

Zoning Board of Appeals Meeting Minutes

Village of Ballston Spa

Held on February 22, 2023

Present: Chairwoman Anna Stanko, Member Kevin McDonough, Member Kamran Parwana, Alternate Member Mary Price Bush, Attorney Alexandra Davis

Absent: Member James Jurcsak, Member John Luciani

Chairwoman Anna Stanko called the public hearing to order at 6:30 pm.

The Clerk read the Public Hearing Legal Notice.

Chairwoman Stanko stated that this issue came before the Board in May of 2022. Mr. Escher representing the Masons applied for a building permit from the Building Department for a 40' x 30' addition onto the existing building at 25 Hyde Blvd. Upon reviewing his records, the Building Inspector denied the application because the 2-year Special Use Permit that was granted with specific stipulations in 2014 had expired. She read the following Special Use Permit with conditions from the approved January 29, 2014 Zoning Board of Appeals Minutes. It reads as follows: This permit is issued under Section 205.72 Special Permits of the Village Zoning Ordinance and in conformance with Schedule A – Schedule of Uses by Zoning District for a period of two years with the following conditions: The premises are to be used solely for the business and ritualistic Masonic activities of the Fraternal Building Association of Ballston Spa, Inc. Gatherings other than those specified above shall be limited to members, their families and other invited guests. Onsite parking areas shall remain as they exist as of the date of this Special Permit. Any extension or relocation of parking areas must be approved by this Board. Exterior lighting for security purposes shall be consistent with that of a residence in an R1 zone. The use of the existing 2nd floor residential apartment that is a legal non-conforming use shall be continued. Chairwoman Stanko stated that the Planning Board had added additional conditions to the Special Use Permit. They are as follows: That a fence be put up on the east side of the rear driveway; priority parking shall be on site and on the Arpey property at the end of Columbia Street as documented on Planning Board Exhibit J; the 30" diameter Masonic Lodge sign will be placed between the two columns on the south side of the porch; furthermore, given that ZBA declared itself to be the lead agency for SEQR purposes and issued the negative debt. So that is why we are here tonight. The ZBA met in December for an extension of the permit because it had lapsed. It was decided by counsel that since the two years had lapsed, they had to start the process all over. The matter was referred to the Planning Board which met on February 8, 2023, for their review and recommendations.

Chairwoman Stanko opened Public Comment

Bill McPherson (20 Hyde Blvd) stated he attended the original ZBA meeting where the Special Use Permit was given and attended the Planning Board meeting on February 8 2023, and that he has concerns. Originally, he was not in favor of the Special Use Permit. He felt it should be an R1 use only. He stated that he has not seen many issues in the past relative to the way the property has been used, although sometimes a lot of cars are parked there on the street. He feels the Lodge didn't fully honor the original permit. They let it expire. They were supposed to build a fence but took it down. They never came back to ask to modify this, they just acted by themselves. If a new permit is granted, he would like it to have a limited time as in the past. He stated that he thinks if granted a permanent Special Use Permit, that permit will be forever with the property. He also noted that he worries about the proposed new addition on the property, which may change events held there in the future that might be detrimental to the neighborhood.

Chairwoman Stanko asked counsel to clarify that if there is a permanent Special Use Permit, that it would go with the property versus a temporary one which lies with the applicant. Counsel answered that she did not know at this time.

Lorraine McPherson (20 Hyde Blvd) stated that they have been good neighbors since 2014. She stated that she was surprised that they let the Special Use Permit just go by the wayside. Back then, they were a small group that did not impact anyone negatively. She worries about how big they will become because of the addition requested. She feels parking will spill into the street, and more events being held will create more parking issues. She stated she feels this needs to be done very cautiously with them and she will certainly be here when the addition is discussed. She asked that the Board really think this thing thru.

Chairwoman Stanko stated that they will be hearing this application at 7:00 and will not be closing Public Comment in case anyone is running late because of the snow. The Public Hearing was closed at 6:45pm.

