

Zoning Board of Appeals Meeting Minutes

Village of Ballston Spa

Held on June 29, 2022

Present: Chairwoman Anna Stanko, Member James Jurcsak, Member John Luciani, Member Kevin McDonough, Member Kamran Parwana, Attorney Alexandra Davis sitting in for Village Attorney Stefanie Bitter

Also Present: Alternate Member Gary Dale, Alternate Member Mary Bush

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 May 25, 2022 Zoning Board of Appeals meeting. A motion was made by Member Jurcsak and seconded by Member Parwana. The motion carried.

Old Business:

Continuation of 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.

Chairwoman Stanko gave a review of the application from the last meeting. Mr. Hinkley stated that the new updated survey is different from the prior survey. The new survey shows the land shifted over quite a bit. He passed out copies of the new survey to the members. Tim Wade from Verdant Architecture stated that there was a slight adjustment to the plan. The carport was lengthened and reshaped to conform to the property line. The water and drainage issues that Mr. Hinkley is currently experiencing will be improved if the variance is granted. Chairwoman Stanko asked if the carport could be moved forward. Mr. Hinkley stated that it would be too hard to cut the turn away from the rock wall. Mr. Hinkley stated that he has spoken with his neighbor and that he has no concern with the change in configuration. Chairwoman Stanko asked if the surveyor is coming back prior to construction to mark the lines. Mr. Hinkley said yes. Building Inspector Dave LaFountain stated that if the variance is granted, the lines and corners must be marked prior to the start of construction. Member McDonough asked what is being done to protect the neighbor's property. Mr. Wade stated that the roof runoff stays on his property and that the roof drainage will be rerouted. Member McDonough asked why the carport can't be on the other side of the house. Mr. Hinkley stated that the access to the back yard is on the other side. Mr. Wade stated that the

grade is prohibitive on the other side and that the electric car charging station is already located on the left side of the house and moving it would be inconvenient. Member McDonough stated that there would be .58' from the property line if granted. Mr. Wade noted that the variance is substantial and that he will provide all the required structural details. Member Luciani asked for an explanation of the drainage solution. Mr. Wade stated that the pipes will be under the retaining wall. Alternate Member Dale questioned the grade. Mr. Wade said it will stay the same towards Mr. Hinkley's property with a perforated pipe. Much discussion followed regarding the drainage concerns. Chairwoman Stanko asked Counsel if she had any questions. Attorney Davis stated that they must stay in the property line and get an arrangement with the neighbor to do the construction. Alternate Member Dale stated that the variance would be 11.42'. Chairwoman Stanko stated that this large of a variance has never been granted before. She noted that the neighbor not being opposed to this is in Mr. Hinkley's favor. Member McDonough stated that he is not totally opposed to this being significantly close to the adjacent property but would like to pass this onto the Village engineers to look at the drainage plan. He noted that Prospect Street is normally a large drainage problem area. Chairwoman Stanko asked Member McDonough if he is saying we should table this discussion or make it conditional. Member McDonough stated that he would like to see this application get tabled until the Village engineers have time to look at the drainage concerns on Prospect Street. Mr. Wade stated that he would ask it to be made conditional in order to have time to work with Building Inspector LaFountain after we hear back from the Village engineers. Member McDonough stated the ZBA doesn't normally approve variance applications with conditions, and that he would defer to legal counsel for guidance. Attorney Davis stated that it can be a conditional approval from a legal standpoint. Chairwoman Stanko asked for a motion to declare this a Type 2 SEQR action. Member McDonough made a motion to name the Village of Ballston Spa Zoning Board of Appeals lead agency in the SEQR regarding this application. Member Luciani seconded the motion. The motion carried.

Chairwoman Stanko opened Public Comment. Seeing none, she closed Public Comment.

Attorney Davis confirmed that the ZBA can approve the application with the condition that the engineers review and approve the plans.

