

**Zoning Board of Appeals
February 21, 2018**

The Zoning Board of Appeals met for a scheduled meeting on Wednesday, January 21, 2018 at 7:10 p.m. in the Municipal Center courtroom, One Municipal Plaza, Beacon, New York. Chairman Jack Dunne, and Members Robert Lanier, Judy Smith, Jordan Haug, and David Jensen; Building Inspector Tim Dexter and City Attorney Jennifer Gray were present.

Mr. Dunne outlined the format of the Board's proceedings for the benefit of the public, explaining five out of five members were present and three votes would be needed to take action on a variance request. Mr. Lanier made a motion to open the meeting, seconded by Mr. Haug. All voted in favor. Motion carried.

Mr. Dunne called for corrections/additions or a motion to approve the minutes of the January 17, 2018 meeting. Mr. Haug made a motion to approve the minutes of the January 17, 2018 meeting as presented, seconded by Mr. Lanier. All voted in favor. Motion carried.

MISCELLANEOUS BUSINESS

ITEM NO. 1 AMEND CONDITIONS LISTED IN RESOLUTION PASSED FOR RIVER RIDGE VIEWS, LLC, WOLCOTT AVENUE (*NOT A PUBLIC HEARING*)

Mr. Dunne explained that the resolution approved for the River Ridge project (Parcel L) included a condition that a Building Permit must be secured within twelve months from the date of obtaining the last land approval. Due to the scope of the project and length of anticipated duration of construction, the resolution should be amended to provide the applicant six months to commence construction following the date of issuance of a Building Permit and 24 months to complete construction. City Attorney Jennifer Gray recommended the draft resolution also be amended to remove the second "whereas" so the first variance is not readopted and confirmed with passing of this variance. After some consideration, Mr. Jensen made a motion to accept the amended resolution as presented, seconded by Mr. Lanier. All voted in favor. Motion carried.

REGULAR BUSINESS

ITEM NO. 1 CONTINUE PUBLIC HEARING ON 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)

Ms. Smith made a motion to resume the public hearing on the application submitted by Beacon Lofts & Storage, seconded by Mr. Lanier. All voted in favor. Motion carried. Mr. Dunne reported the Planning Board reviewed additional information and performed a lengthy review of this project at their last meeting. He read the following advisory memorandum into the record:

At their last meeting, at the request of the applicant, the Planning Board performed a second detailed review of the requested height variance for construction of a new building on the Hip Lofts site. A lengthy discussion took place with the applicant's representatives who made a strong

case an increased building height for the proposed new building (#16) by presenting detailed plans and additional documentation for consideration. After much discussion, the board voted unanimously to make a new recommendation supporting the requested variance. The Board identified the following measures which the Zoning Board may want to consider to mitigate the impacts of the height variance on the adjacent historic building and the historic character of the site: (1) providing a small notched stepback of the new building (#16) from the existing building (#10) at the point where the two buildings join to distinguish the old from the new; (2) minimizing the height of the fourth floor; and (3) increase the setback of the fourth floor. Please be advised that this is advisory opinion is not the product of a review of the variance request to the statutory balancing test employed the Zoning Board in its review of variance applications. The Planning Board's review considered the request from a planning, architectural and historic review perspective as it relates to the portions of the application within the Planning Board's jurisdiction (Site Plan, Architectural Review, Certificate of Appropriateness). As always the final decision on the variance request will be based on your review of the application but the Planning Board felt the aforementioned factors should be offered as an advisory viewpoint.

Attorney Jennifer VanTuyl, property owner Jack Wertz, and architect Aryeh Siegel were in attendance to present information on the variance request. Ms. VanTuyl provided members with documentation to follow their video presentation. She explained the variance request is to allow construction of a building 6 ft. higher than the existing 46 ft. high structure, and an additional 14 ft. to allow a fourth floor setback from the main building, for a total 66 ft. high structure. Ms. VanTuyl noted most buildings on site are 45 ft. and higher, far exceeding the 35 ft. height restriction. The overall intent is to concentrate development in the new Building 16 by transferring the 24 units in Building 9A and eliminate construction of said building along the creek. The new building would have increased floor to ceiling heights of 17 ft. on the first three floors to meet the strong desires of tenants for units with mezzanines. Ms. VanTuyl reported the City Council has been discussing how residential buildings can be refitted for non-residential use in future if needed, and the increased floor to ceiling height meets that goal and keeps the building more flexible. The commercial laundry that uses approximately 26,000 gallons of water would be eliminated. Ms. VanTuyl reported the maximum permitted density on site is 253 units however, as part of the 66 ft. variance plan the owner is willing to commit that there would be no more units proposed or built in excess of the currently proposed 172 units. They feel the proposed 66 ft. building height is not substantial due to the mass of buildings on site. Their presentation showed simulations of the new building height compared to the adjunct adjoining Building 10 that is already renovated and occupied.

