

## **Zoning Board of Appeals Meeting Minutes**

### **Village of Ballston Spa**

**Held on November 30, 2022**

**Present:** Chairwoman Anna Stanko, Member James Jurcsak, Member John Luciani, Member Kevin McDonough, Member Kamran Parwana, Attorney Stefanie Bitter

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 October 26, 2022 Zoning Board of Appeals meeting. A motion was made by Member Parwana and seconded by Member Luciani to approve the minutes. The motion carried.

#### **Old Business:**

*Area and Use variance application for.*

Property SBL: 216.40-1-20 (25 East High Street) Teri O'Connor – Proposed conversion of a garage into a dwelling unit.

Chairwoman Stanko introduced the applicant, Teri O'Connor, and introduced Gina Marozzi who will be assisting the applicant. She noted that the applicant's daughter, Keegan, is home with Covid and she will be on speaker phone to make a presentation on her mother's behalf. Chairwoman Stanko stated that we have a tabled application that was brought in front of the Board at the last meeting. The first order of business is for this Board to decide whether we have an area variance or a use variance. The applicant first applied for an area variance, believing that was what was appropriate, and a semi-interpretation by this Board at the last meeting, we thought perhaps that it may need to be a use variance based on how the Code has been interpreted in the past and past practice by this Board. She asked if this Board agrees that this application should be a use versus area variance. Attorney Bitter asked if the applicant has any arguments as to area versus use variance that she would like to present to the Board at this time. The applicant answered no. Member McDonough made a motion that the Zoning Board of Appeals make an interpretation that the Zoning Board that a use variance is required for a dwelling unit in an accessory building in an R1 zoning district. The motion was seconded by Member Luciani. Attorney Bitter stated that before the motion is voted on, the Board must do SEQR because it is a determination of the Board pursuant to Section 205-11. Chairwoman Stanko stated that upon reviewing the facts

and circumstances surrounding this application, we declare this a Type 2 action and is therefore exempt from SEQRA. The motion carried.

Chairwoman Stanko stated that this was referred to Saratoga County as is required with any property that is located within 500' of a municipal boundary line or a county or state highway and they have determined that there was no significant county wide or inner community impact. She stated that the Historic Commission met a couple of times on this, first for the area variance and second when the roof was put on. They also noted that there were no significant objections. They did make some suggestions on the first one but it is completely up to the Building Inspector to deal with those suggestions. Chairwoman Stanko stated that notice was sent out by the Village Building Inspector's office by certified letter to everyone who lives within 250' as is our code states. Building Department Clerk Kathleen Barner stated that the letters were actually done by someone in the Village Office as she was out of the office when the letters were sent out. Teri O'Connor stated that Tricia Hasbrouck in the Village Office sent out the letters.

Chairwoman Stanko asked Teri O'Connor and Keegan Pasalic to give their presentation. Keegan Pasalic stated the following:

My name is Keegan Pasalic and I have my husband Elmir Pasalic here with me too. We are speaking on our own behalf and on behalf of my parents, Teri O'Connor and Edward O'Connor. I am speaking on behalf of my Mother as she is legally blind and on behalf of my Father because he lives in a nursing home. We are requesting use and area variances for 25 East High Street so that we may convert the existing accessory building into an accessory dwelling unit that would be a safe 1 floor living space for my mother. We have read the requirements in order to be granted use and area variances and I would like to go over those for the Board.

Chairwoman Stanko stated that in seeking a use variance, the applicant must prove four of the following tests.

1. That the applicant cannot realize a reasonable financial return on initial investment for any currently permitted use on the property. Dollars and cents proof must be submitted as evidence. The property in question cannot yield a reasonable return for the following reasons.

Answer: My parents could not realize a financial return as the main house is in need of major repairs that my parents are not financially capable of making due to serious health related issues and related expenses. My mother is an employee of the Village and as such, she must reside within the Village. Rent is too high for her to afford and there are not many, if any, living spaces within the Village that can accommodate someone who is legally blind. The home has been in our family since 1940 and some minor improvements have been made over the years, such as adding the accessory building, however, as previously mentioned, major repairs to the main house are needed. With our application, we provided tax bills and assessment information for the home. After

discussions with multiple professionals, a decision was made amongst our family that the only option was for Elmir and I to buy the home and grant a life estate to my mother. Member McDonough asked if the Board was given the financial papers. Mrs. Pasalic stated they were in the packet given with the picture of the garage on the top. Member McDonough asked if there were any estimates on cost of repairs. Applicant O'Connor stated estimates of repairs were in excess of \$200,000.00. Member McDonough asked if there is any documentation on those estimates. Applicant O'Connor stated no. She stated that the repairs included new plumbing, electrical, flooring, support beams in the cellar, the porch is in need of major repairs, and one bathroom is not working.

2. That the financial hardship relating to this property is unique and does not apply to a substantial portion of the neighborhood. Difficulties shared with numerous other properties in the same neighborhood or district would not satisfy this requirement. This previously identified financial hardship is unique for the following reasons:

Answer: The hardship in this case is unique because neither of my parents could have anticipated their serious health issues and related expenses. No one could have anticipated the need to convert the accessory building into a 1 floor accessory dwelling unit that is safe for my mom to live in.