Chairwoman Stanko and Member McDonough asked Mr. Hinkley if he would consider getting an easement to the neighbor's property or trying to buy a strip of his land. Mr. Hinkley responded no. Chairwoman Stanko stated that a lot line adjustment may work. Mr. Hinkley stated that it may clip the neighbor's driveway at the bottom. Alternate Member Dale asked if Mr. Hinkley could manage the drainage issue without this structure. Mr. Wade stated that Mr. Hinkley wants a permanent structure for his car and that it will help with the drainage. Chairwoman Stanko stated that she would like to see a lot line adjustment. Mr. Hinkley stated that there would be many costs involved with

obtaining the lot line adjustment and that it would be cost prohibitive. Mr. Wade asked if the main issue is speculation that somebody new would buy this property and have an issue with the structure being so close? He stated that a lot line adjustment is cost prohibitive to Mr. Hinkley. Member McDonough stated that Village Zoning Code is 12' and you are asking for 6", which is incredibly substantial. Mr. Wade asked what would be reasonable. Member Luciani stated that historically it would be 6'. Chairwoman Stanko asked if the carport could be made smaller. Mr. Wade said the carport was made smaller than the original presentation already, and that it cannot be made smaller again. Chairwoman Stanko stated that it would not be out of line to acquire land near the cedars. She noted that the line does not have to be straight and that he may only need 7' from his neighbor.

Chairwoman Stanko stated that the Board has given Mr. Hinkley some options to think about. The options are we can vote on this tonight or table this until you regroup and think about what you might want to do. She suggested that he seek legal counsel to go over the options. Mr. Hinkley asked if we move the lot line 7', is that doable? Member McDonough stated that he should ask for 12'. Mr. Wade interpreted the options as to table the discussion to do a lot line adjustment, or to approve the application with conditions. Chairwoman Stanko replied yes. Mr. Hinkley again asked what would be an acceptable variance – 1'? He said he might be able to do that. If it is 6', then that isn't possible for him to do. Chairwoman Stanko stated that the Board has given him suggestions. She stated that 1' would not pass muster and that a lot line adjustment seems to be the cleanest way. Mr. Hinkley stated that as of last month's meeting, it seemed to be going in his favor, and now it isn't. She noted that we have new information from the new survey, and this brings new questions. Mr. Wade stated that this is the exact same request that was presented last month, and it seemed that the Board was leaning in a favorable way, and now it seems like it is going in the opposite direction. Chairwoman Stanko stated that we have some Board members that were not here last month and that they have new concerns that were brought to light. She stated that at last month's meeting, there was no vote. At that time, Mr. Hinkley asked that the application be tabled until a new survey was done. She stated that the ball is now in Mr. Hinkley's court. Mr. Hinkley said he needs to talk things over at home. Mr. Wade stated that he understands that this is a substantial variance. He stated that this is a minimal structure, it fixes the drainage problem, and has neighbor approval. He stated that what they are asking for is nothing outside the realm of reasonable solutions and asked for a vote tonight. Chairwoman Stanko asked if anyone would like to make a motion. Alternate Member Dale asked that if the Board makes a motion, does it have to be in a positive direction. Chairwoman Stanko replied no. She stated that it can be a motion to deny this variance. Member McDonough made a motion that the application of 115 Prospect Street to construct a carport as shown in the survey Exhibit A be denied. Member Luciani seconded the motion. Chairwoman Stanko asked to poll the Board. Member Parwana voted yes, Member McDonough voted yes, Member Luciani

voted yes, Member Jurczak voted yes, Chairwoman Stanko voted yes. The motion passed. The variance is denied. Mr. Wade thanked the Board for a definitive answer and stated that they will be back.

Chairwoman Stanko stated that the Mayor and the Planning Board asked if we have any further comments or concerns regarding the proposed PDD legislation that we would like to be included in their response.

New Business:

Area variance application for:

Property SBL: 216.24-1-27 (164 Bath Street – Trevor Flynn/Paul and Jane Anderson)
For construction of a single-family home

The Building Department Clerk read the Legal Notice.

