

Zoning Board of Appeals
February 19, 2020

The Zoning Board of Appeals met for a scheduled meeting on Wednesday, February 19, 2020 at 7:00 p.m. in the Municipal Center courtroom, One Municipal Plaza, Beacon, New York. Chairman David Jensen, Members Robert Lanier, Judy Smith, Jordan Haug and Elaine Ciaccio; City Attorney Drew Gamils and Building Inspector David Buckley were in attendance.

Training Session

City Attorney Drew Gamils continued training with a focus on area variances which are most often before the board. She reviewed each of five factors that must be considered: change to neighborhood character, investigating alternatives, substantiality of the request, effect on physical or environmental conditions, and is the need for a variance self-created. Discussion took place about zoning changes, importance of documenting decisions for the record, and balancing what is good for the applicant compared to effects on the neighborhood. Judicial review of land use decisions was discussed with a focus on facts that are needed to support a decision.

Regular Meeting

Mr. Haug made a motion to open the meeting, seconded by Mr. Lanier. All voted in favor. Motion carried. Three members that participated in the November 2019 meeting were present therefore Mr. Haug made a motion to approve the minutes of the November 19, 2019 as presented, seconded by Mr. Lanier. On roll call Members Haug, Lanier, and Smith voted in favor. Motion carried; 3-0.

Mr. Jensen then called for corrections/additions or a motion to approve the minutes of the January 22, 2020 meeting. Ms. Ciaccio made a motion to approve the minutes of the January 22, 2020 meeting as presented, seconded by Mr. Lanier. All voted in favor with the exception of Mr. Haug who did not attend the meeting. Motion carried; 4-0.

ITEM NO. 1 CONTINUE REVIEW OF APPLICATION SUBMITTED BY CAROLYN BACCARO, 9 WASHINGTON AVENUE, TAX GRID NO. 30-6054-39-287664-00, R1-5 ZONING DISTRICT, FOR RELIEF FROM SECTION 223-13(G) FOR A 6 FT. HIGH FENCE IN THE FRONT YARD (4 FT. MAXIMUM PERMITTED)

The applicant withdrew her application for a variance and the fence has been reduced to conform with zoning requirements.

REVIEW APPLICATION SUBMITTED BY ELISE KNUDSON, 16 SOUTH WALNUT STREET, TAX GRID NO. 30-5954-35-862869-00, PB ZONING DISTRICT, FOR RELIEF FROM SECTION 223-17(C) TO CONSTRUCT AN ACCESSORY BUILDING WITH A 1.2 FT. SIDE YARD SETBACK (5 FT. REQUIRED) AND LOT COVERAGE OF 1,183 SQ. FT. (916.5 SQ. FT. MAXIMUM PERMITTED)

Mr. Haug made a motion to open the public hearing on the application for relief from Section 223-17(C) to construct an accessory building with a 1.2 ft. side yard setback and lot coverage of 1,183 sq. ft., seconded by Mr. Lanier. All voted in favor. Motion carried.

Elise Knudson described her proposal to construct a new accessory building on her property at 16 South Walnut Street for use as an artist studio. She is a dance choreographer and wants to create this space for her practice. After working with the Building Inspector, the structure's original design was reduced in size and relocated on the property to lessen the number of variances needed. Ms. Knudson reported a precedence exists on the street where many buildings do not conform to current zoning, and hers is one of the only properties that doesn't have a garage. She explained the building would be the same size as a garage therefore could be converted to such if ever sold in the future. The structure is 14 ft. x 24 ft. and 14.5 ft. high. Mr. Haug suggested members be provided with the project as originally proposed to see the differences to prove that efforts were made to seek the least variance possible. Mr. Buckley reported he met with the owner numerous times and this plan is significantly different than the original proposal which required four or five variances. The parcel is irregular in shape, the house and structure would remain parallel, and the new building will be approximately 18 ft. away from the main house. Ms. Knudson explained her primary interest is to use the structure as a dance studio. The tree will need to be removed for construction but Ms. Knudson reported the neighbor is happy because he doesn't like the leaves that fall on his property. In addition, she felt the tree is outgrowing the property and will make effort to replace it with a smaller tree.

Consideration was given to moving the structure closer to the front however Ms. Knudson felt it would be more of a burden to the neighbors. She explained that although the structure sits back a bit it could still be used as a garage if the driveway were extended. Ms. Knudson explained she will only be using the structure for her dance practice and choreographing. Currently she has a backlog of work and utilizing a home studio would make her situation easier. Mr. Buckley explained an artist studio is permitted for individual use, not for business purposes, as defined under "Home Occupations" in the zoning code. He reported this application is for an accessory structure, in this case an artist studio. Mr. Buckley explained the size of the structure was reduced to reduce the variance to exceed lot coverage. Discussion took place about the size of the lot relative to maximum lot coverage standards and it was noted that this 3,055 square foot parcel only allows 30% lot coverage. If the lot were a conforming 5,000 square foot parcel as called for by zoning regulations, a variance to exceed the maximum lot coverage would not be necessary. Ms. Knudson reported she has held onto two very large mirrors for many years and this space would appropriately accommodate them. She wants to remain in Beacon and engage with the artist community, hoping in some way to contribute to the City.

