

Zoning Board of Appeals Meeting Minutes

Village of Ballston Spa

Held on September 28, 2022

Present: Chairwoman Anna Stanko, Member James Jurcsak, Member John Luciani, Member Kamran Parwana, Alternate Member Mary Bush, Attorney Alexandra Davis filling in for Village Attorney Stefanie Bitter

Absent: Member Kevin McDonough

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

The meeting began with the Pledge of Allegiance.

Approval of Minutes:

Chairwoman Stanko requested approval of the minutes from the July 27, 2022 Zoning Board of Appeals meeting. She stated that she was not in attendance at that meeting. A motion was made by Alternate Member Bush and seconded by Member Jurcsak to approve the minutes. Chairwoman Stanko abstained. The motion carried.

Old Business:

Continuation of application for:

Property SBL: 216.22-1-15 (14 Meadow Lane) John Moseman – Construction of 20' x 24' garage – does not meet the side setback requirements.

Chairwoman Stanko stated that the Applicant was previously granted a variance at the last meeting for his proposed garage, however, as a result of the survey, is now in need of a little more of a relief than originally proposed. She stated that she would like to make the members aware that the minimum distance from a main structure to an accessory structure is 15'. Mr. Moseman currently has 14.5'. If granted, this would need to be added to the variance. Mr. Moseman stated that at the last meeting, he was granted a variance of 5'9", but was unaware that the variance needed to include the overhang. Mr. Moseman stated that he had a survey done as requested at the last meeting, at a cost of \$3000. As a result of the survey, he now needs a variance for 6'7" of relief on the side setback, which includes the overhang. He showed the Board pictures of his neighbor's yards with garages close to their property lines. Chairman Stanko opened Public Comment. Hearing none, she closed Public Comment. Member Luciani stated that the applicant was originally granted a variance of 5'9" of side yard setback relief. He stated that the applicant now needs 2 variances, one for the distance from the house and one for side setback. Member Luciani made a motion that the Village of Ballston Spa Zoning Board of Appeals amend the previous variance for

property located at 14 Meadow Lane for construction of a garage from 5'6" to 6'7" of side yard setback relief along the northern property line as measured from the garage eaves and to add half a foot setback of relief from the main structure to the accessory structure. Chairwoman Stanko stated that the survey map will be known as Exhibit B. The motion was seconded by Member Parwana. The motion carried.

New Business:

Area variance application for:

Property SBL: 216.23-1-5.1 (101 Fairground Avenue) James and Kelly Whittredge – Proposed subdivision of the property, creating a lot which does not meet the minimum lot width (frontage).

The legal notice was read.

Mr. Whittredge stated that he would like to sell a building lot to his niece and nephew to build a single-family home on the part of the property. He stated that the road frontage does not comply with the required 80'. He would like to do a keyhole lot on the part of the property. Chairwoman Stanko asked what the proposed frontage is. Mr. Whittredge answered it would be 15'. Chairwoman Stanko stated that she has known the applicants for quite some time as most village residents do and has no financial interest in this application. She stated that we will move forward with this application and that she will not recuse herself in the application.

Chairwoman Stanko stated that she would like to remind the Board of the tests for an area variance that the applicant must meet in order for the Zoning Board of Appeals to grant a variance.

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

Chairwoman Stanko asked the applicant if the proposed lot does not have the required minimum lot width at the road. Mr. Whittredge answered yes.

- 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:

Chairwoman Stanko stated that there is a pre-existing single-family home in a similar location at the back of the property in a residential area. She asked if the neighbors were notified. Mr. Whittredge gave the neighbor notification letter mail receipts to the Clerk.

- Whether the variance is substantial.

Chairwoman Stanko stated that the home will be located in the back of the property and that the variance will be required for driveway access.

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

Chairwoman Stanko stated that there will be minimal change noted from the street view.

- Whether the alleged hardship has not been self-created (although this does not necessarily preclude the granting of an area variance).

Chairwoman Stanko stated no self-created difficulty. After speaking with the Chairwoman, this was a misstatement. The difficulty is self-created.

Chairwoman Stanko asked the Board members for their questions. She asked why is there only 15' of frontage. Mr. Whittredge stated it is to limit the exposure at the road. She asked when the second house on the lot was put in. Mr. Whittredge answered 1993. She asked if he had Planning Board approval. He answered yes. She asked if we received any responses from the neighbors. The Clerk answered we did not.

Member Luciani asked how much frontage does Lot 2 have now. Mr. Whittredge answered 10' or 12'. Chairwoman Stanko asked is 15' the minimum needed for emergency vehicle access. Mr. Whittredge said he did not know.

Chairwoman Stanko opened Public comment.

Gina Rossi Marozzi (10 Old Glory Lane) representing her parents, Frank and Rosemarie Rossi of Mohigan Hills Apartments, stated they are in full support of this project.

Paul Gadous (168 Prospect Street, owner of 107 Fairground Avenue) stated his concern is the placement of the driveway. He would like some green space between the driveway and the property line.

