

Zoning Board of Appeals Meeting Minutes

Village of Ballston Spa

Held on January 25, 2023

Present:, Member James Jurcsak, Member Kevin McDonough, Member Kamran Parwana, Alternate Member Mary Price Bush, Attorney Alexandra Davis

Absent: Chairwoman Anna Stanko, Member John Luciani

Acting Chairman Kevin McDonough called the meeting to order at 7:01 pm.

The meeting began with the Pledge of Allegiance.

Acting Chairman McDonough stated that 4 out of the 5 members on the Zoning Board of Appeals are present, so we can proceed with a quorum if the applicant agrees. He noted that the applicant has the right to have a hearing with the full 5-member Zoning Board of Appeals if he wishes. He asked the applicant what he would like to do. Mr. Harris, the applicant, stated that he would like to proceed tonight with the members present. Acting Chairman McDonough then stated that we will proceed at the applicant's discretion.

Approval of Minutes:

Acting Chairman McDonough requested approval of the minutes from the December 28, 2022 Zoning Board of Appeals meeting. A motion was made by Alternate Member Bush and seconded by Member Parwana to approve the minutes. Member Jurczak abstained. The motion carried.

Old Business: None

New Business:

Use and area variance application for:

Property SBL: 216.31-1-15 (16-18 Fairground Avenue) Keith Harris – Requesting to continue previous use as a 2-family residence and is also seeking an area variance for the current structure that does not meet current setback requirements.

Acting Chairman McDonough read thru the application and asked the applicant, Keith Harris, to make a presentation to the Zoning Board of Appeals.

Mr. Harris (103 Allen Road, Porter Corners, NY) stated he purchased the property in 2017 and let it sit vacant for a while. He would like the property to continue as a 2-family home. He stated that when he purchased the property it was listed as being in an R2 district and that the current zoning has changed it to an R1 district. He contacted the Building Inspector, Dave LaFountain, to get several permits to start working on the property. Building Inspector LaFountain told him that he would need to apply for a variance since it has sat vacant for more than 1 year. Acting Chairman McDonough stated that the zoning regulations have not changed since Mr. Harris purchased it, and that the property has always been in an R1 district. He noted that the zoning regulations have not changed since 1984. He stated that zoning states that if a property is vacant for more than 1 year, the property reverts to the permitted use of the zoning district that it is in. He stated that the home is in an R1 district and that an R1 district allows single family homes. Mr. Harris stated that when he bought the building, he was under the assumption that it was a 2-family building and that it could remain that way. He noted that the building is a 2-family home in every way, design and utility wise, and that it is taxed as a 2-family home. Acting Chairman McDonough stated that the Crandall family owned the property as a 2-family home in the early 1960's.

Acting Chairman McDonough stated there are certain criteria that New York State law requires an applicant to prove to a Zoning Board of Appeals, which then the Board needs to consider and make certain determinations, which are called tests. He also stated that for an area variance, it is the Board's responsibility to grant the minimum variance needed for the reasonable use of the property. He read the required tests.

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

The building has been there since 1797 and the applicant is not moving it or changing the footprint. Since the zoning was put in place for side yard setbacks, it doesn't meet code. The applicant is not asking to reduce the current side yard setback, he is only asking for a variance for the side yard setback that has been there since zoning was in place.

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

This has been a 2-family home since it was built.

- **Whether the variance is substantial:**

Building Inspector LaFountain commented that because of the location of Park Place, the building has 2 fronts and is considered a corner lot. Based on that determination, Acting Chairman McDonough stated that the applicant would need 20' of setback relief on Fairground Avenue and 15' of setback relief on Park Place. He noted that the applicant is not seeking side yard variances at this time.

Acting Chairman McDonough discussed the use variance. He read the tests:

- **That the applicant cannot realize a reasonable financial return on initial investment for any currently permitted use on the property.**

Acting Chairman McDonough stated that the financial information must be documented, not just in words. He asked Mr. Harris what he paid for the property. Mr. Harris answered that in 2017 he paid \$142,500. Acting Chairman McDonough stated that the current Zestimate that was provided was for \$317,600 and Trulia shows an estimate of \$300,000. He asked the applicant if he had any documentation that would show what it would cost to make it a 1 family home. Mr. Harris replied no.

- **That the financial hardship relating to this property is unique and does not apply to a substantial portion of the neighborhood.**

Mr. Harris stated that the house was built as a 2 family in 1797, and converting it to a single family home would require extensive renovation, including removing bedrooms, bathrooms, and a kitchen. Acting Chairman McDonough stated that Zillow listed the property as a 2 family. The school taxes also show it as a 2 family.

- **That the variance, if granted, will not alter the essential character of the neighborhood.**

Mr. Harris stated that the house has a proper 2 family front entrance with landscaping to match.

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

Mr. Harris stated that this house has always been a 2 family. It was built as a 2 family and sold as a 2 family. Turning it into a 1 family home would be difficult and have expensive renovations.

Acting Chairman McDonough stated that the Board needs some sort of financial documentation that shows what it would cost to convert it to a 1 family. He stated that if

you can offset the reasonable return on your investment by providing us a document that would show what it would cost to convert it to a 1 family, that, in his opinion, should meet the requirements. Mr. Harris stated he found that reasonable.

Acting Chairman McDonough stated that the Board could vote on the matter tonight and we can separate the variance requests out. He recommended that we vote on the area variances, or at the request of the applicant, we can table until financial documents are presented if that is what he wants. He noted that it could be put on next month's meeting agenda, assuming Mr. Harris can get all the financial documents to us in time. Mr. Harris would like to have a vote on the area variance tonight.

Acting Chairman McDonough opened Public Comment. Hearing none, Public Comment was closed. He stated that the Board will be voting on an area variance of 20' of front yard relief on Fairground Avenue and 15' of front yard relief on Park Place. Member Jurczak made a motion to declare the Village of Ballston Spa Zoning Board of Appeals as lead agency for SEQR. Alternate Member Bush seconded the motion. The motion carried. Acting Chairman McDonough stated that upon reviewing the facts and circumstances surrounding this application, we declare this is a Type 2 action and is therefore exempt from SEQR.

A motion was made by Member Parwana to grant an area variance for property located at 16-18 Fairground Avenue for 20' of front yard relief on Fairground Avenue and 15' of front yard relief on Park Place. Member Jurczak seconded the motion. The motion carried. Acting Chairman McDonough asked the applicant what his decision was on the use variance. Mr. Harris stated he would like to table it and bring the information to the next meeting so that everyone is comfortable with the financial evidence. Acting Chairman McDonough stated that at the request of the applicant, the Zoning Board of Appeals will table the use variance application pertaining to 16-18 Fairground Avenue until the applicant provides documented financial evidence as required by the Village Zoning Code.

Meeting Adjourned:

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

Respectively submitted,

Kathleen Barner
Building Department Clerk