Mr. Jensen opened the floor for public comment however no one wished to speak. He read the following form letter of support:

I, _____, support the owner of 16 South Walnut Street in her petition to build an artist studio in her back yard.

Miriam & Jose Roman
15 S. Walnut Street

Gina Thomaselli
13 S. Walnut Street

Anthony Thomaselli
13 S. Walnut Street

Benjamin Harnett
12 S. Elm Street

Randy Calderone
27 S. Walnut Street

Ruta Rimas
S. Walnut Street

Lucille Rodriguez
11 S. Walnut Street

Hector Rodriguez
11 S. Walnut Street

Mr. Jensen reported a phone call was received from Sylvia Olaker from 15 South Brett Street, voicing her opposition to the requested variance.

A lengthy discussion took place about the difference between an artist studio and a garage, and it was noted that both have the same setback requirements. Concerns were expressed for future extension of the driveway because it would result in the loss of green space and increase impermeable surface on the lot. After a lengthy debate, a compromise would place a restriction that the green yard space in between the house and the accessory structure be maintained into the future.

There were no further comments and Mr. Haug made a motion to close the public hearing, seconded by Ms. Smith. All voted in favor. Motion carried; 5-0. Members went through each of the five factors that must be considered.

Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by granting the requested area variances?

Members felt the side yard setback would not produce an undesirable change because other structures in the neighborhood are similarly situated and are located right on, or very close to, the sidewalk. The lot coverage variance will also not create an undesirable change because other properties in the area appear to exceed the lot coverage limitation. The legal non-conforming parcel is 3,055 square feet where a lot size of 5,000 square feet is required, therefore the proposed 336 square foot accessory structure would not require a variance if the property were 5,000 square feet in size. Concerns were raised that the accessory structure could be converted into a garage which would result in extending the asphalt driveway into the rear yard. After some discussion, members considered placing a condition that green space between the house and the accessory structure be maintained into the future to protect the backyard space.

Can the benefit the applicant seeks be achieved through another method, feasible for the applicant to pursue, that does not require area variances?

Ms. Knudson explained the basement of her house is very small and has a low ceiling which would not accommodate a dance studio. She made efforts to position and size the structure to request the smallest possible variance. Members felt there were no other feasible methods for the applicant to pursue due to the irregular size and shape of the lot.

Are the requested variances substantial?

Members felt the requested variances were mathematically substantial however considering the configuration and size of other lots in the neighborhood felt the effect of the variances would not be substantial.

Will the proposed variances have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Members felt the variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The majority of the board agreed that a condition to require green space be maintained between the house and the accessory structure would preserve the character of the neighborhood.

Is the alleged difficulty self-created?

The board concluded that the variance was self-created due to the applicant’s desire to make a change to the odd sized lot.

After careful consideration, Mr. Lanier made a motion to grant the variances with conditions outlined in the draft resolution as discussed. The applicant was asked if she would agree to maintain the backyard area as lawn, green plantings or a garden, and whether the timeframes for construction as outlined in the draft resolution were acceptable. Ms. Knudson agreed to the terms as proposed. Ms. Smith seconded the motion. All voted in favor with the exception of Mr. Haug who abstained because he disagreed with the lawn/green area restriction. Motion carried; 4-1.

Mr. Haug made a motion to direct the City Attorney’s office to finalize the draft resolution as amended and authorize the Chairman to sign, seconded by Mr. Lanier. All voted in favor. Motion carried; 5-0.

Miscellaneous Business

Consider request for a six (6) month extension of Area Variance Approvals - Edgewater

City Attorney Drew Gamils reported the Edgewater project requested approval extensions from the Planning Board, City Council, and Zoning Board of Appeals as outlined in correspondence dated January 30, 2020. She explained the applicant has been working on all the conditions of approval, and all but two items have been completed. Easement documents are under review in the City Attorney’s office and sign off is needed from the Health Department. The City is in the process of upgrading its sanitary sewer system which is a circumstance of finalizing these last details. City Attorney Drew Gamils reported the Planning Board and City Council granted extensions as requested. After careful consideration Mr. Lanier made a motion to grant the extension request as requested, seconded by Mr. Haug. All voted in favor. Motion carried; 5-0.

There was no further business to discuss and the meeting was adjourned on a motion made by Mr. Haug, seconded by Mr. Lanier. All voted in favor. Motion carried. The meeting adjourned at 8:37 p.m.