

Zoning Board of Appeals
July 16, 2019

The Zoning Board of Appeals met for a scheduled meeting on Tuesday, July 16, 2019, at 7:03 p.m. in the Municipal Center courtroom, One Municipal Plaza, Beacon, New York. Chairman Robert Lanier, Members Judy Smith, Jordan Haug and David Jensen; City Attorney Drew Gamils and Building Inspector David Buckley were in attendance. Garrett Duquesne was absent.

Mr. Lanier called for corrections/additions or a motion to approve the minutes of the May 21, 2019 meeting. Mr. Jensen made a motion to approve the minutes of the May 21, 2019 meeting as presented, seconded by Mr. Haug. All voted in favor. Motion carried; 4-0.

ITEM NO. 1 APPLICATION SUBMITTED BY 23-28 CREEK DRIVE, LLC, 23-28 CREEK DRIVE, TAX GRID NO. 30-6054-37-037625-00, FISHKILL CREEK DEVELOPMENT (FCD) ZONING DISTRICT, TO CONSTRUCT A MIXED USE DEVELOPMENT WITH EIGHT APARTMENTS AND 20,000 SQ. FT. OF COMMERCIAL SPACE WHICH REQUIRES RELIEF FROM SECTION 223-26(F) TO PROVIDE 93 PARKING SPACES (113 PARKING SPACES REQUIRED), SECTION 223-4.14(C) FOR APARTMENT SIZE OF 2,750 SQ. FT. FOR TWO OF THE UNITS (2,000 SQ. FT. MAXIMUM PERMITTED), SECTION 223-1.14(F) FOR A FOUR STORY BUILDING (THREE STORIES MAXIMUM PERMITTED) AND SECTION 223-1.14(F) FOR A BUILDING HEIGHT OF 53 FT.-4 IN. (40 FT. MAXIMUM PERMITTED)

The public hearing on the application submitted by 23-28 Creek Drive, LLC, 23-28 Creek Drive, for the referenced variances was opened on a motion made by Mr. Haug, seconded by Ms. Smith. All voted in favor. Motion carried.

Attorney Taylor Palmer, applicant and contract vendee Rodney Weber, Architect Aryeh Siegel, and Thomas Schenck of Docuware attended the meeting to present information for variances related to the proposed project at 23-28 Creek Drive. Mr. Lanier announced for the record that he is the Exalted Ruler of Beacon Elks Club (which is located within the public hearing notification radius) and had the ability to hear the appeal without prejudice. Mr. Palmer reported this 2.8 acre parcel and former DPW site is located in the Fishkill Creek Development zoning district. The proposal is to redevelop the site into a 20,000 sq. ft. Class A commercial space with eight residential apartments and 93 off-street parking spaces. Mr. Palmer noted that only 48-58 spaces would be required if this parcel were located in the adjacent CMS or Linkage zoning districts. As part of the project the greenway trail will be expanded and a one-acre public park will be provided. The property is set down from Tioronda Avenue which will mitigate potential visual impacts of the building and won't affect views of the mountain. Mr. Palmer reported the applicant was chosen through an RFP process by the City Council over other submissions. They have been before the City Council for preliminary Concept Plan Approval, and were then referred to the Planning Board for SEQRA review. After a lengthy review, the Planning Board adopted a Negative SEQRA Declaration and submitted a favorable report to the City Council on the Concept Plan. In addition, the applicant was referred to the Zoning Board of Appeals for variances for building height, number of stories, unit size, and parking. The

Planning Board remained neutral on all but the parking variance which they unanimously supported. Mr. Palmer reported at least 30 signatures from nearby residents and business owners were also submitted in support of the project for the Board's consideration.

