code regulations.

EXECUTIVE SESSION

Mr. Dunne made a motion to go into executive session for advice of counsel, seconded by Mr. Lanier. All voted in favor. Motion carried. Members entered executive session at 7:35 p.m. Mr. Lanier made a motion to return to the regular meeting, seconded by Mr. Haug. All voted in favor. Motion carried. The regular meeting began at 8:05 p.m.

REGULAR MEETING

Mr. Dunne called for corrections/additions or a motion to approve the minutes of the July 18, 2017 meeting. Mr. Lanier made a motion to approve the minutes of the July 18, 2017 meeting as presented, seconded by Ms. Smith. All voted in favor. Motion carried.

Mr. Dunne outlined the format of the Board's proceedings for the benefit of the public. He noted four 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 Mr. Lanier, seconded by Mr. Haug. All voted in favor. Motion carried.

APPLICATION SUBMITTED BY JOSEF WALDEN, 18 MILLER STREET, TAX GRID NO. 30-5954-44-891677-00, R1-5 ZONING DISTRICT, FOR A USE VARIANCE SEEKING RELIEF FROM 223-14(E)(1) TO CONSTRUCT A GARAGE ON A VACANT RESIDENTIAL LOT (*application withdrawn by applicant*)

The application submitted by Josef Walden, 18 Miller Street, was completely withdrawn by the applicant.

ITEM NO. 2 CONTINUE REVIEW OF APPLICATION SUBMITTED BY RINA SHUMAN, CORNER LOT AT MADISON AVENUE AND PROSPECT STREET, TAX GRID NO. 30-6054-46-208527-00, R1-10 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-17(C) TO CONSTRUCT A NEW SINGLE FAMILY HOUSE WITH A 12.2 FT. SIDE YARD SETBACK (*15 FT. REQUIRED*) AND 24.7 FT. TOTAL SIDE YARD SETBACKS (*40 FT. REQUIRED*)

The applicant requested this item be postponed until the January 16, 2018 meeting.

ITEM NO. 3 CONTINUE REVIEW OF APPLICATION SUBMITTED BY HIGHVIEW DEVELOPMENT, LLC, 226 MAIN STREET, TAX GRID NO. 30-5954-27-860918-00, CMS ZONING DISTRICT, TO CONSTRUCT A NEW BUILDING WHICH REQUIRES RELIEF FROM SECTION 223-41.18(D)(5) FOR A 10 FT. REAR YARD SETBACK (25 FT. REQUIRED) AND SECTION 223-41.18(F)(2)(A) TO PROVIDE NO OFF-STREET PARKING SPACES (8 OFF-STREET SPACES REQUIRED)

Ms. Smith made a motion to reopen the public hearing on the application submitted by Highview Development, LLC, 226 Main Street, to construct a new building which requires relief from Section 223-41.18(D)(5) for a 10 ft. rear yard setback and Section 223-41.18(F)(2)(a) to provide no off-street parking spaces, seconded by Mr. Lanier. All voted in favor. Motion carried.

Attorney Anthony Morando of Cuddy and Feder, recognized the Zoning Board of Appeals to be a five member board and only four members were present, therefore respectfully requested the hearing be adjourned to the October 17, 2017 meeting when a fully seated board may be present. After some consideration, Mr. Haug made a motion to adjourn the public hearing until the October 17, 2017 meeting as requested, seconded by Ms. Smith. All voted in favor. Motion carried; 4-0.

ITEM NO. 4 APPLICATION SUBMITTED BY JUANA RIVERA, 13 SOUTH CEDAR STREET, TAX GRID NO. 30-5954-36-903845-00, R1-5 ZONING DISTRICT, FOR RELIEF FROM SECTION 223-17(C) TO EXTEND AN EXISTING COVERED SIDE PORCH TO 8' X 8' WITH A 6 FT. SIDE YARD SETBACK (12.5 FT. REQUIRED)

The public hearing on the application submitted by Juana Rivera, 13 South Cedar Street, for relief from Section 223-17(C) to extend an existing covered side porch to 8' x 8' with a 6 ft. side yard setback was opened on a motion made by Mr. Lanier, seconded by Mr. Haug. All voted in favor. Motion carried.