Tyrone McCloud (1 Meadow Lane) stated he owns north of the property and he is concerned about the placement of the house and driveway.

Chairwoman Stanko stated there is no setback requirement on a driveway.

Chairwoman Stanko closed Public Comment.

Chairwoman Stanko asked Mr. Whittredge, after hearing the neighbors' concerns, what he could do about the driveway. He stated that he is proposing a 3' buffer next to the 12' driveway. He noted that many of his neighbors have their fences along the property

line. Chairwoman Stanko asked what the square footage of the house is. Mr. Whittredge replied 1814 square feet. The proposed lot size is 13,000 square feet. Chairwoman Stanko stated that the applicant is OK on bulk, which is at 14%. She asked Mr. Whittredge what he thought about widening the driveway and putting some shrubs along the back line of the property to address the neighbors' concerns. He said he would consider doing that. She stated that the frontage variance requested is substantial and that she feels that is where the Board members are having some issue. The minimum lot frontage is 80' and you are asking for 15'. Kelly Whittredge stated that the reason they are putting the house in the back is to keep it from being visible from the road and to allow the Lions Club to continue to use the field for parking. Chairwoman Stanko noted that the Whittredge family has allowed the Lions Club to use the field for parking for community events. Member Parwana asked if they could make the driveway frontage bigger. Kelly Whittredge answered they can if they have to. Member Luciani asked what the length of the driveway is. Chairwoman Stanko answered 287' or less. Member Luciani stated that he has come up with the total lot size as 11,992'. Building Inspector LaFountain stated that the lot meets all the requirements except for the 80' of frontage. Mr. Whittredge asked what would the Board consider as adequate green space and driveway footage. Chairwoman Stanko stated that she would be comfortable with moving the frontage from 15' to 20' to allow more green space between neighbors. Member Luciani stated that the goal of the Board is to grant a variance with the least amount of impact as possible. He stated that going from 80' to 15' is a big variance. Chairwoman Stanko stated that if a variance is granted, the applicant will still have to go to the Planning Board for a subdivision request. Alternate Member Bush stated that she feels moving the frontage to 20' would be a good compromise. Member Parwana stated that he would be comfortable with 20' frontage. He noted that he wonders if this addresses the neighbors' concerns about the driveway or are they expressing concern on how close the house is to the property line.

Chairwoman Stanko opened Public Comment.

Tyrone McCloud (1Meadow Lane) – He stated that if the space is there to have the house not in the back corner of that property, there would be no need for a variance. The house could be moved up front of the property and still have the 80' of frontage required by the Village. He asked if the only reason for having the house in the back of the lot is for parking purposes. Chairwoman Stanko stated that it was also placed there for aesthetics. She stated that the house is still within the required setbacks.

Elizabeth Gadwell (107 Fairground Avenue) - She asked why the driveway is placed on the 107 side. Why isn't it on the other side. Chairwoman Stanko answered that it is where the applicant proposed to place it.

Audrey Bogan (1315 Midline Road, Amsterdam) – She stated that they would like to mirror the property on the other side. She would like the open field left as open as possible for parties and for the Lions Club for parking.

Chairwoman Stanko closed Public Comment.

Chairwoman Stanko stated upon reviewing the facts and circumstances surrounding this application we declare this is a Type 2 action and is therefore exempt from SEQR.

Member Luciani asked the applicant what is the maximum amount of frontage that he would be willing to give up. Also, could the driveway be moved to give neighbors more green space. Mr. Whittredge suggested 5'.

Chairwoman Stanko asked the Planning Board Chairman, Rory O'Connor, to come up and give his thoughts on the previous subdivision which was approved in 1993 with 10' of frontage. Mr. O'Connor suggested moving the line to give more frontage. Mr. Whittredge was OK with that. Member Luciani asked if 40' of road frontage is OK with the applicant. Mr. Whittredge said he will think about it.

Building Inspector LaFountain stated that a survey will be needed for the Planning Board Subdivision application. Mr. Whittredge stated that he has not gotten one done yet.

Chairwoman Stanko asked when he is planning on building the house. Mr. Whittredge stated maybe in 3 years. He wanted to see if this is even possible to do before getting a survey done. She stated that it is possible with the compromise of 40' of frontage. She also asked the applicant if we should table the proposal until a survey is done. Mr. Whittredge agreed to table until a survey is done.

Area variance application for:

Property SBL: 203.71-2-23 (50 Glen Street) Dan Fleming – Proposed subdivision of the property and the construction of a single-family home. Single family lot #1 is short of bulk and both lots are short of frontage.

Dan Fleming stated he proposes to subdivide the property and construct a single-family home for his son and his wife. He spoke with all the neighbors, and they are all comfortable with the proposed plan. The neighbor notification letter receipts were given to the Clerk prior to this meeting.

Chairwoman Stanko went thru the provisions needed to approve the variance.

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

Mr. Fleming stated that there is no additional land available.