Aryeh Siegel provided detailed information on the orientation of the site and building layout. He showed a comparison of the proposed building with respect to the adjacent 7-11 Creek Drive (a four-story building recently constructed), and recently renovated 6-unit residential mill building. The layout of the public park and greenway trail that will be dedicated for public use was also presented. Mr. Siegel reported the applicant is providing more commercial space than the minimum standard required in the FCD zone and as a result of that increase, they are proposing eight residential units where they originally proposed nine. Mr. Siegel explained they are requesting additional building height to maximize the site's open space by limiting the building footprint. The site is narrow and a taller building makes circulation through the site easier and more environmentally friendly. A site diagram the site topography and building location was presented. Mr. Siegel reported the building is only 16 ft. above Tioronda Avenue and a heavy tree line will hinder sight of the building yet allow views of the mountain. The new building is 8 ft. lower than the adjacent 7-11 Creek Drive development. An international software company, Docuware, is interested in the site and will bring jobs and weekday business to the City. Many employees will live in this building or adjacent buildings. Docuware is looking for a building with higher standards, as it is their company's goal to provide attractive and unique work space for their employees. Garage space is located in the lower level and the residential portion of the development will help defray the cost of creating a larger commercial space.

Docuware President Thomas Schneck, a company based in Germany, provided members with a background on the company. They are a software based company, with over 18,000 customers and 280 employees worldwide, that digitizes paper and routes documents in a manner that provides access to everyone in a particular company. Currently they employ 70 people in the space they rent near Stewart Airport in New Windsor. Due to growth of the company they will be adding 20-50 employees over the next 3-5 years. Mr. Schneck explained millennials want to work in locations that offer opportunities to walk to work, lunch and services, and many want to raise children in the area where they live. Employees from other locations will be brought in for training which will encourage weekday use of restaurants hotels, etc. as well as enjoy the site location. Quarterly meetings with operational staff will be held during the week which will not affect weekend traffic. Mr. Schneck reported they are passionate about being part of the community and will reach out to schools and engage in local charities. They seek to find local talent and try to hire from local communities. He expressed excitement and interest about this beautiful location and occupying a new Class A building. This site provides the ability to connect via shuttle from the train and provides attractive housing options available in this building as well as others that are in the pipeline. They will operate Monday through Friday, 8:00 a.m. to 7:00 p.m. with a few employees working a bit later to cover business in other time zones. Mr. Schneck summarized employee demographics, explaining they seek to provide an attractive workspace in order to compete and draw the best employees. Training classes will be held every couple of weeks with 15-18 people who will use Stewart Airport and travel to Beacon, utilizing the train station, public transportation, bicycles, and the free shuttle to get around the city. A lengthy discussion about the business, outreach to school students, support in

the community, and future employment opportunities took place. Mr. Lanier opened the floor for public comment.

James Grigg, 11 Creek Drive Unit 101, adjacent to the proposed project, introduced himself as the Chief Finance Officer of Orange Regional Medical Center in Middletown and the Beacon Mayor's appointment to the Board of Directors for the Dutchess County Board of Health. Mr. Grigg has known the applicant for some time and said he has never met an owner who pays such attention to detail. He reported Mr. Weber goes out of his way to provide a beautiful place to live with natural landscaping elements. The grounds are amazingly well kept which provides a nice environment to live in. He felt confident that the development will be equal to or better than what already exists. He supported Docuware and believed the company will bring tremendous economic growth to the City. Mr. Grigg felt this type of development will draw younger people who utilize public transportation and bicycles. He strongly supported the project and asked that the board approve the requested variances.

Kevin Byrne, 61 Tioronda Avenue, expressed concerns about the variances and felt the letter from Cuddy & Feder to be misleading. They state the project is in conformance with the City's Comprehensive Plan yet height and number of floors were not specifically addressed. He feels this development will produce an unfavorable change, will limit view sheds, and increase noise pollution. Mr. Byrne urged the developer to comply with zoning regulations and felt the additional story would create a substantial impact on the environment. He believed the variances to be self-created and noted the park and greenway trail are requirements rather than "gifts" as presented. In general he felt the board should be disciplined and not grant variances to everyone. Mr. Byrne suggested the applicant be required to submit a plan that is compliant to zoning so it can be compared to the non-compliant proposal. He expressed concern about rooftop mechanical equipment, noise and parking.