Chairwoman Stanko opened the Zoning Board Meeting at 7:00pm.

The meeting began with the Pledge of Allegiance.

Approval of Minutes:

Chairwoman Stanko requested approval of the minutes from the January 25, 2023 Zoning Board of Appeals meeting. A motion was made by Alternate Member Bush and seconded by Member Parwana to approve the minutes. Chairwoman Stanko abstained. The motion carried.

Old Business:

Continuation of Use Variance (Special Use Permit) application for:

Property SBL: 203.81-2-30 (25 Hyde Blvd.) Charles Escher for the Fraternal Building Association of Ballston Spa, Inc. – Requesting Use Variance Extension.

Chairwoman Stanko asked Charles Escher if he received the comments from the Planning Board meeting. He stated that he was not informed of that meeting. Chairwoman Stanko stated that she believes he was informed at the last meeting that we were referring it to the Planning Board. Mr. Escher said he was not told when that meeting was being held. Chairwoman Stanko asked him if he had a phone. He answered he did. She then stated that he probably could have called the Village Office and ask them when the Planning Board meeting was. She noted that the meeting is always on the same night every month, just like the Zoning Board, which is always the last Wednesday of the month. She again asked him if he had a copy of the comments from the Planning Board minutes. He answered yes, he received them this morning. Chairwoman Stanko asked if he was going to speak or was their attorney going to speak on their behalf and if they had anything to add to their application. She stated that according to counsel, they basically need to reapply because the original Special Use Permit expired. She stated that they will go thru the criteria that they need to meet in order to get a Special Use Permit.

John Cromie (132 Bath St.), attorney for the applicant, He stated that the Planning Board minutes indicate that the matter is to be tabled for submission to the Planning Board for receipt of their recommendations. It doesn't say anything about a public hearing. Chairwoman Stanko stated the public hearing was set up and the Legal Notice was sent in showing it would start at 6:30 and the Zoning Board meeting would start at 7:00. Mr. Cromie suggested a public hearing should be set by the Zoning Board of Appeals and should be listed in the minutes, which it is not. Chairwoman Stanko stated OK, and that she was advised by counsel to do it that way. He noted that we are dealing with a volunteer organization, and that the two year period was not intentionally ignored. He stated that if there was a problem in the last 2 years, nobody, such as the neighbors, told them and complained. He stated that the Planning Board

basically said that this particular group screwed up and that should not be ignored. He also stated that it appears that the Special Use Permit that was granted seems to be OK. He noted that a Board member stated that it should be a new 2 year permit and then come back after that time and see how things are. He also asked that the current and former permit be recognized as a Special Use Permit for the property, no matter what the owner's name is. He noted it doesn't matter who owns the property, they just have to follow the Special Use Permit restrictions. He also stated that the Special Use Permit is specific enough that it can only be utilized for a specific use. He stated that it would be appreciated if this Board would look upon recreating the Special Use Permit as it existed before. He stated that nothing appreciable has really changed on the property since the beginning of the Special Use Permit. In the question of the green buffer between the Masons and the neighbor next door, he stated that they need some time to talk to the neighbor and ask him what he would like as far as the border. Chairwoman Stanko stated that she said at the last meeting that needed to be provided. Mr. Cromie stated that he believes the neighbor is out of the area, possibly Florida, at this time. He stated that otherwise, we are asking for the same permit and to keep it a two-year period with the original stipulations. Chairwoman Stanko asked if he was aware of all the stipulations from the first use permit. She read one of the stipulations being that gatherings shall be limited to members, their families and other invited guests. Mr. Escher replied that is all that meets there. Chairwoman Stanko asked about the Boy Scouts being there last month. Mr. Cromie stated that they were there for a Mason event that they were invited to. Chairwoman Stanko asked if everything else on this paper has been honored, except for the fence of course. Mr. Cromie answered yes. Mr. Escher wanted to clear up that one of the things they do, is they work within the community on special events, for example the food pantries. The Masons honor Eagle Scouts with a Masonic Eagles Award at an annual dinner. It is the same dinner that they honor long time service of members of the Lodge. This meeting was a great honor for the boys, but it was truly a Masonic event. Chairwoman Stanko thanked him for clearing that up.