Juana Rivera described her proposal to extend an existing side entrance porch to 8 ft. by 8 ft. which extends into the required side yard setback. She had a conversation with the neighbor closest to the proposed expansion and reported he had no objection. Ms. Rivera reported this expansion will allow her more privacy and increase the use of their outdoor living space. The entrance will remain the same and no trees will be removed as a result of the construction.

Mr. Dunne opened the floor to public comment however no one from the public wished to speak. Mr. Lanier made a motion to close the public hearing, seconded by Mr. Haug. All voted in favor. Motion carried.

After careful consideration of factors set forth for area variances, Ms. Smith made a motion to grant the variances as requested, seconded by Mr. Lanier. All voted in favor. Variance granted; 4-0.

ITEM NO. 5 APPLICATION SUBMITTED BY THE SCENIC HUDSON LAND TRUST, 788 WOLCOTT AVENUE, TAX GRID NO. 30-6054-14-259407-00, R1-80 ZONING DISTRICT, FOR RELIEF FROM SECTION 223-17(C) TO EXPAND THE EXISTING PARKING AREA WITH A 24.5 FT. FRONT YARD SETBACK (50 FT. REQUIRED)

The public hearing on the application submitted by The Scenic Hudson Land Trust, 788 Wolcott Avenue, for relief from Section 223-17(C) to expand the existing parking area with a 24.5 ft. front yard setback was opened on a motion made by Mr. Lanier, seconded by Mr. Haug. All voted in favor. Motion carried.

Meg Rasmussen, Senior Park Planner for Scenic Hudson, described their proposal to expand the parking lot at the Mt. Beacon trailhead park at 788 Wolcott Avenue located in the R1-80 zoning district. She reported Scenic Hudson has been working to protect Mt. Beacon as open space since purchasing the property in 1995. Hiking has become more popular and the parking lot is used to its capacity therefore they worked with their design professionals to develop a plan to expand the existing parking lot. Due to wetland areas at the base of the mountain and so not to further encroach on residents to the southerly side of the property, they felt it best to expand the parking area toward the road. The new parking lot will have one way travel in and out, accommodate space for a trolley bus stop, and the spaces will be better arranged and delineated. All but one tree in the existing buffer area will be saved, and a much thicker landscape buffer area will be planted near the road. The gravel parking area is currently 50 ft. from the street and the new area at its narrowest point is proposed to be 24.5 ft. The lot will be increased to provide a total of 77 parking spaces. Ms. Rasmussen reported they are trying to get word out to use public transportation by adding maps and utilizing the Beacon/Cold Spring shuttle.

Roger Rubin, 5 Jefferson Avenue, had questions with regard to the Short Environmental Assessment Form provided in the application. He specifically asked about Appendix B questions 8, 12, 15, 20 and how the answers were justified. Mr. Rubin believed traffic levels would increase if parking space is to be doubled. He asked for explanations to Questions 12 and 15 which indicate the site contains a structure listed on the State or National Register of Historic Places and contains endangered species. Mr. Rubin also pointed out the answer to question 20 indicates properties in the area have need for, or have gone through, remediation which doesn't appear germane to this application. He felt a rider of some type explaining each response should be provided.

Mr. Dexter explained this is a Type 2 action under SEQRA which calls for an uncoordinated review and the applicant is also before the Planning Board for Site Plan Approval. Each board must determine whether the environmental impact of the proposed action is significant.

Kelly Ellenwood, 8 Hillside Road, has lived here for 11 years and has watched traffic and parking needs increase. She felt expansion of the parking lot can only improve neighborhood. Ms. Ellenwood said Scenic Hudson has been a good neighbor and is good for Beacon.