Arthur Camins, 39 Rombout Avenue, said zoning regulations are put into place to serve the City's best interest therefore variances should be the rare exception not the rule. Reasons for variances should be extraordinary and compelling. He expressed concern for congestion because a significant portion of traffic will be using the already dangerous Churchill and Main Street intersection. Mr. Camins was not convinced the building will not obstruct view sheds of the mountain and felt likening the height of the tree line to the building to be an unjust comparison. He saw no legitimate reason for larger luxury apartments and believed a fourth story should not be permitted. The applicant's "gift" of a park and greenway trail is required in the contract of sale with the City and is a condition of approval and purchase. Mr. Camins felt exceeding the maximum standards set by zoning regulations for profit is not proper justification for variances. Although he supported the commercial element and employment opportunities for Beacon, Mr. Camins felt this site is not the right location.

Theresa Kraft, 315 Liberty Street, felt every inch of Beacon should not be built on and that the quaint character of the City should be maintained. She did not support the variances and felt the plan should be reworked to meet zoning requirements. She expressed concerns that sublevel parking would contaminate the Fishkill Creek and that the applicant just wants to gain profits no matter what damage is done.

Laurie Clark, 41 Tioronda Avenue, supported previous comments and has seen changes to the area's nature and environment, pointing out there has been a great increase in traffic on her street. She said the fox and deer are disappearing and expressed concern for contamination to the creek. Ms. Clark felt new buildings are making Beacon look like White Plains and have forever changed the vibe of the City. She felt feasibility studies should be done to see what effect the building will have on animals, stormwater runoff, loss of trees, and traffic. Ms. Clark complained that many people aren't able to attend meetings to voice their concerns. She felt the property should be used as a park, not for a corporation. She said many buildings on Main Street are vacant, proposed construction materials are substandard, and views of the creek will be affected. She did not support the variances.

Mr. Palmer explained Beacon is a city and urban area and this plan is consistent with the Comprehensive Plan. He spoke to the reduced density this proposal offers and reported they are not proposing air conditioning units on the roof. Full environmental and traffic studies were done and the Planning Board adopted a Negative SEQRA Declaration which takes into account the effect on parking, visuals, traffic, stormwater, impacts to the community's character, impact on cultural resources. Mr. Palmer reported that although two of the proposed units will exceed the maximum square footage, the average of all eight units is below the maximum threshold. He spoke about the RFP, reported the City Council evaluated each submission, and this one was chosen based on a number of important criteria. The site is unique in that it is set below Tioronda Avenue and is lower than the recently constructed adjacent apartment building.

Contract vendee Rodney Weber pointed out the City Council was aware of the need for variances. Zoning wasn't changed for the entire district because the variances they are seeking are unique to this property. Discussion took place with regard to the initial RFP submission and Mr. Weber explained the proposed use will help businesses thrive during the week. He explained there are not many larger apartments on the market and some people want the size but not the responsibility of a house. A taller building will allow a smaller footprint and provide residential space so employees can rent where they work. It will be a shared parking situation because some of the employees will live and work on the site, and the commercial operation will not be operating when some residents are at home.

Arthur Camins, 39 Rombout Avenue, felt any previous proposals should not be considered relevant to this application. The City Council set a limit on the number of stories and a variance should not be granted. He felt the applicant has not made a case to support the variances and that the building will be monumentally large from the lower points on Spring Valley Street.

James Grigg, 11 Creek Drive, spoke to the intersection of Main and Churchill Street and pointed out most people exit the site the other way to avoid the challenge of the Main Street intersection.

Further review of the site diagram took place to show the difference between three and four stories. Mr. Weber explained a wider building would provide less open space, and pointed out 36 of the parking spaces will be under the building which provides more green space. Discussion took place about Docuware's goal to locate in a Class A building, with attractive

landscaping, parking, and a variety of apartment sizes. Mr. Weber added that they are also replacing a large portion of the sewer line for the City at his cost.

