

Zoning Board of Appeals

Village of Ballston Spa

September 29, 2021

Village of Ballston Spa – Municipal Offices

Present: Chairwoman Anna Stanko, Member Bernadette VanDeinse, Member James Jurcsak, Alternate Member Gary Dale, Village Attorney Stephanie Ferradino.

Also present: Applicant Justin and Jennifer Morgan, Building Inspector LaFountain.

Absent: Member McDonough

Chairwoman Stanko called the meeting to order at 7:00 pm.

Meeting began with the Pledge of Allegiance.

Approval of Minutes:

Chairwoman Stanko requested approval of the minutes from August 25, 2021 Zoning Board of Appeals meeting. Motion made by Member Luciani and Seconded by Member Jurcsak. Motion carried. Abstention: Alternate Member Dale.

Old Business:

None

New Business:

Area variance application for:

Property SBL: 216.22-1-49 (15 Frederick Lane – Justin Morgan) For a garage that does not meet side, rear or bulk requirements OR minimum distance between house and accessory structure.

Building Department Clerk Gailor read the Legal Ad Notice with the noted correction of Frederick Street to Frederick Lane.

Chairwoman Stanko provided background information on denial on the application for an area variance,

- Application had been denied because of 205 – 25. Accessory structures.
 - A. Unattached accessory buildings may be erected in residential districts, provided that the following criteria are met:
 - 2. Location. Accessory buildings may be erected within rear and side yards in accordance with the following requirements: **[Amended 9-23-2002 by L.L. No. 5-2002]**
 - 2-a Rear yard: five feet from the rear property line and 12 feet from any side lot line.
 - 2-c Not closer than 15 feet to a principal building, whether in a rear yard or a side yard.
 - 3. Lot coverage. In computing lot coverage, the total footprint of the principal buildings and accessory structures shall be used.
 - Under Schedule B of Area and Bulk Regulations Part I an R-1 requires **Bulk to be 20%** and the applicant indicates **28.37%**.*

Chairwoman Stanko asked the Applicant Justin Morgan to step forward and asked if he had with him proof that he notified all neighbors within 100 feet of his property. He turned the eight (8) certified mail receipts dated September 13, 2021 to Chairwoman Stanko for the record. Applicant Morgan indicated that he and Mrs. Morgan had personally spoken to each of the neighbors prior to them receiving the letter to let them know as well.

Applicant Morgan is looking to build a garage – metal structure as for his hobby and would like to store an extra vehicle in, that he owns, that is currently stored off site.

Chairwoman Stanko read through the five questions that the Applicant must prove in seeking a use variance:

- Whether the benefit sought by the applicant can be achieved by other feasible means.

Applicant Morgan said for them to change location for where they are, would be cost prohibitive; especially the way the markets are right now. They both work locally and would like to continue living where they are located.

- Whether granting the variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

Applicant Morgan responded that the garage and property will be maintained to a standard that is more than suitable for the neighborhood, and that throughout the neighborhood there are no shortages of garages.

- Whether the variance is substantial.

Applicant Morgan believes the setback request is minimal.

- Whether the variance will have adverse physical or environmental effects on neighborhood or district.

Applicant Morgan does not believe that it will but does not quite understand the question.

- Whether the alleged hardship has not been self-created.

Applicant Morgan believes that it sort of was, as having automobiles for a hobby and having find space to garage them.

Chairwoman Stanko asked if any other questions or concerns from the Board for the applicant?

Member VanDeinse asked Applicant Morgan had considered a smaller/ narrower structure, especially if it is one vehicle?

Yes, it is for one vehicle. However, they also would like to use the garage for storage as their home is on a slab without a basement. A good portion will be used for storage. That is why it only has one garage door and one entry door.

Chairwoman Stanko asked what the proposed height of the garage?

Applicant Morgan replied, 14 feet.

Member Dale asked if this is a hobby, the type and size of the vehicle and if some of the space to accommodate the tools as well?