Trevor Flynn from Design Studio introduced himself. Mr. Flynn stated that the Anderson's bought this property which is next to their son's property. He stated that Paul and Janet Anderson bought the property and planned on renovating the existing structure, tear down the sheds, and to build a workshop. Mr. Flynn was hired to review the existing structure which was gutted down to the studs. It was then determined that the structure had several additions added on over the years. After discussion with the owners, it was determined that it would come at considerably more expense than to demolish it and build a new home in the exact same footprint and same scale and size as the existing structure along with maintaining the heritage trees. Mr. Flynn provided drawings of the proposed house. In addition, instead of building a detached workshop, it will now be attached to the house. Mr. Flynn stated that they are asking for three variances. The lot itself is a pre-existing non-conforming lot, so they are asking for a variance for that. The second variance is for a front yard variance. The current setback is 16'4", they are proposing 17'. The third variance is for the side yard. The current setback is 4'5", and they are proposing 5'. The goal is to maintain the utility lines already on the property and maintain the heritage trees. He noted that moving the structure would cause drainage issues in the spring and would also disrupt the root system of the trees. He stated that the porch will be on sonic tubes, not a foundation, thus protecting the root system of the trees. He stated that they did a survey of average front yard setbacks of 17 houses along Bath Street, and that the average setback on street view is 13'9". They are asking for 17'. He showed a drawing of the floor plan, showing the workshop in the rear of the building. The total building structure is 1972 square feet, including the porches and workshop. The existing overall height was 20', we now have an overall height of 22'. The total habitable space is 1300 square feet plus or minus. He showed a rendering of how the house might present itself on the street.

Chairwoman Stanko asked for questions from the Board. Member McDonough asked what zone district this was in. Mr. Flynn stated is in the R2 district. Mr. Flynn stated

that they understand that some of these variances may be substantial. He noted that drainage and topography will remain the same. Alternate Member Dale asked what the non-conforming issue was. Mr. Flynn stated it allows for 15,000 square feet and they had 13,913 square feet. Member McDonough asked if the Building Inspector or any other entity indicted that the structure is unsound. Mr. Flynn said their structural engineer declared it unsafe because the foundation is over 51% unstable. Member McDonough asked if the footprint is improving the setback. Mr. Flynn answered yes. Chairwoman Stanko asked if the applicant brought his neighbor letter notifications. He said yes and gave them to the Board. Alternate Member Dale stated that on #20 in the SEQR document, it was check marked yes – is that correct? Mr. Flynn stated it was downloaded that way on the form. Building Inspector LaFountain stated that the applicant needs a hazardous materials survey done for demolition. Mr. Wade stated that they are asking for relief of 8' in the front, 10' on the side, 10' total relief, and 1087 square foot relief total size on lot. Member McDonough asked if they have any objections from the neighbors. Mr. Wade stated no. Alternate Member Dale asked about the foundation. Mr. Wade stated that it will have a crawl space and will be a new construction foundation with slab on grade. Alternate Member Dale asked if the parking space will be used. Mr. Wade answered yes, as it is existing.

Chairwoman Stanko opened Public Comment. Hearing none, Public Comment was closed. Member McDonough made a motion that the Village of Ballston Spa Zoning Board of Appeals be designated the lead agency for SEQR. Member Luciani seconded the motion. The motion carried. Member McDonough made a motion that the Village of Ballston Spa Zoning Board of Appeals find no significant environmental impact with the proposal. Member Jurcsak seconded the motion. The motion carried. Member McDonough made a motion that the Village of Ballston Spa Zoning Board of Appeals grant a variance to the property located at 164 Bath Street for a front yard setback of 8' relief, a northern side yard setback of 10' relief and total bulk relief of 1087 square feet. Building Inspector LaFountain stated that for the record, prior to pouring concrete, that the footing locations need to be surveyed to indicate they are in compliance with the issued variance. Member McDonough amended the motion to add to the motion that the variance approval is conditioned that the survey certifies that the foundation is within the granted relief. The motion was seconded by Member Parwana. The motion carried. The variance is granted.

Public Comment: Sean Hinkley asked how does an easement work into a variance application. Member McDonough stated that as a point of order, what the applicant is asking for is out of the scope of the Zoning Board of Appeals responsibility and made a motion to close the meeting. Chairwoman Stanko stated that she feels Mr. Hinkley needs to speak to his own legal counsel about that.

Meeting Adjourned:

A motion to adjourn was made by Member McDonough, seconded by Member Luciani seconded the motion. The motion carried. The meeting was adjourned at 9:15pm.

Respectively submitted,

Kathleen Barner
Building Department Clerk