Theresa Kraft, 315 Liberty Street, felt underground parking would be a fire hazard and although there will be 70 to 120 employees, there could be 300 cars. She asked how paperwork is delivered to Docuware.

Laurie Clark, 41 Tioronda Avenue, Woman, expressed concern for turtles and felt business corporations should not be located along the creek. She felt other communities are doing a better job than Beacon because we are allowing developers to build on every inch of property. Ms. Clark felt the whole community should be considered, not just the applicant who will make money from the project.

Discussion took place about alternative parking and Mr. Palmer reported that in addition to parking on site, a municipal parking lot is located within 500 ft. of the property. He explained the Traffic Study considered parking, and the fact that some parking will be provided under the building makes this request distinguishable, unique, and not characteristic of all properties along the creek. Further discussion took place with regard to rooftop structure. It was noted the commercial space HVAC system is a series of smaller units sheltered in two corners of the building surrounded with proper screening. The residential units will be provided with very efficient heat pumps on the roof that are quiet and can't be heard from the ground.

Discussion took place about FCD zoning district requirements as they relate to the contract made with the City Council. City Attorney Drew Gamils explained it is up to the Zoning Board of Appeals to consider the variances being requested and clarified that the City accepted the RFP with the understanding that Concept Plan Approval, Site Plan Approval and variances would be required. After further consideration, members asked the applicant to return next month with a copy of the Traffic Study and a parking layout that conforms to zoning for review.

Tony Aquisto, 42 North Street, been here for 20 years of and has witnessed the gentrification of Beacon and these large structures are changing character of the town.

There was no further discussion and Mr. Jensen made a motion to adjourn the public hearing until the August 20, 2019 meeting, seconded by Ms. Smith. All voted in favor. Motion carried. Mr. Palmer reported they anticipate going before the City Council this month and requested members authorize the City Attorney to draft a resolution for consideration at the next meeting. Members felt they needed time to review the requested information prior to preparing a resolution for consideration.

There was no further business to discuss and the meeting was closed on a motion made by Mr. Haug, seconded by Mr. Jensen. All voted in favor. Motion carried. The meeting adjourned at 9:33 p.m.

Attachments: Letters submitted for 23-28 Creek Drive Project

I am (we) are the abutting or neighborhood property owner(s) of 23-28 Creek Drive, Beacon, New York (the (“Premises”), which is classified in the FCD zoning district. This letter will serve to confirm that I (we) have had a chance to review the application of 23-28 Creek Drive, LLC (the “Applicant”) to the Zoning Board of Appeals of the City of Beacon requesting four(4) area variances in order to construct a mixed-use development consisting of commercial space and eight (8) residential apartment units on the Premises in place of the underutilized former City of Beacon Department of Public Works property. I (We) have reviewed the application materials and/or have walked the property and have become familiar with the proposal. This shall confirm that I (we) have no objection to the issuance of the approvals described above. Further, the variances will have no adverse impact on the neighborhood. Indeed, I (we) feel the proposed commercial and residential mixed-uses and the proposed public park and Greenway Trail will be an enhancement to the community and that the proposal is in keeping with the character of the neighborhood. I (We) therefore recommend the Zoning Board of Appeals approve the application described above.

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| Robert Mericle
137 Spring Valley Street | Peter Pavelock
99 Spring Valley Street | Melinda Muniz
108 Spring Valley Street | Jon Joseph
7 West Main Street |
| Katherine Swain
109 Spring Valley Street | Anne Glaser
7 Creek Drive, Apt. 408 | Brandon Booker
17 Greenwood Drive | Sigfredo Rivera
88 Delavan Avenue |
| Lynn Lyons
16 Exeter Circle | Joseph Stinson
7 Creek Drive, Apt. 104 | Rina Shuman
One East Main, Unit 101 | Robert Supple
399 Liberty Street |
| Sean Haase
7 Colonial Road, Apt. 9 | Norm Schofield
1181 North Avenue | Gary Joseph
One East Main, Unit 101 | Rene Nugro
55 North Street |
| Robert Bozic
7 Creek Drive, Apt. 308 | Stephen Mahedy
52 Leonard Street, Apt. 305 | Daniel Supple
15 East Main Street | Keith & Jessica Laou
7 Creek Dr. Apt. 110 |
| Tina Andress-Landolfi
7 Creek Drive | Michael Post
25 East Main Street | Kishaun Bell
6 Joy Place | William Hough
7 Creek Drive |
| Kamal Assal
15 Tioronda Avenue | Diane Green
11 Creek Drive, Unit 201 | James O’Connor
147 Spring Valley Street | Hillary Gree
72 East Main Street |
| Denis Vetrano
492 Main and 37 Tioronda | | | |

