

**Zoning Board of Appeals**  
**Village of Ballston Spa**  
**July 28, 2021**  
**Village of Ballston Spa Library**

**Present:** Chairwoman Anna Stanko, Member Bernadette VanDeinse, Member James Jurcsak, Member John Luciani, Village Attorney Stephanie Ferradino.

**Also present:** Applicants Adam and Monique Cohen, Alternate Member Paul Laskey (via zoom and conference call), Village Trustee Liz Kormos, and Village Trustee Christine Fitzpatrick.

**Absent:** Member Kevin McDonough

Chairwoman Stanko called the meeting to order at 7:08 pm. Introductions of new Building Department Clerk, Laurel Gailor to Board.

Quorum confirmed by Chairwoman Stanko followed by the Pledge of Allegiance.

**Approval of Minutes:**

Chairwoman Stanko requested approval of October 28, 2020 Zoning Board of Appeals meeting minutes (since Member VanDeinse had not received a copy in time for the March 31, 2021 meeting). Motion made by Member Jurcsak and Seconded by Member Luciani. Motion carried. Abstention: Member VanDeinse.

Chairwoman Stanko requested approval of March 31, 2021 Zoning Board of Appeals meeting minutes. Motion made by Member Luciani and Seconded by Member Jurcsak. Chairwoman Stanko presented a correction for page 3, line 24 – “Member Laskey advised there is no difference between the ZBA and the Arts Council”; rather the minutes should read: Member Laskey advised there is a difference between the ZBA and the Arts Council. The minutes were approved as corrected. Motion carried.

**Old Business:**

None

**New Business:**

***Area variance application for:***

Property SBL: 203.64-2-7 (54 Center Street – Adam & Monique Cohen)

Building Department Clerk Gailor read the Legal Ad Notice.

Chairwoman Stanko provided background information on the application,

- The Zoning Board of Appeals will need to determine if the rear property line (Long Alley) is considered frontage.
- Secondly, the proposed garage does not meet set back requirements for the R-1 district (Rear yard of 5 feet and 12 feet from any side lot).

Chairwoman Stanko stated that an interpretation needs to be determined whether an alleyway is considered frontage. Chairwoman Stanko had spoken with Member Kevin McDonough who had served as Zoning Board of Appeals Chair for maybe two decades, at least regarding if an ally way had ever been considered frontage – he had not recalled any time this had happened.

Village Attorney Ferradino shared the legal definition of an alleyway: Secondary public means of vehicular access. This definition may help to determine that frontage is then on the main portion of a street and the definition lends support to the interpretation needed for the application.

All agreed.

Building Inspector LaFountain asked for clarification that property frontage then is considered Center Street and the rear/back property line is on Long Alley. Chairwoman Stanko answered 'yes'.

Chairwoman Stanko stated that in order for this Board to provide or grant a variance, there are certain criteria that is to be met (Zoning code 205-71 A-E) Each of these need to be proved and/or explained as they are in the written application. Applicant Cohen reviewed each of the questions with the Board and answered any questions they were presented from the Board

Applicant Cohen, it is replacing existing garage that is deteriorating in the twelve years that they have owned it, and the new structure will be turned slightly to be a bit squarer to the alley way. The siding will also match existing house. Snow removal will be easier and remove vehicles off of parking on the road. Requesting to move garage back 5' to meet codes.

Chairwoman Stanko asked if Board members had any questions. She asked applicants if they would be tearing up existing foundation and pouring a new one. Adam Cohen replied yes.

Member Luciani asked if the trusses were going to be premade? Cohen replied yes. Plans show that roof height will be 19 feet. Building Inspector LaFountain states that code is 15 feet for accessory buildings.

Chairwoman Stanko stated after consultation with Village Attorney Ferradino, because of the roof height, then applicant would have to return next month to go before the Board for a variance in building roof height.

Applicant Cohen was asked if the original plan did not indicate that the trusses were going to be 15 feet? He stated that he had asked for the company that was drawing up the plans to show this, but the software was unable to go beyond the standard.

