

Zoning Board of Appeals Meeting Minutes

Village of Ballston Spa

Held on May 25, 2022

Present: Chairwoman Anna Stanko, Member James Jurcsak, Member Kamran Parwana, Alternate Member Gary Dale, Alternate Member Mary Bush, Village Attorney Stefanie Bitter

Absent: Member John Luciani, Member Kevin McDonough

Chairwoman Stanko called the meeting to order at 7:01 pm.

Meeting began with the Pledge of Allegiance.

Approval of Minutes:

Chairwoman Stanko requested approval of the minutes from January 26, 2022 Zoning Board of Appeals meeting. A motion was made by Member Jurcsak and seconded by Alternate Member Dale. Member Parwana and Alternate Member Bush abstained. The motion carried.

Old Business:

Chairwoman Stanko stated that she will be forwarding to everyone the updated PDD legislation. It has been referred to the Planning Board. She stated that the ZBA has made some comments, however, the Mayor has asked us to take a look at it again. She requested that members review it as revisions have been made and let her know if they have any thoughts and she will forward them to the Board.

New Business:

Area variance application for:

Property SBL: 203.79-1-25 (115 Prospect Street – Sean Hinkley) For adding a single-story carport within the 12' setback requirements

Applicant Hinkley provided Notification of Neighbors Certificates of Mailings. He stated that he has lived in the Village for over ten years. He would like to add a single-story carport to the left side of the house. In the past, he has put up a temporary carport. He stated that in the past, if the back yard gets a lot of ice on it, he has been dealing with a

lot of ground water that comes very close to the foundation of the house. In the winter, he has to run a pump in his basement to get the water out. For this project, he would like to add an additional covered spot for a car and work on mitigating the water from getting into the house. Chairwoman Stanko asked if Mr. Hinkley brought a survey with him. He replied yes and it was given to the Board members for review. Peter Pesano with Verdant Architecture introduced himself.

Chairwoman Stanko read through the five questions for criteria that the Applicant must prove in seeking a use variance and asked the applicant to answer as we do along.

- Whether the benefit sought by the applicant can be achieved by other feasible means. Identify what alternatives to the variance have been explored.

Peter Pesano stated that the reason for the proposed location is that the existing garage and electric car charger are already there. He stated that the opposite side of the house is not feasible to relocate it. With the amount of space available and the amount of paving needed, it would not be economically feasible to locate the parking area as well as the electrical panel for the electric car charger there.

- Whether granting the variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Granting the variance will not create a detriment to nearby properties or an undesirable change in the neighborhood character for the following reasons:

Mr. Pesano stated that currently there is limited visibility from Prospect Street. The area where the house currently sits is on higher ground from the road and has vegetation around it. The carport will be slightly visible from the road and esthetically pleasing to the surrounding properties. This will also help mitigate the draining issue on the property.

- Whether the variance is substantial.

Mr. Pesano stated yes, in the means of the percentage of relief requested, this is substantial. He stated that the size of the structure is minimal, and it will also help with an undesirable drainage issue.

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

Mr. Pesano stated no. Currently there is existing paving there, and no existing vegetation will be removed from the site. There will be limited visibility and this location gives us minimal impact on the surrounding areas.

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

Mr. Pesano stated that it was self-created due to the placement of the charging station and existing garage location. Mr. Hinkley stated that the existing garage was there when he bought the house. Chairwoman Stanko asked if he had the electric car charger installed, and Mr. Hinkley said yes.

Chairwoman Stanko asked the members of the Board if they have any questions. She asked if the applicant was going to add additional paving. Mr. Hinkley stated that the current pavement will probably be replaced at some point, but it will essentially be the same footprint. Alternate Member Dale asked what the current problems are with the temporary cover. Mr. Hinkley stated that he puts it up in the fall and takes it down in the spring. Also, the snow load could collapse the structure onto the car. He also stated that it is dark on that side of the house. Alternate Member Dale asked if he was planning on installing new lights. Mr. Hinkley stated that if he did they would be down facing lights. Chairwoman Stanko asked how far away from the charger can you be. Mr. Hinkley replied 20 feet. Any further than that would require the use of extension cords, which could be a fire hazard. Alternate Member Bush asked how wide the temporary canopy was. Mr. Hinkley replied 10 feet. Alternate Member Dale asked if he would consider the carport being 9 feet wide. Mr. Pesano answered no. He stated that size would not be feasible for purposes of getting in and out of the vehicle. Chairwoman Stanko asked what is happening with the ice build up or runoff to the house directly to the left of your property. She stated that the proposed carport is directly, if not over, the property line. Mr. Pesano stated that a water gutter system and rain garden would be behind the carport. If additional measures are needed, an overflow reservoir would be considered. Mr. Hinkley stated that the water from his property will not flow into the neighbor's property. The water would run off behind his property. Mr. Hinkley stated that snow would likely mound onto the neighbor's property and that he would be mindful not to throw snow over there. Village Attorney Bitter stated that the plans show an overhang for the roof. She stated that the setback becomes relative to where the overhang falls. She stated that the overhang should not fall on adjacent land. Mr. Pesano stated that the overhang is .58. He also stated it will not fall onto the adjacent land. Chairwoman Stanko asked where is the .58 coming from. She stated that the survey does not show the setback from the back corner. She stated that a quick measurement looks like from the back corner to the property line is about 10 feet. Mr. Pesano stated that an updated survey is being conducted now. Mr. Hinkley stated that the surveyors are about four weeks behind before they can come back. Alternate Member Dale stated that the minimum side yard should be 12 feet, but based on the drawing, the house is already less than 12 feet from the side setback. Mr. Pesano stated that they will wait for the updated survey to be sure there is enough room.

