

**Zoning Board of Appeals  
October 17, 2017**

The Zoning Board of Appeals met for a scheduled meeting on Tuesday, October 17, 2017 at 7:00 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 resigned his position for health reasons.

**TRAINING SESSION**

City Attorney Drew Gamils provided a Power Point training session focusing on Use Variances, citing applicable laws and examples of cases that have gone to court.

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. Haug, seconded by Mr. Lanier. All voted in favor. Motion carried.

**EXECUTIVE SESSION**

Mr. Haug 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 7:26 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 7:52 p.m.

**REGULAR MEETING**

Mr. Dunne called for corrections/additions or a motion to approve the minutes of the September 19, 2017 meeting. Mr. Lanier made a motion to approve the minutes of the September 19, 2017 meeting as presented, seconded by Ms. Smith. All voted in favor. Motion carried.

**ITEM NO. 1 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)**

The public hearing to continue review of 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 was opened on a motion made by Mr. Haug, seconded by Ms. Smith. All voted in favor. Motion carried.

Attorney Anthony Morando, Cuddy & Feder, provided two supplemental submissions in support of his client's variance request to construct a new building with a rear yard setback of 10 ft. where 25 ft. is required. Mr. Morando reported the existing building, which will be torn

down, is only one foot from the property line. In addition to the setback variance, eight residential parking spaces are required and they are seeking a variance to provide no off-street parking spaces.

Mr. Morando reported similar setback variances were granted to other properties on Main Street. A 10 ft. rear setback from the property line will not harm the character of the neighborhood because the existing building is less than one foot away from the property line. Mr. Morando reported Dutchess County Planning supported the project because the new building would be a vast improvement from the existing vehicle repair shop, and it conforms to the Comprehensive Plan which encourages increased density in this portion of Main Street. A 6 ft. stockade fence and landscaping near the property line will improve existing conditions. No other building configuration works to obtain the required two means of access, or to achieve 20 ft. wide apartments with a 5 ft. corridor. Mr. Morando contended the setback variance is not substantial in the context of other buildings on Main Street. He reported a shadow analysis was done to evaluate the difference between a 25 ft. setback vs. a 10 ft. and revealed very little difference between the two setbacks. Mr. Morano reported the hardship is not self-created due to the existing size of the parcel and believed the development will be a beneficial to both the community and the applicant.

Mr. Morando reported parking can't be obtained by any other feasible method due to the narrow configuration of the lot. They will be creating two additional on street parking spaces by closing the large existing curb cuts, and the County parking lot and other municipal parking lots are available within close proximity of the building. Studies indicate adequate parking exists in the area therefore project will not be detrimental to the neighborhood. Mr. Morano presented a site plan to show it is dimensionally impossible to meet parking requirements without creating a 10 ft. wide building. In conclusion, Mr. Morano believed the request is justified based on the five factors to be considered for area variances and precedent of variances granted in the past.

Mr. Dunne reported new information was presented by the applicant which was not delivered in time to allow a full review by members. He suggested the matter be held over until the November meeting, and advised the applicant to work with City staff to see what can be done to improve parking in the area, by perhaps improving or enhancing what is there, adding bicycle racks, etc. Mr. Dunne opened the floor for public comments.

Jennifer Boehlert, 3 Rector Street, felt the situation was self-created because the applicant was aware of the lot size before purchasing it. She felt this project will create unneeded apartments and many disagree that it will be an improvement to the area.

There were no further comments from the public. Discussion took place on whether to vote on the setback variance and hold the vote on the parking variance for the November meeting. City Attorney Drew Gamil recommended decisions be made on each variance request separately and at the same time. There was no further discussion and Mr. Haug made a motion to continue the public hearing at the November meeting, seconded by Ms. Smith. All voted in favor. Motion carried.

**ITEM NO. 2 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)**

This item was postponed until November 21, 2017 at the request of the applicant.

**ITEM NO. 3 APPLICATION SUBMITTED BY SARA TAYLOR, 34 SPRING VALLEY STREET, TAX GRID NO. 30-6054-38-174676-00, R1-5 ZONING DISTRICT, FOR RELIEF FROM SECTION 223-17(C) FOR A USE VARIANCE TO ALLOW A FLORIST SHOP ON THE GROUND LEVEL OF THE BUILDING**

The public hearing on the application submitted by Sara Taylor, 34 Spring Valley Street, for relief from Section 223-17(C) for a Use Variance to allow a florist shop on the ground level of the building was opened on a motion made by Mr. Haug, seconded by Mr. Lanier. All voted in favor. Motion carried.

Sara Taylor, owner of the former Valley Inn at 34 Spring Valley Street, introduced her family and reported they recently moved to Beacon from England. They want to restore the iconic 1900's building and turn the former bar area into a florist shop. The florist shop would help with the cost of building restoration and allow it to be shared with the public once again. Ms. Taylor explained the florist shop she owned in England became a part of the community and she would like to do the same in Beacon. She only wants a small retail operation and has no intent to return to the former bar use. Ms. Taylor reported the parking lot, which is accessed from St. Luke's Place and accommodates approximately nine vehicles, was recently paved. A small van will make weekly deliveries from a wholesaler in Campbell Hall.