3. That the variance, if granted, will not alter the essential character of the neighborhood or district would be at odds with the purpose of the Zoning Ordinance. The requested variance will not alter the character of the neighborhood for the following reasons:

Answer: It will not alter the essential character of the neighborhood. It will be an improvement to the existing building. We would be turning it into something quite lovely. We have pictures of the existing garage, an initial drawing of what the accessory dwelling unit would like with an artist rendering of what it will look like. Chairwoman Stanko stated that she will pass around pictures of similar properties that have living dwelling units in an accessory building that the applicant has provided.

4. That the alleged hardship has not been self-created.

Answer: This property has been our family property since the mid 90's. This hardship is not self-created because neither of my parents could have anticipated their failing health and the need for myself, Elmir and my brother to help my parents every day to offset the challenges they are facing, thru no fault or intention of our own.

Chairwoman Stanko stated that everyone on the Board received a small version of the survey. She has a larger sized survey if anyone would like to look at that. She also stated that she would like to enter into the minutes that we have several letters which were sent in by the applicant's neighbors that are in support of Teri. She noted that one is from a former Village Trustee.

Chairwoman Stanko opened Public Comment.

Don Traver – 31 East High Street – He stated that he feels it would improve the neighborhood and is in favor of the application. He lives right next door to the applicant.

Jim Mori – 21 East High Street – We sent a letter to the Board stating we are in favor of the application.

Amanda McGovern – 30 East High Street – She feels taking care of family is a great idea.

Chairwoman Stanko closed Public Comment.

Chairwoman Stanko stated that if the use variance is granted for this property, it should include any area variance needed in the motion. Member McDonough asked what relief is needed. Chairwoman Stanko stated 2' on the east side yard, 3" on the rear, 5' on the west side yard, and slight bulk variance as well. Member McDonough asked if the Building Inspector denied the variance based on the bulk and area. Building Inspector LaFountain said it was denied based on just the area. Based on his math, the bulk is calculated as 18%. Member McDonough asked if the structure is going to be built on the same footprint as the existing structure. Chairwoman Stanko stated that it is just the building, not the footprint. She stated that it is an interior conversion of an existing structure with a couple revisions as recommended by the Historic Commission. Member McDonough asked when the garage was built. Chairwoman Stanko answered 1996. Member Luciani asked if there were any variances granted at that time. Applicant O'Connor stated no. She noted that the Building Inspector at the time approved the building permit and never referred it to the Zoning Board for a variance. She said she was not a Village employee at the time and had no idea that was something that should have happened. Chairwoman Stanko stated that she calculated a bulk relief of 187 square feet is needed. She stated that she came up with 2187 square feet based on the information from the Town Assessor and on file at the Saratoga County Real Property Tax Service. Building Inspector asked what Chairwoman Stanko's number are. She stated that the main house is 1125, the garage is 768, and the covered porch is 294. Chairwoman Stanko stated that it comes up to 2187. Building Inspector LaFountain stated that he did not use the porch, that they used just the main structure. Chairwoman Stanko stated that they always use the covered porch and garage. Member McDonough stated that it includes the covered

porch but not the patio. Member McDonough asked Chairwoman Stanko to read the first test again. Chairwoman Stanko read the first test again. "That the applicant cannot realize a reasonable financial return on initial investment for any currently permitted use on the property. Dollars and cents proof must be submitted as evidence. The property in question cannot yield a reasonable return for the following reasons". Member McDonough said that was good. Member McDonough asked if the pictures that were passed around were entered into the record. Chairwoman Stanko stated that the 11 page document will be entered into the minutes as Exhibit A. She also stated that the survey map will be entered into the minutes as Exhibit B. Member McDonough stated that he proposes that there are 3 issues before the Zoning Board of Appeals – the use variance, the area variance, and the bulk variance. He proposed that we have a motion for each one of those variances. Chairwoman Stanko stated that upon reviewing the facts and circumstances surrounding this application, we declares this a Type 2 action and is therefore exempt from SEQR. She stated that we will also enter the 5 letters of support as Exhibit C.

Member McDonough made a motion that the Zoning Board of Appeals grant a use variance for 25 East High Street in the Village of Ballston Spa to use an existing accessory building (garage) as a dwelling unit. Member Jurczak seconded the motion. The motion carried. Member McDonough made a motion that the Zoning Board of Appeals grant 187 square feet of bulk relief for property located at 25 East High Street, Village of Ballston Spa. Member Luciani seconded the motion. The motion carried. Member Luciani made a motion that the Village of Ballston Spa grant three area variances for the property located at 25 East High Street in the Village of Ballston Spa for 5' on the west side yard of relief, 2' on the east side yard of relief, 1' 3" on rear of relief, as shown on Exhibit B. The motion was seconded by Member Parwana. The motion carried.

Attorney Bitter stated that the interpretation is based on Section 205.11. She also stated that the use variation determination was supported by the factors articulated by the applicant in her presentation. The area and bulk variances were based on the application dated October 3, 2022. She also stated that all determinations reference Exhibits A, B, and C.

Chairwoman Stanko wished the applicant good luck.

**New Business:** None

**Meeting Adjourned:**

A motion to adjourn was made by Member Luciani, seconded by Member McDonough. The motion carried. The meeting was adjourned at 7:40pm.

Respectively submitted,

Kathleen Barner  
Building Department Clerk