Chairwoman Stanko stated that our usual counsel said that they should be going thru the criteria questions to grant a use variance. The following questions were asked.

That the applicant cannot realize a reasonable financial return on initial investment for any current permitted use on the property. "Dollars and cents" proof must be submitted as evidence.

Mr. Cromie stated that is a requirement for a use variance, not a Special Use Permit, which is what they are applying for. Chairwoman Stanko stated this is what counsel has asked her to do at the last meeting. After discussion, it was decided to hold off on that for now.

Chairwoman Stanko opened Public Comment.

Charles Escher, (8 Currie Court), representing the Fraternal Building Association of Ballston Spa, Inc., and is also the President. He stated the thought for an addition is to make the meeting room larger, it is not to put in a banquet room. They would like to make the meetings more comfortable and have no intention of having banquets. He stated that if Pete is back, he will get a letter from him for his preferences on the green buffer situation. After the last meeting, he went to the property and counted the number of cars. There were 4 cars in the driveway and 3 in the front. Of the ones on the street, one belonged to a doctor, who was on call, and he gave the other 2 tickets. He has talked to the members about parking in the lot, and not on Hyde Blvd. If the lot is full, it is OK to park on Chapman and if full, it is OK to go to Arpey's. Arpey's gave them permission to park up there for large events. Chairwoman Stanko stated that she did leave here that night and went to the property and there were 8 cars parked on the street after the last meeting.

Lorraine McPherson (20 Hyde Blvd) asked how many parking spaces are on the property. Mr. Escher responded 13. If an addition is granted, there would be a loss of 2 parking spaces.

Chairwoman Stanko asked how large the current meeting room is. Mr. Escher responded 19' x 24'. She asked how many members are at a regular meeting. Mr. Escher answered 8 to 17 members. He noted that if you use 3 ½ square feet per person in a meeting room, the current room is too small.

Member Parwana asked about the apartment. He asked why it was required in the original permit. Mr. Cromie answered that the apartment has been in the original building for years. He noted that when you read the language of the original Special Use Permit, it stated you must have an apartment, yet it seems more sense to say you can have an apartment. Member Parwana asked if at the time, the wording "must" had anything to do with the Residential Zoning. Mr. Cromie said it could be considered more of an accessory building, which technically is not permitted. He said the semantics are not as accurate as they should be. If you want to leave it the way it is, then leave it the way it is.

Member McDonough asked what the Board is hearing at this time. Are we discussing an addition or just to continue the Special Use Permit. Chairwoman Stanko answered just the Special Use Permit. Member McDonough stated that at the time of the original Special Use Permit application, the property was listed as residential, and the apartment

was empty for more than a year. Mr. Escher said that the apartment was never empty for more than a year. Member McDonough said he is just referring to what the record says. Member McDonough stated that the Planning Board memorandum should be read in the minutes. Chairwoman Stanko said that upon request of Member McDonough, here is the overview from the Planning Board. She read the following memorandum.

An overview of the history of this Special Use permit, from the January 29, 2014 original application and subsequent approval by the ZBA, to the recent building permit and use variance applications submitted to the ZBA at their December 28, 2022 meeting was provided by the Chair.

It was noted that the applicant had not followed the specified renewal time frame of the original SUP, having ignored doing so for over 5 years.

That was pointed out by Code Enforcement Officer/Building Inspector Dave La Fountain when he rejected the building permit application, and advised the applicant that they needed to start over and seek a new Special Use Permit from the ZBA.

The minutes of the December 28, 2022 ZBA meeting are also made part of this response, as well as the building permit filed and denied.