We are writing in support of granting Weber the variances that have been requested. The Council and City Administrator will remember that when Weber first submitted a response to the RFP, it included only 10,000 square feet of commercial space. The plan was that we would rent half of that space for a co-working, conference, and innovation business. Ronna formed an LLC called Hudson22 to do so. As time passed, it became very clear to us that Beacon needed more employers. Bricks and mortar retail has been getting tougher and tougher for big companies and for small ones, despite the superficially booming economy. E-commerce has changed the face of business. Beacon has thrived when it is a working town. What Beacon needs is work. With that in mind, we stepped away from the chance to start another company, so that Rodney could double the amount of commercial space he planned for the site. We knew that we could profit from a company of our own but that we could never create the jobs Beacon needs. Having a Class A office space in Beacon is a game changer. We can show potential employers space that is truly competitive and that would help them attract employees. We can show them that Beacon still respects the past, but has a developer who has proven he knows how to repurpose old spaces into new and dynamic buildings. Everyone has now realized that IBM is not coming back. We need smaller employers, who will create more diversity and economic stability and who will invest in our community. We are writing to ask the zoning board to honor the 2007 and 2017 revised Comprehensive plans that set goals and aspired to provide more commercial space in Beacon. We do not believe that Beacon is or should be a bedroom community, as some politicians have suggested.

James and Ronna Lichtenberg, 7 Creek Drive

My name is John-Anthony Gargiulo. I live off of Madison Avenue in Beacon and also own the building and operate Hudson Valley Brewery at 7 East Main Street. Believe or not but I watch all of the meetings on Vimeo, City Council, Planning, and yes, Zoning too, but to be fair I do fast forward some parts. I really enjoy saying abreast of all of all the issues and projects that are happening in the city that I do love very much. My battle cry doing the early phases of my project was to save at least one of our factory buildings and turn it back into a factory. The preservation and creation of commercial space is very dear to me. In the two years that we have been open we are already up to 17 employees, most of them live right here in Beacon. People who live and work in a community will be infinite more caring about their community and way more inclined to give and contribute in a positive way. I am writing this letter of support for the project happening down on 23-28 Creek dr. They are going in-front of you for a number of variances. This project is working with a company ready to come in and set up shop, because of this the project is going to have more commercial space than required by the new Fishkill Creek Zoning. I think this is great! Some of the high level employees and owners are interested in living in this building as well. They would like to have larger living spaces, but in the Zoning code there is a limit on the size of the units. I am not sure how this is a bad thing as it limits the amount of units to a smaller amount, lowering overall impact. The other variances have to do with Height and Stories. I support both of these too. I hope you approval these as well like you did for the other buildings on Creek drive. The cross section that they presented in their plans that I saw at the planning board really shows how low the builds are and how it minimizing the view. This project has a lot of benefits to it, more commercial space on two floors. Lower amount of units that could be built, more green space, more greenway train, a public park, and cleaning up a piece of property that really needs to be cleaned up the correct way. Thank you so much for your time and your service that you give to our City. This project is very worthy of these variances and I really hope you grant them and move this exciting project forward.

