

**Zoning Board of Appeals
March 20, 2018**

The Zoning Board of Appeals met for a scheduled meeting on Tuesday, March 20, 2018 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 David Jensen; Building Inspector Tim Dexter and City Attorney Drew Gamils were present. Member Jordan Haug was excused.

Mr. Dunne outlined the format of the Board's proceedings for the benefit of the public, explaining four out of five members were present and three votes would be needed to take action on a variance request.

Training Session

City Attorney Drew Gamils provided members with documents related to SEQRA and a comprehensive review of the environmental review process took place.

Regular Meeting

Ms. Smith made a motion to open the meeting, seconded by Mr. Lanier. All voted in favor. Motion carried. The regular meeting started at 7:30 p.m.

Mr. Dunne called for corrections/additions or a motion to approve the minutes of the February 21, 2018 meeting. Mr. Jensen made a motion to approve the minutes of the February 21, 2018 meeting as presented, seconded by Ms. Smith. All voted in favor. Motion carried.

ITEM NO. 1 CONTINUE PUBLIC HEARING ON 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)

Ms. Smith made a motion to open the public hearing, seconded by Mr. Lanier. All voted in favor. Motion carried.

Engineer Dan Koehler of Hudson Land Design, described his client's proposal to construct a new single family home on a vacant lot located on the corner of Prospect Street and Madison Avenue. The vacant 5,500 sq. ft. parcel is located in the R1-10 zoning district and has been maintained as a grass lawn. He explained that in order to construct a single family house of a normal size on the lot, they are requesting a 12.2 ft. side yard setback where 15 ft. is required, and a total of 24.7 ft. total side yard setbacks where 40 ft. is required. Mr. Koehler presented a map of a study they performed which revealed several other undersized lots exist in the neighborhood. He compared the lot to standards considered for issuing area variances. Mr. Koehler reviewed all other uses that would be permitted other than a single family house in the zoning district and concluded that none would be consistent with the neighborhood. He provided information to demonstrate that the proposed house would be similar to others that exist in the area. Mr. Koehler pointed out that a house would need to be 10 ft. wide without a side yard

variance, and would likely not be approved by the architectural review board. They felt the request was not substantial considering similar lots exist in the area, and that it would not have an adverse physical impact on the property. Mr. Koehler said the parcel was created before 1966 when City zoning regulations were put into place. A lengthy discussion took place with regard to previous ownership, previous variance requests being denied, and that the owner unknowingly purchased the property as a “buildable” lot. After much debate, Mr. Dunne opened the floor to public comments.

Angelo Pomarico, 88 Prospect Street and directly across from the subject parcel, knew the history of the property, who owned it, and questioned the recent purchase and subsequent sale. He reported Mr. Komisar was denied similar requests for variances and that information should have been revealed during the purchase process. Mr. Pomarico reported the house is still for sale and that the City should require them to combine the lots when the house is sold. He spoke about lot width requirements, illegal occupation of the property, and that no record of the subdivision is available. Mr. Pomarico urged the board to deny the variance because the lot does not fit in with the R1-10 zoning district.

Danny Hairston, 94 Prospect Street, purchased his house that was built in 1870 due to the ambiance of the neighborhood. He felt laws should protect and service property owners who live in the neighborhood. He felt the lot is way too small and ignorance of the law shouldn't be accepted. Mr. Hairston implored the board to deny the variance requests.

Doug Donaldson, 101 Union Street, expressed his opposition to the requested variances. He has a large lot that could also be divided into four or five similar sized lots wouldn't do that because it would be a detriment to the neighborhood.

City Attorney Drew Gamils explained the City cannot force an owner to combine parcels. The lots must be owned by the exact same people and they cannot be forced to join them until an application for a building permit is submitted. She explained a variance doesn't overturn the zoning code, it only provides relief from a specific provision of the zoning code. She spoke about setting precedents and features of any variance request must be considered on a case by case basis.

Mr. Dunne read the following letter into the record:

I am writing this letter to express my opposition to Rina Shuman's variance application for her property on Prospect Street and Madison Avenue. She wants to build a house on land which is too small and this would lower the quality of life for our neighborhood. Please do not grant this variance as it goes against the zoning code.

Daniel Heimowitz
66 Vail Avenue

Angelo Pomarico, 88 Prospect Street, felt this was a contrived situation because the two lots have always been owned by the same person until this sale in 2017.

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

Members carefully reviewed each of the five criteria established for granting an area variance. A lengthy discussion took place about each of the factors in order to reach a final determination. Mr. Dunne read the draft resolution and after careful consideration of the factors set forth for area variances, Mr. Lanier made a motion to deny the variances as requested, seconded by Ms. Smith. All voted in favor. Motion carried; 4-0.

ITEM NO. 2 APPLICATION SUBMITTED BY KRISTINA ECKERT, 7 EAST WILLOW STREET, TAX GRID NO. 30-5955-84-931070-00, R1-7.5 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-17(E) TO CONSTRUCT A NEW 22 FT. X 24 FT. DETACHED GARAGE WITH 3 FT. REAR AND 3 FT. SIDE YARD SETBACKS (5 FT. REQUIRED)

Mr. Jensen made a motion to open the public hearing, seconded by Mr. Lanier. All voted in favor. Motion carried.