The Planning Board discussed the matter at length and made the following recommendations to the ZBA:

Member Battenfield felt that the failure of the applicant to adhere to the original SUP rules, and not being cognizant of the need to renew it, in spite of the January 29 minutes indicating the applicant and their Attorney did acknowledge this condition, that the SUP should not be renewed by the ZBA.

Member Burlingame felt that the applicant applied for a Use Variance based on their application, and thus needs to file the proper SUP application. Further, he felt the applicant's request regarding the apartment in the 25 Hyde Blvd to change it to permissible, when it is a pre-existing, non conforming use in and R1 Zone was unacceptable. It should be examined by the ZBA to determine if it is still occupied, or has been vacant for over a year, which would impact its use as a legal rentable unit.

He added that if the ZBA were to consider granting the new SUP to the applicant, that it have a specific expiration date, with penalties, if the applicant fails to renew or follow the restrictions that may be imposed going forward.

Member McNamara felt current neighbor input was critical for the ZBA to consider. His specific comments follow:

As requested, here are my comments regarding the application for a special use permit for 25 Hyde Boulevard.

1. It would seem that the ZBA is free to grant or deny the application as the expiration has removed any right that the applicant may have had previously to continue the use. Since the current use is a known quantity with a long history, I would be inclined to reinstate the SUP unless there are numerous specific complaints about the applicant's use of the property.
2. The applicant is asking for a permanent SUP. It is my opinion that the SUP should not be permanent and should be issued as a two year term as before.
3. The applicant has suggested that the SUP should be extended to "*a similar successor organization.*" It is my opinion that this provision should be denied. "Similar" is much too vague and it should not be at the discretion of the applicant to evaluate whether a successor is similar.
4. Likewise, the current application states "*Over time, this corporation may change its name or be merged into a like organization.*" It is my opinion that a merger or name change (as well as a transfer to a successor) should void the SUP and require its reissuance. A merger or name change may result in a different use of the property. I believe the Village and surrounding neighbors should have the right to hear those plans and evaluate its continued compatibility with the neighborhood.
5. The current application seeks to change the original SUP condition for a fence along the rear property line to be satisfied with a "green buffer." Presumably this is the preference of the applicant and the existing trees along that boundary would constitute the green buffer. I do not oppose this addition but would suggest that the opinion of the adjoining neighbor be obtained as to whether this is satisfactory. The applicant has claimed that the neighbor also prefers this option over a fence so written confirmation of the neighbor should be easy for the applicant to secure and provide to the ZBA.
6. The original SUP stated that the apartment on the second floor could be continued. The current application states "*The original language made the rental mandatory. It seems more appropriate to make [it] permissive.*" Though I disagree with the applicant's assertion that the ZBA made the apartment mandatory, the ZBA should clarify that the applicant is only seeking relief from the rental being mandatory and is not looking for the SUP to make the apartment a permitted use.

Member Martin commented that the failure to renew on a timely basis, and the subsequent implication that the Village was somehow partially responsible for the applicant's current situation was flawed and raised questions of their credibility going forward. He felt that as an R1 zone, it should be very carefully looked at by the ZBA before any SUP be considered for this applicant. He and Member Burlingame concurred with Member McNamara's comments

Alternate Member Michael Raga-Barone felt the ZBA needed strong language and penalties included in the SUP, if granted, were the applicant fail again to renew on a timely basis.

Several neighbors were present and given the opportunity to comment; to summarize their comments, they expressed concern regarding the applicant's failure to live up to the original SUP, that there weren't many problems, although street parking was mentioned, when they were to use their lot for parking. Key concerns were related to the future, the requests in the new application, and the concern of the subject property being sold, and the impact on their property values, if a permanent SUP were granted.

In summary, the opinion of the Planning Board, and neighbors present, indicates that this application needs to be fully re-evaluated from every aspect; from the application itself(Use Variance), to the specifics requested, and the history of the applicant's failure to comply fully with the originally granted SUP.