John-Anthony Gargiulo, Founder/President Hudson Valley Brewery

I sent you this letter to show my support for the proposed project at 23-28 Creek Drive. I've owned a business on the east end of Main Street since 2008, Hudson Valley Fitness which I rebranded two years ago to ZONED Fitness. My business depends solely on the residents of Beacon and the neighboring communities and the majority of our members live on the east end of Beacon. Weekend traffic does very little for my business. For ZONED Fitness to continue to operate in Beacon we need the city to move forward with increased density. As I'm also a resident of the east end of Beacon I'm for smart development. This project is exactly what Beacon needs, residential, commercial and beautifully designed. Thank you for your time and consideration of this project.

Keith J Laug, Owner ZONED Fitness, 490 Main Street - Beacon NY 12508

My name is Kamel Jamal and I am the proud owner and operator of River Valley Restaurant Group. We are a group that is currently made up of 3 Main Street Restaurants, all of which were completely closed up when we came in. Our company is currently employing nearly 50 local residents, and proudly serves the local community breakfast, lunch and dinner. Having our restaurant in beautiful Main Street comes with great rewards and challenges alike. Great things happening bring tourist into Main Street and the weekend business thrives. Come the weekdays, we find ourselves competing for a limited number of tourist and handful of coffee shop office workers. For the continued success of my company, we need to target different types of industry that will help stimulate our weekday economy. I see small mom and pops opening up and closing at an alarming rate. This is not happening because of creativity or lack of ambition. These shops are closing because there isn't weekday stimulation. We need companies that will bring in a team of 20 employees, 40 employees and dare I say 100 staff members. Our city has been doing great things because of the open minded and progressive movement you and I have been doing hand in hand. I'm tired of hearing, "that's it!, Beacons Wave is over". I just finished waxing my surf board and I'm not ready to quite just yet. We have amazing developers here to secure their interest and with that, it will protect mine and many other like-minded entrepreneurs alike.

Kamel Y. Jamal, River Valley Restaurant Group

I would like to give my support to the project proposed on Creek Drive. As a business owner for 20 years at 492 Main Street, I have seen a lot of positive change in Beacon. Being in Real Estate, I have seen many businesses come and go. One major weakness in Main Street commerce has a hard time surviving the mid-week and off season slow down. Tourism has been building (which is a good thing), but it's also important that we create areas that will attract major companies that can create high level jobs so Beacon can avoid just becoming a bedroom community. In my experience, these types of companies are looking for a Class A building, that's modern, bright, ideally with views and amenities and is walkable to a downtown area. This site is a perfect opportunity to create such a setting. I support all of the requests that are asked as I believe this project will be an asset to the City of Beacon. I also happen to own a two-family at 37 Tioronda Avenue which is across the street from where the building would be built. I look forward to the development of the site and really appreciate the well done transformation of Creek Drive from junk yard to beautifully designed and restored mill buildings paying homage to the history in the area.

*Charlotte Guernsey, Owner Gate House Realty & Lambs Hill, LLC
492 Main Street - Beacon, New York*

We are writing to you in support of the newly proposed project at 23-28 Creek Drive in Beacon that is being proposed by Rodney Weber of Weber Projects, LLC. We are current residents/owners of 11 Creek Drive, a repurposed factory building that was restored by Mr. Weber. Over the last three years this home has brought us a lot of joy, as this property is a beautiful piece of Beacon history, and it's clear that Mr. Weber took great care to preserve the original factory building that we now are proud to call our home. After getting to know Mr. Weber these last several years, it is clear he cares deeply about preserving the heritage of Beacon while also seeing it evolve and thrive. Which leads us to the reason we are writing to you in support of this proposed development at 23-28 Creek Drive. We believe that an essential component to Beacon's evolution and ability to continue prospering hinges on its ability to branch beyond just tourism and attract larger companies that will employ year-round bright, creative talent, which ultimately will bring vitality to the community and contribute to Beacon local commerce. We believe this project will be a big asset in attracting companies that are happy to drop anchor in Beacon, hire local talent as well as new talent and contribute to urban prosperity. We care a lot about the future of Beacon, and we look forward to seeing this project move forward. Thank you for your time and consideration.

Tom Lee & Jamie Pabst, Beacon Residents - Creek Drive