Mr. Haug asked what their intentions were when they purchased the property. Ms. Taylor said they researched the property and was told that they could apply to the Zoning Board of Appeals to reinstate the commercial status or to add a fourth unit. She was told that adding a fourth unit would be difficult considering the three-unit building is already a non-conforming use in the single family zoning district. The building was built to be commercial and the windows were installed for displays therefore she hoped to regain the commercial status. Discussion took place with regard to the self-created hardship and members were willing to work with her by keeping the hearing open to November to accept additional information related to the case. Mr. Dunne read letters in support of the project from the following residents:

James Lockwood	15 Laurel Street	Amy deCamp	43A Spring Valley Street
Sadie Moss Jones	42 Spring Valley Street	Larry Reader	15 St. Luke's Place
Jonathan Moss	42 Spring Valley Street	Catherine Schetter	46 Vine Street
Kenneth Ludden	33 Spring Valley Street	Dawn Sela	4 Belleford Lane
Rachel Seranto	27 Spring Valley Street	Joseph Seranto	27 Spring Valley Street

David Jensen, 39 Spring Valley Street, submitted a two page letter signed by himself and Caroline Jensen, Rachel and Joseph Seranto of 27 Spring Valley Street, Leo Schnetzler of 33 Spring Valley Street, and Ivan and Kristin Morales of 19 Water Street. Mr. Jensen explained they all appreciate that the Taylors came into the neighborhood and none are opposed to the

florist shop. However, they had concerns that under inappropriate terms, the variance could have significant impact on the neighborhood in the future. Mr. Jensen cited General City Law which allows the board to impose restrictions on the variance to limit the use to a florist shop during reasonable hours. He felt certain uses could become problematic in the future if a retail use is permitted with parking and hours of operation. Mr. Jensen reported the neighborhood is only a block away from several multi-family dwellings and businesses, and it is very difficult to find off-street parking on Friday and Saturday evenings. In summary, Mr. Jensen explained they are fine with a variance for the flower shop as long as limitations are established for hours of operation. Mr. Dunne indicated those are conditions the board will take into consideration.

Ms. Taylor reported her intention is to do private events, funerals, etc., and it will be a low volume business with most transactions by appointment only. She will not have late hours and agreed to restrictions and reasonable conditions.

Mr. Dexter explained this building is currently a pre-existing, non-conforming three-family dwelling located in a single-family zoning district. The space in question can only remain vacant or converted into a single-family house without a variance. Non-conforming uses cannot be extended without a variance, nor could one of the existing apartments be expanded without a variance. Ms. Taylor explained they live in one of the three units and intend to keep the three-family units that have been continually occupied. Mr. Haug made a motion to continue the public hearing at the November meeting, seconded by Ms. Smith. All voted in favor. Motion carried.

**ITEM NO. 4 APPLICATION SUBMITTED BY WILLY KINGLER BERCY, 13 EAST STREET, TAX GRID NO. 30-6054-39-255696-00, R1-5 ZONING DISTRICT, FOR RELIEF FROM SECTION 223-17(C) TO ALLOW CONSTRUCTION OF A REAR ADDITION WITH 4.8 FT. SIDE YARD SETBACK (10 FT. REQUIRED)**

The public hearing on the application submitted by Willy Kingler Bercy, 13 East Street, for relief from Section 223-17(C) to allow construction of a rear addition with 4.8 ft. side yard setback was opened on a motion made by Mr. Haug, seconded by Ms. Smith. All voted in favor. Motion carried.

Willie Bercy, 13 East Street, purchased this two-family house in May 2017 with the intention of converting it to a conforming single-family house. In order to do this, a staircase must be added which leaves only one bedroom on the second floor. The second story addition will provide a new eat-in kitchen and master bedroom, and will remain flush with the first floor that has a 4.8 ft. side yard setback. The existing structure to the rear of the property will be removed as well as the porch roof that leads to the second floor apartment.

Mr. Dexter reported the building was illegally converted into a two-family use however the Building Department was not aware of the illegal status until the applicant inquired about the addition.

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

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

**ITEM NO. 5 CONTINUE REVIEW OF APPLICATION SUBMITTED BY SCENIC BEACON DEVELOPMENTS, LLC, 22 EDGEWATER PLACE, TAX GRID NO.'S 30-5954-25-581985, 574979, & 566983-00; AND 30-5955-19-590022-00, RD-1.7 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-17(C) TO CONSTRUCT A NEW RESIDENTIAL DEVELOPMENT AS FOLLOWS: ALLOW BUILDINGS TO HAVE 5 STORIES (*4.5 MAXIMUM PERMITTED*); ALLOW BUILDINGS TO EXCEED 36 UNITS PER BUILDING; ALLOW LESS THAN 30 FT. BETWEEN BUILDINGS**

This item was postponed pending SEQRA determination by the Planning Board.

There was no further business to discuss and the Mr. Lanier made a motion to close the public hearing, seconded by Mr. Haug. All voted in favor. Motion carried. The meeting adjourned at 8:56 p.m.