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

Mr. Fleming stated that the proposed single-family craftsman style home will blend with the neighborhood. Chairwoman Stanko stated that she has seen a couple of Mr. Fleming's other projects and his work is exceptional. Member Parwana stated he would like to see a home on that lot rather than have it left empty in terms of the character of the street.

-Whether the variance is substantial.

Mr. Fleming stated that he is asking for an area variance for the existing home. The remaining southern undeveloped portion of the lot would meet 8 of the 9 current Schedule B dimensional regulations.

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

Mr. Fleming stated he sees none. He feels the home will fit into the neighborhood.

-Whether the alleged difficulty was self-created.

Mr. Fleming stated yes.

Chairwoman Stanko opened Public Comment.

Jennifer Killian (36 Glen Street) – She stated that she will lose some privacy but is in favor of the project.

Chairwoman Stanko closed Public Comment.

Chairwoman Stanko asked the Board for any questions. Member Luciani stated that we are looking at multiple variances. Mr. Fleming stated that he is waiting for a survey to be pulled together. Building Inspector LaFountain asked to go over the existing home lot variance again. Mr. Fleming stated he is looking for a variance of 1375 square feet. The variance requested for the minimum lot with is 22'6". Chairwoman Stanko stated that the size of the existing home and garage is 2,009 square feet and the bulk usage is 23%. She asked what the total frontage is. Mr. Fleming replied 125'. Chairwoman Stanko noted that when the survey is submitted, these numbers may vary slightly. She asked if there will be a garage. Mr. Fleming stated that there will probably be a two- car attached garage.

Chairwoman Stanko stated upon reviewing the facts and circumstances surrounding this application we declare this is a Type 2 action and is therefore exempt from SEQR.

Member Luciani made the following motion: The Village of Ballston Spa Zoning Board of Appeals approves the following 4 motions for the property located at 50 Glen Street, Ballston Spa, NY 12020:

Motion 1: Relief of 22'6" of frontage on Lot 1.

Motion 2: Relief of 12'6" of frontage on Lot 2.

Motion 3: Relief of bulk lot size on Lot 1 of 1375 square feet.

Motion 4: Relief of 4% of the bulk coverage for Lot 1.

Chairwoman Stanko stated that this would be contingent on a survey by a licensed professional surveyor that agrees with the variances. The motion was seconded by Member Jurczak. The motion carried.

Area variance application for:

Property SBL: 216.31-2-8 (75 Washington Street) Charles and Deana Cooper – Proposed construction of a pole barn garage with attached carport. Application is out of compliance regarding non-conforming use enlargement.

The applicant is out of town and he had sent in a letter asking to be represented by contractor David Skrinik. Mr. Skrinik stated that the applicant wants to construct a pole barn garage with an attached carport.

Chairwoman Stanko stated when this first came in from Building Inspector Dave LaFountain that we were unsure if this would be a use variance or that this is a Central Business District Interpretation request. She noted that in a Central Business District, there are no side or front yard setbacks. She stated that she spoke with our attorney, and the attorney believes that we actually need a Special Use Permit. She noted that this is the only residence down on Washington Street. Mr. LaFountain stated that this is a residence in a Central Business District, which is a pre-existing non-conforming use. Chairwoman Stanko asked the member what their feelings were on this. Mr. Skrinik asked if the Board wanted him to get Mr. Cooper on the phone. Chairwoman Stanko said he could if he wanted to, however, the Board will have to refer him to the Planning Board for a Special Permit. She stated that Attorney Stefanie Bitter provided to us the following: In granting such permit, the Board may specify appropriate conditions in harmony with the following standards: (a) The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts, (b) The location and size of the use, the nature of intensity of the operations involved in or conducted in connection therewith, its site layout and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood. In applying this standard, the Board will consider, among other things, convenient routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and

road intersections and the general character and intensity of development of the neighborhood. Chairwoman Stanko would like to add that Mr. Cooper presently parks on the street. She noted that parking in the garage would benefit DPW when plowing during snow storms and Mr. Cooper.

Chairwoman Stanko opened Public Comment.

Elizabeth Kormos (89 Hyde Blvd.) - She asked if the garage is attached. Mr. Skrinik replied no. Ms. Kormos said that he could put anything he wanted there since it is a CBD. Chairwoman Stanko agreed and that there would be no setback requirements.

Chairwoman Stanko closed Public Comment.

Chairwoman Stanko made the following motion: The Village of Ballston Spa Zoning Board of Appeals hereby determines that a use variance is not required for the premises located at 75 Washington Street, lying in the Central Business District, for the construction of a garage and pole barn because it is not an extension of the non-conforming use. The motion was seconded by Member Luciani. The motion carried.

Other Business:

None

Meeting Adjourned:

A motion to adjourn was made by Member Parwana, seconded by Member Luciani. The motion carried. The meeting was adjourned at 9:10pm.

Respectively submitted,

Kathleen Barner
Building Department Clerk