As the Chair, I would be reticent to recommend the granting of this permit without very specific language being incorporated by the ZBA, on a Temporary, short term basis, no longer than two years, preferably less in my opinion.

Respectfully submitted,

Rory O'Connor

Chairman, Village of Ballston Spa Planning Board. (End of Memorandum)

Member McDonough stated that the original recommendation for a fence was for screening purposes. He asked if it was a chain link fence. Mr. Escher answered yes. He stated that the wording stated that they had to erect a fence, and they did. Pete asked them not to cut the trees, that the buffer is great. Mr. Escher stated that pine trees and bushes are there now. Member McDonough asked why they can't contact Pete now to get his input. Mr. Escher stated that there are no lights on at Pete's house and they have not seen him for quite a while. Member McDonough stated that if you were serious about this, you would have addressed those issues that you know were a concern to the Board. Mr. Escher said he understands that the application was tabled at the last meeting until they got the Planning Board recommendations, and now that they have them, he will get a letter from Pete and will put up a fence if the Board wants it. He stated that a fence will detract from the neighborhood. He noted that they could do arborvitaes instead of a fence. Member McDonough stated in his opinion that would be a reasonable attempt to satisfy the determination to have a fence. He also noted that a wire fence is not ideal. Member McDonough asked to reserve the right to ask additional questions. Chairwoman Stanko said yes.

Alternate Member Bush asked if the neighbors agree to a fence.

Jason Townley (31 Hyde Blvd) stated that digging things up might be impactful. Member McDonough asked him to describe the area back there, specifically if it floods back there. Mr. Townley said it does flood. He said there is a natural green buffer there now. Mr. Escher said it is about 20' deep.

Rory O'Connor, Chairman of the Planning Board, stated that they did not know about the wetlands at the time of their recommendations, and that an engineer or landscape architect may have to be contacted for input on recommendations for appropriate screening.

Mr. Cromie stated that if the fencing is a considerable concern, they can contact Pete in the spring. He suggested that we table this application until spring and until they get Pete's written recommendations. Mr. Escher noted that there are no wetlands on the DEC in Mapper. Mr. Cromie stated that to qualify for DEC, the lot must be a certain size.

Chairwoman Stanko asked if there is a mortgage on the property. Mr. Escher said it was paid for in cash. She asked Mr. Townley if he had any financial interest in this property. He answered no. She asked Mr. Escher if it is his wish to table this application until you have other information. Mr. Escher asked them to tell him what you want and he will get it. Mr. Cromie stated he would like to table it for now and get ahold of the Hanson family.

Member Parwana asked for clarification on what we are tabling. Chairwoman Stanko said this is not an extension of a use variance, we are starting all over again. She stated that we are not discussing a building addition at this time. She stated that we are addressing a new Special Use Permit. Attorney Davis noted that they need to fill out a different form for a Special Use Permit. Chairwoman Stanko stated that at the applicant filled out the form as directed by the Building Department staff and paid the amount listed on the form. It was Chairwoman Stanko's decision not to have Mr. Escher submit additional paperwork and pay an additional fee because he did what he was directed to do.

Rory O'Connor pointed out that the Special Use Permit expired 5 years ago. He said as he understands this, what is before the Board is whether to grant a new Special Use Permit and what criteria you would apply to do so. He said if the applicant has more information that he would like to submit, for example the neighbor's letter, that tabling this would be reasonable. He suggests that the Zoning Board of Appeals have the task

of spelling out the criteria for a Special Use Permit moving forward. Chairwoman Stanko agreed.

Mr. Cromie said he would like to table until the next meeting. Chairwoman Stanko stated that in the meantime, she can gather comments from this Board and merge them with the Planning Board's comments and have a good suggestion for you. She said she would like to see pictures of the current meeting room.

