

Zoning Board of Appeals June 19, 2018

The Zoning Board of Appeals met for a scheduled meeting on Tuesday, June 19, 2018 at 7:00 p.m. in the Municipal Center courtroom, One Municipal Plaza, Beacon, New York. Chairman John Dunne, and Members Robert Lanier, Judy Smith, Jordan Haug, and David Jensen; and City Attorney Drew Gamils and Building Inspector Tim Dexter were present.

Training Session

City Attorney Drew Gamils provided training “Was the Hardship Self-Created”, a comprehensive review of what is and is not considered a self-created hardship as the factor relates to Use and Area Variances. She provided several examples of case law and how self-created hardships were considered in each.

Regular Meeting

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. Jensen. All voted in favor. Motion carried. The regular meeting started at 7:00 p.m.

Mr. Dunne called for corrections/additions or a motion to approve the minutes of the May 15, 2018 meeting. Mr. Lanier made a motion to approve the minutes of the May 15, 2018 meeting as presented, seconded by Mr. Haug. All voted in favor. Motion carried.

ITEM NO. 1 APPLICATION SUBMITTED BY NORM SCHOFIELD, 1181 NORTH AVENUE, TAX GRID NO. 30-5955-19-716048-00, R1-7.5 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-12(H) FOR A PROPOSED BUILDING WHICH IS LOCATED ON A PORTION OF THE LOT WHERE THE LOT WIDTH (62 FT. PROPOSED) IS LESS THAN THE REQUIRED 75 FT.

Mr. Haug disclosed that Mr. Schofield is his chiropractor and while at an appointment they began to discuss the project as part of his Planning Board application; Mr. Schofield did not know Mr. Haug was a member of the Zoning Board of Appeals. Mr. Haug reported they immediately discontinued the conversation therefore feels he can remain unbiased in the matter before the board. Mr. Haug made a motion to open the public hearing, seconded by Ms. Smith. All voted in favor. Motion carried.

Mr. Schofield explained he is a fourth generation Chiropractor in the City of Beacon, has been a resident for 25 years, and has been in the current location for 17 years. The building has been in his family for 100 years. Mr. Schofield reported that when he spoke to Mr. Haug he did not realize he was a member of the Zoning Board of Appeals and the conversation ended immediately.

Architect Aryeh Siegel described his client's proposal to construct a new office building between the existing building at 1181 North Avenue and the neighboring property to the north. The building will fill in a significant gap on North Avenue and will reflect the rhythm of other Victorian houses on the street. He explained they are currently before the Planning Board for Subdivision and Site Plan Approval, and eventually will go before the City Council for a Special Use Permit. The Planning Board issued a Negative SEQRA Declaration and determined the proposal to be consistent with policies outlined in the LWRP. Mr. Siegel explained they are seeking a variance for lot width because it is irregular in that it tapers then widens toward the rear of the property. The lot is 62 ft. wide at the narrowest point and 75 ft. is required. Mr. Siegel explained it follows patterns of other houses on the street where 8 out of 13 don't comply with current zoning requirements. The building will be placed forward toward North Avenue to keep it further away from the historic DeWindt House located on Tompkins Avenue. The project was reviewed by SHPO who had no concern for potential impacts due to the distance from the DeWindt House, landscaping, and that the proposal fit in with the neighborhood. Discussions took place about moving the building to a point on the lot where it is 75 ft. wide but it would not be consistently located with adjacent houses, parking would need to be in front, it would be closer to the historic DeWindt property, and would have more impact on the site. Mr. Siegel reported the Planning Board preferred the location and wanted it to be aligned with adjacent houses on North Avenue to maintain consistency.

Mr. Siegel reviewed each of the five criteria that must be considered for granting an area variance. The variance will not create an adverse impact or undesirable change in the neighborhood as verified by SHPO's response and the Planning Board's determination that the project is consistent with policies set forth in the LWRP. The benefit the applicant seeks can be feasibly be achieved however it is not desirable to locate the building towards the rear of the parcel where the lot has the required 75 ft. width. The variance is not substantial because it is consistent with other properties in the neighborhood. No adverse impacts to the physical or environmental conditions of the neighborhood as determined by the Planning Board's environmental review and resulting SEQRA Negative Declaration.

Mr. Jensen asked if the board would be looking at the front yard setback as well and was informed that in this case the Planning Board determines the front yard setback so that consistent frontage with other buildings on the street is maintained. Discussion took place about possibly adjusting the lot line to avoid the tapering and Mr. Siegel explained they tried several adjustments without success. He reported the existing house was constructed in 1880 according to historic records, and showed elevation drawings of the new building in context with neighboring properties.

Mr. Dexter explained that although this property is in a single-family zoning district, this property is located in the Historic Overlay and Landmark District which permits additional uses. A lengthy discussion took place about the Historic Overlay Zone and uses that are permitted by Special Use Permit Approval from the City Council. Mr. Dexter explained once the Planning Board is comfortable with the site plan and subdivision plan, and any variances needed are obtained, the application is referred to the City Council for Special Use Permit review. It was noted that only the ZBA can grant area or use Variances, and if this property was not located in the Historical Overlay zone, the proposed use would require a use variance. Mr. Siegel reported

they went to the City Council before pursuing this project and members were favorable to the concept. Mr. Dunne opened the floor to public comment however no one in the audience wished to speak. Mr. Dunne read the following letter of support into the record:

I, John Manning, residing at 9 Tompkins Avenue, Beacon, New York, am a direct neighbor of Norm Schofield at 1181 North Avenue, Beacon, New York. I have reviewed the variance application being presented by him on 6/19/18. I am in support of his variance application and request that his variance be granted. I have reviewed his plans and feel that his project will be good for our neighborhood and beneficial to the Beacon community as a whole.

Respectfully,
John Manning
9 Tompkins Avenue

There were no further comments and Mr. Dunne verified that no additional correspondence had been received regarding this appeal. Mr. Jensen made a motion to close the public hearing, seconded by Mr. Haug. All voted in favor. Motion carried.

Members carefully reviewed each of the five criteria established for granting area variances as they related to the request for a lot width variance where the minimum required lot width is 75 ft. After discussing each factor and giving careful consideration to any impacts to the character of the neighborhood, achieving the benefit by other feasible methods, whether the request was substantial, environmental and physical impacts, and whether the need for a variance was self-created, Mr. Lanier made a motion to grant the lot width variance as requested, seconded by Mr. Jensen. Mr. Haug asked to review conditions set forth in the draft resolution and after some consideration, Mr. Jensen withdrew his second to the motion. A very lengthy discussion and debate took place with regard to restrictions, standard clauses, and what language should be used to tie the variance in with project approvals considering it could take several months to be finalized. Consideration was given to other agencies involved beyond City approvals that may affect final Subdivision Approval.

After careful consideration and much debate, Mr. Jensen made a motion to amend conditions of the resolution to include the condition that the Applicant has six months to complete the subdivision from the application's last appearance before any City Board, including any appearance before any City Board for a request for extension. The motion was seconded by Mr. Lanier. All voted in favor. Motion carried.

Mr. Jensen made a motion to approve the variance as amended, seconded by Mr. Haug. All voted in favor. Motion carried.

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 8:25 p.m.