Kristina Eckert explained they had a contractor look at renovating their existing garage and he recommended that due to its poor condition they would be better off constructing a new building. They want to keep it in the same location with 3 ft. setbacks because a two car garage would not fit within 5 ft. setbacks. Ms. Eckert explained she had not discussed building height with the zoning official however they want to create space over the garage for storage. She believed the building was in compliance with everything but the side and rear yard setbacks, and was not aware of the need for a height variance. A lengthy discussion took place about maximum building height and how building height is measured when a structure has a gabled roof. Ms. Eckert explained the second floor would initially be used for storage however at some time in the future her husband may want to use it as work space. Lastly, the notices mailed to adjacent neighbors had the wrong hearing date therefore the public hearing must remain open so new notices can be sent out. There was no further discussion and Mr. Dunne opened the floor for public comment.

John Landisi, 8 East Willow Street and across from the subject parcel, had no issue with replacing the one story garage in the same location however did not want to see a two story garage as it would be taller than houses in the neighborhood. Lastly he expressed concern that they would convert the space into an "Air B &B" as they have rented their home as such in the past.

Evan D'Arpino, 67 North Elm Street, did not oppose the requested setbacks but had concern about the proposed building height. He was aware that the home is used as an "Air B & B" so had further concern that the second floor would also be used in future for that reason.

Bradford Bellamy, 69 North Elm Street, had concerns for building height and occupancy in the future. He had no objection to the requested side and rear yard setback variances.

Mr. Dunne read the following letter into the record:

I am unable to attend the ZBA meeting as I am out of town, but would like this letter to be read into the minutes of the meeting. This letter is in regards to the application of Kristina Eckert of 7 East Willow Street, Beacon, to construct a new garage on her property. The current and proposed garage is located near my rear lot line. I live at 63 North Elm Street which is shown on the survey

map included in her application packet. I notice that the survey shows a proposed two car, TWO STORY garage, though the two story part is not mentioned in the application. I have no objection to the two-car garage being built, as the existing one is falling down and rebuilding it would certainly be an improvement, but am completely opposed to any two-story structure being built there. The house is a one-story home, so trying to build a two-story garage would definitely be out of character with the property and neighborhood.

Claudia A. Haug
63 North Elm Street

There was no further discussion and Mr. Jensen made a motion to adjourn the public hearing until the April meeting, seconded by Mr. Lanier. All voted in favor. Motion carried; 4-0.

ITEM NO. 3 APPLICATION SUBMITTED BY RUBEN BURNS, 57 DENNINGS AVENUE, TAX GRID NO. 30-5954-50-639580-00, R1-10 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-17(C) FOR A REAR ADDITION FOR AN EXERCISE ROOM AND ELEVATOR WITH A 18 FT. REAR YARD SETBACK (35 FT. REQUIRED)

Mr. Jensen made a motion to open the public hearing, seconded by Ms. Smith. All voted in favor. Motion carried.

Steve Burns explained his client Ruben Burns recently purchased the newly constructed house at 57 Dennings Avenue and wants to modify a portion of the existing rear deck to create an exercise therapy room and elevator to make it handicap accessible. The conversion/addition alters the rear yard setback requirements to 35 ft. and they only have 18.4 ft. to the rear of the property. The parcel is irregular in shape and backs up to a large open field and drainage ditch owned by DIA:Beacon. Ruben Burns reported his wife can't walk and must use a wheelchair so to make her more comfortable they wanted to construct an addition on their house at 14 Iris Circle however it couldn't be done effectively so they purchased this house. There were no further comments and Mr. Dunne opened the floor for public comment.

Tom Shannon, Building Manager for DIA:Beacon, explained they are not opposed to the requested variance however they use the open area for field exhibitions and display. Therefore he requested they add some type of screening between the properties, i.e. Norway Spruce or evergreen screening. Mr. Shannon felt the extension on the rear of this house, in addition to the other two new adjacent homes, will negatively affect DIA's property. He explained they could not see any houses before which was part of the aesthetic beauty of the property. Mr. Shannon said they would be willing to work with the applicant.

A lengthy discussion took place with regard to the roof line of the addition which is lower the ridge line of the new house, and whether granting of a variance should or should not be conditioned on the applicant planting additional screening.

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

Members carefully reviewed each of the five criteria established for granting an area variance. A lengthy discussion took place about each of the factors in order to reach a final determination. Mr. Dunne read the draft resolution and after careful consideration of the factors set forth for area variances, Ms. Smith made a motion to grant the variance as requested, seconded by Mr. Jenkins. All voted in favor. Motion carried; 4-0.

There was no further business to discuss and Ms. Smith made a motion to adjourn the meeting, seconded by Mr. Jensen. All voted in favor. The meeting was adjourned at 9:11 p.m.