Building Inspector Dave Lafountain asked if the attorney said that she might be using some of the use variance criteria.

Attorney Davis stated that a use variance doesn't come into play. We are only using the Special Use Permit requirements in that section of the book, not in the application.

Bill McPherson (20 Hyde Blvd) stated that there are 2 factors that he would like the Board to consider. (1) He thinks it is essential that the character of the property is maintained. It now looks like a single family residence, even though it is not used that way. He would be very concerned if additions to the property changed that. (2) Another concern he has is that as things move forward, if there are more activities on the property then they could adversely impact the neighborhood.

Chairwoman Stanko asked Mr. Cromie and Mr. Escher if we are tabling this until the next meeting. She noted that in the meantime, they will come up with thoughts and she would like some pictures of the inside and some idea of what activities are planned that you sponsor. She would like to see a list of what activities you have had in the past and what you are planning in the future.

Member McDonough stated that the public has expressed concerns regarding the screening and lack of parking on the premises. He asked how that will be addressed.

Mr. Escher stated that he will be out of the state at the time of the next meeting in March and requested this be tabled until the April 26 meeting. Chairwoman Stanko she will get something in writing over to Mr. Escher and Mr. Cromie regarding some of their comments prior to the April meeting as the Board provides them to her.

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.

Chairman Stanko stated that the area variance was approved at the last ZBA meeting, but we were looking for financials for the use variance. Mr. Harris provided the financial information to the Board prior to the meeting.

Mr. Harris said he was hoping to get some comparables from a real estate agent, but he never got them. He stated that this home was clearly built as a 2 family. Turning it into a single-family home would be a very difficult to make it look correct. Just the task of relocating the second center staircase would be extremely difficult. There are also multiple kitchens and living rooms, as well as small spaces. An estimate was not easy to do. The numbers provided are a broad-brush stroke attempt at an estimate, which is probably a very low estimate. He read the following estimate that was provided to the Board.

The following is an outline of a proposal with rough associated costs to convert 16-18 Fairground Ave. from a two family into a single-family home. The conversion would be required to satisfy current zoning.

The building was built as a two family Circa 1790 and therefore there are several areas where major changes would be necessary.

The exterior:

Traditionally a colonial style home would have been constructed as what's known as a "five over four" meaning there are five windows on the second floor mirrored by four windows on the first floor with a door in the center. 16-18 was built with six windows on the second floor and four windows and two doors at center on the first floor. The front entrance porch is distinctly divided in half.

Conversion to a single family would require a complete "rework" of the façade along with major interior changes due to main bearing beams/wall located in the center of the home where the new single door would need to go.

These changes would greatly impact the character of the building and come with an estimated cost of =\$60,000.00

The Interior:

The two units are divided by a weight bearing wall in the center with a staircase and built in cabinets either side. Both staircases and cabinets would have to be removed, one may be reusable and relocated to the center of the building after significant reworking of the bearing walls.

There are multiple kitchens, bathrooms, family rooms, dining spaces and bedrooms that would have to be reconfigured or removed creating awkward open spaces and unusually large rooms. These spaces would have to be reimagined.

Estimated cost = \$80,000.00

Mechanicals:

The building has two water meters, sewer lines, electrical panels and two natural gas supply lines with meters and two furnaces.

Estimated cost to combine/remove mechanicals = \$25,000.00

Total cost estimate = \$165,000.00

This Proposal/estimate is offered with the limited information available to me at this time.

This Proposal/estimate assumes unless otherwise stated that all included materials and products are builder grade and the level of fit and finish are in accordance with the existing structure

Mr. Harris stated that the above estimate is probably considerably low. He tried to get comparables from real estate, but because he wasn't actually looking to sell the property, nobody got back to him. One agent told him she was having a hard time finding any comparables of a home of this size. He stated that he hopes this estimate will suffice.

Chairwoman Stanko opened Public Comment.