Chairwoman Stanko asked Member Laskey if he had any questions regarding the application due to his remote connection.

Applicant Cohen spoke regarding the timeframe; he stated that this has been going on since April, and because it is summer, they would like to get started on the project. Asked if there is a way that they could get started with the project.

Chairwoman Stanko stated after consultation with Village Attorney Ferradino, a special meeting could be called. However, legal notices do have a 10-day prior notification requirement to a meeting being held. Applicant would have to bring a letter to the Building Department stating the addendum to the original variance request for an increase in height.

Chairwoman Stanko asked the Board members if they would consider approving this action. All agreed.

Village Attorney Ferradino stated that the SEQR is a type 2 action and does not require review.

Chairwoman Stanko opened the floor to public comment. Trustee Kormos mentioned that garage height needs to be added to the list of Codes to be reviewed.

No other comments. Chairwoman Stanko closed public comment.

Member VanDeinse made a motion that the Village of Ballston Spa Zoning Board of Appeals that an alley or alley way be interpreted that property facing an alley or alley way is not frontage. Seconded by Member Jurcsak. All approved. Motion carried.

Member Luciani moved that the Village of Ballston Spa Zoning Board of Appeals makes a motion to approve granting relief of a side yard setback as request of five feet on the

North and South property lines. As shown on Exhibit 'A'. Seconded by Member VanDeinse. All approved. Motion Carried.

Building Inspector LaFountain indicated that a building permit can be issued on Monday, August 2<sup>nd</sup>, and there will be no demolition of structure until permit is received by applicant.

***Area variance application for:***

Property SBL: 216.48-1-2 (67 McMaster Street – Laskey)

Building Department Clerk Gailor read the Legal Ad Notice.

Chairwoman Stanko indicated that Member Laskey would be recusing himself from decisions and asked the remaining members if they would look at this project unbiasedly. All agreed.

Chairwoman Stanko provided background information on the application, and stated the proposed addition falls under code 205-61 A & B:

- No structural alterations are permitted in buildings that are nonconforming in use, except when required by law or when adapting or remodeling building or other structure to a conforming use.
- Buildings and structures which are only nonconforming in bulk may be altered, moved, reconstructed, or enlarged, provided that such change does not increase the degree of or create any new nonconforming bulk in such building and does not violate any other provisions of this chapter.

Additionally, under Schedule B of the Codes, a side yard setback of 12 feet is required.

Chairwoman Stanko stated that in order for this Board to provide or grant a variance, there are certain criteria that is to be met (Zoning code 205-71 A-E) Each of these need to be proved and/or explained as they are in the written application. Applicant Laskey reviewed each of the questions with the Board and answered any questions he was presented from the Board.

Applicant Laskey reviewed the location of the proposed addition, siding will match existing siding, it will be a one – story addition that will be used as a mud room and bathroom and encumbered porch. The maximum height will be twelve feet. Currently the residence has one bathroom.

Village Attorney Ferradino stated that 205-61A refers to buildings that are nonconforming in use. 67 McMaster is zoned as residential.

Chairwoman Stanko asked if members of the board had any questions or comments?

None.

Chairwoman Stanko opened the floor to public comment. Trustee Kormos asked what color house was – trying to identify it on google map... then asked how much relief is he looking for on side yard? Chairwoman Stanko replied six foot of relief and he is adding to the rear of the house.

Public comment closed.

Village Attorney Ferradino stated that the SEQR is a type 2 action and does not require review.

Member Luciani moved that the Village of Ballston Spa Zoning Board of Appeals makes a motion to approve granting relief to the West side of property line in the amount of 6 feet as requested. Seconded by Member VanDeinse. All approved. Motion Carried.

**Other Business:**

None

**Meeting Adjourned:**

Motion Member Luciani. Seconded Member Jurcsak. 8:11 p.m.

Next meeting will be determined following legal ad notice. Members will be notified.

Respectively submitted,

Laurel Gailor  
Building Department Clerk