Alternate Member Dale also stated the carport is planned to be 22 feet deep. He questions if it has to be that deep. Mr. Pesano stated that it can be reduced to 20' deep if necessary. Chairwoman Stanko asked where the power source for the electric car charger is in the house. Mr. Hinkley stated it is a 50a circuit on the left side of the house. She asked if he has an estimate to move it to the other side of the house. He said no. She stated that with all the expenses he is incurring to get this carport built with the least amount of impact on the neighbor's property, why doesn't he move everything to the right side of the house, which has plenty of room. Mr. Hinkley stated that the water backup will still occur if we move things over. He would like to keep all updates on one side of the house. Trees would have to be taken down if it was put on the right side. The right side currently has the chimney, air conditioning, and all utilities including underground gas. The driveway is uphill and would have to have a 90 degree turn to the right of the house past a bend to the right of a light pole. Alternate Member Dale asked what size footing are being put in. Mr. Pesano stated that has not been developed yet. Alternate Member Dale asked what size footings will be used. He noted that it looks like they will be on the neighbor's property for the digging of the footings. Mr. Pesano said final details have not been worked out yet.

Chairwoman Stanko opened the floor for Public Comment:

Kelly Starnes, 111 Prospect Street stated that as long as this structure does not encroach on their property, they have no problem with it. He stated that there are no windows on that side of their house. He also stated that his lot is higher than Mr. Hinkley's property, so there is no problem with run off. He noted that the portable garage has not created any problems.

Building Inspector Dave LaFountain stated that the car charger was not on the application and no permit was issued when it was installed. He asked Mr. Hinkley if he had a permit when it was installed and Mr. Hinkley replied no. Building Inspector LaFountain said he will look into that. He also stated that if the Board granted this variance, he would need to have a survey with the footing locations marked and certified to comply with any variance you would allow. He also stated that if the variance is granted, firefighter access to the back yard is going away, which he doesn't approve of. Chairwoman Stanko stated she also thought of that and asked Mr. Hinkley to address that issue. Mr. Hinkley stated that there would be emergency access to the backyard from the right side of the house without the carport being there. He also stated that it would be very hard to get emergency access to the backyard from the left side of the house because of a 90 degree turn to the left of the house and bushes that are behind where the carport would be. Mr. Hinkley confirmed that there is access to the backyard for emergency vehicles to enter from the right of the house.

Chairwoman Stanko closed Public Comment. She then asked if any Board members had any additional questions. Alternate Member Dale stated that the structure looks nice and it is nice to hear that they are planning on dealing with a drainage issue. He stated that it would be hard to add the carport on the other side. He also stated that he has a concern with the width of the footings and that the exact placement is needed so

that no easement would be needed. Building Inspector Dave LaFountain stated that it should include the overhang without encroaching on the neighbor's property. Chairwoman Stanko asked who did the survey. Mr. Hinkley stated Gilbert VanGuilder. Member Jurcsak said his main concern is the property line. He noted that you need 18 – 20 feet to get a car in out of the weather. He feels if it was shortened to 20 feet, it would be ok to get a car in, but the footings will be close to the property line. Chairwoman Stanko stated she would like to table this application until we get the new survey. Alternate Member Dale agreed to needing the new survey. Village Attorney Bitter stated that perhaps the carport can be moved forward if needed. Mr. Pesano stated that would be possible if the new survey showed that it needed to move forward. She stated that the carport does not have to be flush with the house. Chairwoman Stanko asked the applicant if he was OK if we made a motion to table the application until the next meeting. Mr. Hinkley officially asked the Board to table the application until the next meeting.

Other Business:

Chairwoman Stanko stated that the Beehive is coming our way, which is 103 East High Street. The burned-out structure used to be 8 units, it is now proposed to have 4 units. That will be coming to us and the Planning Board. It is coming to us for a use variance because it is in an R1. She noted that there will be parking issues for sure. Applications must be received by the first Friday of the month to be put on the agenda.

Meeting Adjourned:

A motion to adjourn was made by Alternate Member Dale, seconded by Alternate Member Bush. The motion carried. The meeting was adjourned at 7:50pm.

Respectively submitted,

Kathleen Barner
Building Department Clerk