Samuel Akiwumi-Assani, 19 Exeter Circle, explained residents in his development have had problems with vehicles parking on their street making it difficult to access driveways and exit onto Howland Avenue. He felt this expansion would alleviate the problems on Exeter Circle and Howland Avenue therefore was in favor of the requested variance.

Leann Soto, 779 Wolcott Avenue, has lived here for 20 years and was not in favor of the requested variance. No one monitors the parking lot or enforces rules, and it is very noisy on weekends. She felt that the shorter distance would create more noise and increase dust which already prevents her from opening windows. Ms. Soto felt a smaller setback would be better and that the project will negatively affect the value of her home.

Ms. Rasmussen explained the answers to questions 12, 15, and 20 are automatically generated by the DEC – the historical structure is the incline railway and associated buildings, and remediation refers only to the former Tuck Tape site and the Hudson River. She reported no endangered species will be affected and no Brownfields exist on site. They will be installing timber guards to delineated parking areas and dense plantings will help filter noise. Ms. Rasmussen reported they are advertising and using social media to encourage use of public transportation. She urged residents to contact Scenic Hudson to make them aware of any issues that may be occurring on their property.

Discussion took place with regard to delineating parking and towing cars that are not parked in designated areas. Ms. Rasmussen reported the City asked them to enlarge the parking area due to the overcrowded conditions and Scenic Hudson wants to be a good neighbor. The parking lot will remain gravel and spaces will be marked on the wooden guardrail.

Carlton Prince, 777 Wolcott Avenue, felt they should improve the parking lot that exists and enforce parking restrictions.

Carol Sawitz, 36 Victor Road, travels to Cold Spring and passes the area almost daily. She thought the buffer berm was a nice accommodation and its removal will take away protection from the street. Ms. Sawitz spoke about problems that Cold Spring faces with the amount of hikers and felt adding parking spaces will not solve the problem. A larger lot will only worsen conditions for residents who live near the parking lot.

Leann Soto, 779 Wolcott Avenue, felt the parking lot could be expanded without extending it closer to the road. She believed the additional landscape would not protect the deer from going into the road or prevent people from cutting through. Ms. Rasmussen explained they are creating a path from the parking lot to the street to better direct pedestrians.

Kelly Ellenwood, 8 Hillside Road, asked that attention be given to the bench and trees near the dummy light.

A lengthy discussion took place with regard to parking enforcement, methods of encouraging use of public transportation, and about the number of trees/shrubs that will be planted.

Ann Cypher, 816 Wolcott Avenue, asked if all questions presented would be answered before a final decision is made.

Mr. Dunne explained the board will go through the resolution and all items will be addressed. He reminded everyone that the applicant is also before the Planning Board for site plan approval. Mr. Dunne read the following correspondence from the Planning Board dated September 18, 2017:

At their last meeting, the Planning Board reviewed the application for an area variance relating to the expansion of the existing parking lot for the Mt. Beacon trailhead at 788 Wolcott Avenue. This applicant is currently before the Planning Board to amend their existing Site Plan Approval for this expansion and members supported the application due to the amount of overflow parking that is taking place and adversely affecting nearby neighborhoods. Members voted unanimously to send a favorable recommendation to the Zoning Board of Appeals. As always the final decision will be based on your review of the application but the Planning Board felt the aforementioned factors should be offered as an advisory viewpoint.

There were no further comments from the public and Ms. Smith made a motion to close the public hearing, seconded by Mr. Haug. All voted in favor. Motion carried.

After careful consideration of factors set forth for area variances, Ms. Smith made a motion to grant the variance, seconded by Mr. Lanier. Mr. Haug felt conditions should be placed on the variance, therefore Mr. Lanier withdrew his second of the motion; motion defeated. Mr. Haug made a motion to grant the variance subject to the following: the applicant must maintain the 40 new trees and shrubs to be planted, as well as the existing trees and shrubs, along the front buffer area; and to enforce rules of the parking area to assure vehicles are parked appropriately in designated areas. The motion was seconded by Ms. Smith. All voted in favor. Motion carried; 4-0.