Applicant replied, Ford Mustang and yes, an area would be devoted to his tools – most garages are typically 16 foot wide for a single car garage and the request for the additional 8 feet would give the space needed to work on the vehicle.

Member VanDeinse asked, just for the record, you will not be running any type of business out of this garage?

Mr. Morgan replied, no this will be for his own vehicles and for storage for the family.

Chairwoman Stanko asked, if this is a Mustang, this means that it is not a race car.

Applicant Morgan replied, no that it is just a regular maintained vehicle.

Member VanDeinse asked if there is a current driveway to the proposed location?

Applicant Morgan replied, there is not, but in the future, he would like to move the location of the current driveway from the right side of the house to the left side, but it is just to cost prohibitive for them to do that right now.

Member VanDeinse, the proposed building is a metal sided; are there any other metal sided buildings in the neighborhood? Applicant believes that are at least two; not on Frederick but in the neighborhood.

Member Luciani asked if the applicant would be running power to the building. Applicant Morgan replied, not immediately but probably in the future.

Chairwoman Stanko reviewed whether the variance is substantial; and that part of their duty as a Board is to look at variances and to look at the most minimal way the property owner can achieve their goal with the change being the smallest amount from what the written code of the Village reflects . Currently, applicant is asking for three separate variances on this one property, and this is a substantial request.

Member Dale asked for a clarification of the space between the proposed building and the house - what is the main purpose of having this separation? Building Inspector LaFountain replied, that is mostly a fire separation, and it is supposed to be fifteen (15) feet. This allows access for firefighters to be able to get to around structure if the need arises.

Member Dale asked also for a clarification on the side setback. Building Inspector LaFountain replied, twelve (12) feet. Proposed building will be five (5) feet.

Member VanDeinse asked if there were any structures to the rear of the property. Applicant Morgan replied that there was none, but there was a fence on the property line (rear side).

Member Luciani asked in regard to the neighbors and the environmental aspect regarding the amount of water that will be coming off of the proposed structure, where and how will this affect the surrounding watershed. Applicant Morgan responded by showing on the map he had and the location of the neighbors' houses – he commented that it should not impact them.

Member Dale commented that he did a street view tour through the applicant's neighborhood and observed that there were many garages built close to the houses. From that standpoint he does not believe the structure should change the physical effect of the neighborhood. He also asked the applicant regarding the feedback that they received from the neighbors. The applicant said that between himself and Mrs. Morgan that they had spoken to all neighbors within the 100' required notification area, and none seemed to have objected or expressed any real interest in what they were doing.

Member Jurcsak asked if the neighboring homes were on slabs as well? Applicant Morgan said that he wasn't sure but believed that a few were that way. Member Jurcsak asked if the structure that they were planning if there was going to be a second story? Or a loft or other storage? No.

Chairwoman Stanko asked if the area up there is wet or prone to flooding, or is the water table high? Applicant replied that the soil was really rocky and has never observed it to be wet other than when the snow is melting, but not really standing water.

Member Luciani asked about the concrete apron around the structure, and what the size of the pad would be? The applicant replied that there is not an apron, it is just the drawing showing that but may have one in front of the door.

Chairwoman Stanko was asking in regard to the aerial view of the property, what was in the area between structure and the rear. Applicant replied, just a tree and that is on the neighbor's side. They do not have many trees left on their property.

Chairwoman Stanko one important piece that this board looks at is the access to a property by emergency personnel. On one side there is only eight feet and on the other side there is only six feet – giving a concern to access. Applicant replied that there is a fence there and that would allow for a stretcher to get in there, and there is also a gate.

Member VanDeinse asked if they have considered a smaller structure or reconfiguring the shape of the structure. Applicant Morgan replied that the concern is with a garage is the depth. Member Luciani asked if the adjustment could be made in any direction to allow the setbacks to be further than they are currently proposed? Applicant replied, because of the taper of the yard it does make it difficult to change in other directions.

Discussion followed by members and applicant regarding various options because of the setbacks required.