As a result of the Planning Board's review, they identified measures the Zoning Board could consider to mitigate the impacts of a height variance if determined necessary which were outlined in their memorandum. Ms. VanTuyl reported the applicant is willing to provide a notched setback where Buildings 16 and 10 join to create a shadow line and to distinguish the old from the new building. They could consider reducing the height of the fourth floor from 14 ft. to 12 ft., and increase the fourth floor recessed set back from 10 ft. to 15 ft. if needed.

Ms. VanTuyl spoke about the unique character of the site explaining the property is an industrial setting and existing buildings are large scale. The site is approximately 8.5 acres therefore the building will appear much different than on a Main Street lot. The new building is located in the middle of the site and the difference in height will not stand out as it would in other areas. Ms. VanTuyl reported the site sits approximately 24 ft. lower than Route 52 which further offsets the height. Lastly, she pointed out there are limited views into the site.

A lengthy discussion took place about plans for Building 9A which was located near the creek and received a height variance. When it was discovered that Building 16 could not be renovated, they revisited plans and decided it best to create more open space by eliminating Building 9A and placing those units in a new Building 16. Discussion took place with regard to elimination of the commercial laundry, which would be benefit to the City in that water usage is far less for residential units.

Other topics that were covered include the one-story addition to Building 9, which was not discussed as part of this hearing because no variances were required. Ms. VanTuyl advised members that the Planning Board as lead agent in the SEQRA environmental review process determined the project would not have a significant impact on the site. Supporting documentation from SHPPO, an architectural historian, and engineer Mark Day (with regard to the condition of the existing building) were considered. Discussion took place with regard to code requirements for mezzanines and increased demand for units with higher ceiling heights. It was noted the greenway trail has been constructed, dedicated and is open for public use. The portion of trail that goes through a parking lot will be revisited when the adjacent vacant parcel is developed.

Questions arose about the owner's knowledge of the deteriorated condition of the building when the property changed hands, and how they discovered the building could not be saved. The property is located in the Historical Overlay District, therefore the Certificate of Appropriateness process was reviewed. Ms. VanTuyl reported they will save brick from the building for use where possible. Discussion turned to possible areas for future development of the site considering the area for "landbank" parking would no longer be required.

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

A lengthy review and discussion of the draft resolution took place, with much debate about various building heights and conditions that could be placed on the variance. Each of the five factors for area variances were fully vetted and ultimately a straw poll was taken on the matter with members being somewhat split in opinion. Each member provided their viewpoints and reasoning behind their judgement.

After a lengthy debate, Mr. Lanier made a motion to grant a variance to allow construction of a building with a height of 66 ft. on the condition that the applicant agrees not to construct any additional units on the site as long as the property remains in the LI Zoning District. More discussion was needed, therefore Mr. Lanier withdrew his motion.

Additional discussion took place with regard to the once proposed Building 9A and consideration was given to the applicant's intent to have this proposal supersede the previous approval.

After careful consideration, Mr. Lanier made a motion to grant a variance to allow construction of a building with a height of 66 ft. with the following conditions: 1) the applicant's concession to not construct any additional units on the site as long as the property remains in the

LI Zoning District and will be made part of a deed restriction; and 2) that after all approvals are granted the variance for Building 9A will be rescinded; and 3) all other conditions typically attached to variances. The motion was seconded by Ms. Smith. On roll call Mr. Lanier, Mr. Dunne, and Ms. Smith voted in favor of the motion; Mr. Jensen and Mr. Haug voted against the motion. Motion carried; 3-2.

There was no further business to discuss and Mr. Haug made a motion to adjourn the meeting, seconded by Mr. Jensen. All voted in favor. The meeting was adjourned at 9:10 p.m.