Mr. Dexter clarified that the variance was granted with the understanding that the applicant will maintain the proposed landscaping plan as presented and submitted to the Planning Board relative to their Site Plan Approval application.

ITEM NO. 6 APPLICATION SUBMITTED BY JAMES AND DAPHNE BLACK, 10 WODENETHE DRIVE N., TAX GRID NO. 30-5954-51-793547-00, R1-40 ZONING DISTRICT, FOR RELIEF FROM SECTION 223-17(C) FOR A TWO-STORY ADDITION WITH A 29.3 FT. REAR YARD SETBACK (50 FT. REQUIRED) AND 16.1 FT. SIDE YARD SETBACK (25 FT. REQUIRED)

The public hearing on the application submitted by James and Daphne Black, 10 Wodenethe Drive N., for relief from Section 223-17(C) for a two-story addition with a 29.3 ft. rear yard setback and 16.1 ft. side yard setback was opened on a motion made by Mr. Haug, seconded by Ms. Smith. All voted in favor. Motion carried.

Daphne and Tim Black explained they own a one-story Ranch style house with an attached one car garage. They are seeking approval to expand the one car garage into a two car garage with a master bedroom above. Due to the odd shape of their lot, there is no other way to

create that space without a variance. The house does not have a master bedroom and they'd like a garage that fits both vehicles. Mr. Black explained there are other two story houses in their neighborhood therefore the second floor addition will not appear out of character.

Carol Sawitz, 36 Victor Road, asked why they were never notified when the deck was put on the house as it appears to encroach on the setback. Mr. Dexter explained the house may have been constructed prior to current zoning and setbacks are different for accessory structures. Ms. Sawitz explained the back of her house faces the rear of the Black's house and commented that a lot of people want variances for setbacks. She spoke about setting precedent and felt zoning is established for good reason. Ms. Sawitz believed the house already extends out beyond the setback and this would be a large addition further encroaching established setbacks. The house is positioned close to neighbors and she was concerned that more variances will be allowed if this is permitted. Ms. Sawitz said the Black's purchased the house in June so they knew its size and should have been aware of the rules. She reiterated her concern of setting precedent and explained she doesn't want the area to become crowded. Ms. Sawitz reported the Rosenethe Subdivision changed their neighborhood and now she will see this addition when the leaves fall from the trees.

Matthew Agoglia, 9 Wodenethe Drive North, shares a property line with the applicant and had no issue with the requested variance.

There were no further comments from the public and Mr. Lanier made a motion to close the public hearing, seconded by Mr. Haug. All voted in favor. Motion carried.

After careful consideration of factors set forth for area variances, Ms. Smith made a motion to grant the variance as requested, seconded by Mr. Lanier. On roll call Ms. Smith, Mr. Lanier, and Mr. Dunne voted in favor of the motion; Mr. Haug voted against the motion. Motion carried; 3-1. Variance granted.

ITEM NO. 7 APPLICATION SUBMITTED BY BEACON LOFTS & STORAGE, 39 FRONT STREET (MASON CIRCLE), TAX GRID NO. 30-6055-04-590165-00, LI ZONING DISTRICT, FOR RELIEF FROM SECTION 223-17(C) TO CONSTRUCT A NEW BUILDING WITH A HEIGHT OF 66 FT. (35 FT. MAXIMUM PERMITTED)

This item is postponed pending SEQRA determination.

APPLICATION SUBMITTED BY 475 MAIN STREET BEACON, LLC, TAX GRID NO. 30-6054-37-076730-00, CB ZONING DISTRICT, FOR RELIEF FROM SECTION 223-26(F) FOR A BUILDING ADDITION TO EXPAND EXISTING OFFICE USE WITH EXISTING MAIN STREET RETAIL WITH ZERO PARKING SPACES (14 REQUIRED)

The applicant requested this item be postponed until the October 17, 2017 meeting.

There was no further business to discuss and Mr. Lanier made a motion to adjourn the meeting, seconded by Ms. Smith. All voted in favor. Motion carried. The meeting adjourned at 9:35 p.m.