Member Dale asked applicant what would be the minimal depth for what you are trying to do that you would consider? Applicant replied probably twenty-one (21) feet.

Chairwoman Stanko commented that if she is reading the board correctly, their biggest concern is the six (6) foot distance between the structure and the house.

Building Inspector LaFountain commented that this is a metal building so that it offers the maximum fire protection that there is. Fire protection is really more important than the access to the backyard.

Member Dale asked about the rear setback – code says five feet and it looks like they have six feet. Building Inspected commented that it is six feet, and it does get wider as it goes down the property line. He then asked if this would allow for them to set back the proposed structure another foot in order to increase the distance between the house and the proposed structure?

Chairwoman Stanko asked what is to the rear of the proposed structure. Applicant replied, a fence. Building Inspector asked if it was his fence or the neighbor's? Applicant replied, neighbors. Chairwoman Stanko asked if there is an accessory structure in the back of either property. Applicant replied, there is nothing.

Member Dale asked about the percentage that is shown (28% bulk) and how this calculated. The Building Inspector replied that this is a square footage calculation of all the buildings on the property relative to the square footage of the lot. Member VanDeinse asked if the Village included pavement as part of this percentage, because it is impervious, as part of this calculation. Building Inspector replied, just structures.

Member Luciani commented that if applicant changed structure to 21' x 21' then the bulk would be reduced by 2 percent.

Chairwoman Stanko asked if there were other questions? None asked. She then asked the Applicant if he could consider the 21' X 21' structure. He replied that he would rather that it be larger but would also like to meet a compromise as well.

Chairwoman Stanko remarked that going the way that the discussion was going that she would like to hear from the Building Inspector, and his thoughts on this proposed structure. He commented that it is three variances no matter what you do – that includes three with the bulk. He mentioned that it is not unlike many other places that he has visited in the Village, that are pre-existing.

Chairwoman Stanko opened the floor to public comment. Being none, she closed public comment.

Building Inspector asked the date of the mailing to the neighbors? Chairwoman Stanko replied, September 13th – Certified mail.

Chairwoman Stanko asked for any other questions, thoughts, willing to make a motion?

Member Dale mentioned that it seems that the most concerning issue is the proximity between the house and the proposed structure, and that for emergency or fire it is close. The neighborhood seems to have many additional structures throughout the yards, it doesn't seem that this is going to have an impact on the characteristic of the area.

Building Inspector stated that because the proposed building is going to be a metal building and is pretty much non-combustible. Applicant commented that it is metal framing, metal sides and metal roof.

Attorney Ferradino asked if it mattered what side the window was on? Building Inspector commented, the location of the door is determining the location of the window, but the window could be fire glass for an exit.

Chairwoman Stanko said for the record, that this is a Type 2 application, and no SEQR review required.

Member Luciani provided for discussion; The Ballston Spa Zoning Board of Appeals makes a motion to grant 3 area variances for the property located at 15 Fredrick Lane. Ballston Spa New York, 12020. Identified as property SBL 216.22-1-49 to build an

accessory building at the rear of the property. These variances would include relief of 7' side yard setback on the eastern side of the property, relief of 6' between the principal building and the newly constructed accessory building, and a 7.40% relief of bulk usage. This is based on the applicant agreeing to reduce the size of the building from 24' x 24' to 24' x 21'. Refer to Exhibit A (attached).

Second made by Member VanDeinse. All in favor. None opposed. Motion carried.

Other Business:

Chairwoman Stanko asked members if they were aware of the meeting of October 5th in the Village Library concerning Planned Unit Developments. Most were not and asked Building Department Clerk to send an email out to all members.

Next meeting will be October 27, 2021.

Meeting Adjourned:

Motion Member VanDeinse. Seconded by Member Jurcsak. All approved. Motion carried. 7:56 p.m.

Respectively submitted,

Laurel Gailor
Building Department Clerk

EXHIBIT "A"



Exhibit A