Rory O'Connor (199 Milton Ave) said that he has spoken with Keith over the years regarding this property. He noted that he has significant experience in renovating old buildings. It was built back in the day as a 2 family. It is a mirror image on each side and is quite attractive as a 2 family when you are inside it. Converting it to a one family would be close to \$100,000 for just one of the center hallway renovations. More importantly, the location of this building being right across from the museum, almost mirroring it in terms of its visual impact. He noted that even though it is not in a historic

district, it should be looked upon as that. He thinks it would be an excellent thing to restore it as a 2 family and to bring the building back onto the tax rolls and provide residence for people that want to live in the Village. He stated that he has seen Mr. Harris' work and it is remarkable. He thinks the Board should look very favorable at this request because it has been there for over a hundred years when it was designed and built as a 2 family. He noted it is quite an amazing structure.

John Cromie (132 Bath Street) speaking as the Village Historian. This structure was originally a ballroom attached to the museum in the 1800s. In the 1830s Brookside was modernized and he surmises that the ballroom portion of the building was moved across the street and used as a 2 family. He stated that he has been in the building and that it has a double stairway. For 200 years, it has been used as a 2 family. He would like to see the historic character preserved as it is part of the Brookside Museum history. He feels that it is not sensible to make it a 1 family home.

Chairwoman Stanko closed Public Comment.

Chairwoman Stanko asked Mr. Harris how long he has been in the construction business. Mr. Harris stated that he started in 1997. She stated that she agreed with him that these estimates are really low.

Alternate Member Bush asked if it was possible that this property was zoned improperly. Member McDonough stated that zoning started originally in 1932. Chairwoman Stanko said that there are blocks where little spots within it don't meet the zoning. Alternate Member Bush said she printed out a zoning map and asked John Romano when the zoning map was created and he said 1966. Building Inspector LaFountain said the current map being used was dated May 20, 1994.

Member McDonough stated he was troubled by this one. He stated that to him, it is a very obvious case where the Zoning Board of Appeals, absent any documentation, should be able to use judicial discretion and grant this variance. Due to input from the attorney at the last meeting, we had to go ahead and require the applicant to acquire financial information, which Mr. Harris did. He noted that in his view, this was built as a 2 family and it should stay as a 2 family. Mr. Harris said he originally had other ideas for the property, but after speaking with other Board members, he felt he did not want to spend years in front of various Boards and spending attorney and architect fees, so he is just keeping it as a 2-family residence. He also stated that he feels the zoning was unfairly categorized as residential as Park Place is directly across from the property and it has a multiple unit buildings on it which are considered commercial, and his isn't. He stated that he is not asking for that at this time, but feels it was unfairly categorized.

Member Parwana stated he fully agreed with what both of you were saying.

Member McDonough made a motion that the Village of Ballston Spa Zoning Board of Appeals grant a use variance to allow a 2-family structure as identified in Exhibit A for property located at 16-18 Fairground Avenue. Member Parwana seconded the motion. The motion carried.

Mr. Harris thanked the Board.

Area variance application for:

Property SBL: 216.41-2-6 (80 McLean Street) Gabrielle Ahl and Greg McGrath – Requesting area variance for construction of an addition on the property that does not meet current setback requirements.

Ms. Ahl stated that they are seeking an area variance for an addition onto the back of their house. They are seeking to add a family room and second floor addition for bedrooms. Chairwoman Stanko stated that there was a 1999 survey provided, but the new garage that was added in 2007 was not on it. She stated that we would go thru the questions.

- **Whether the benefit sought by the applicant can be achieved by other feasible means. Identify what alternatives to the variance have been explored (alternative designs, attempts to purchase land, etc.) and why they are not feasible:**

The plot is long and skinny with no room to add onto the sides of the house. On one side of the house is the driveway and the other side is the neighbor's house. The only way is to build on the back of the house because we have a 300' deep lot. In order to build the addition to look like it belongs to the house, we have to build it straight back from the house, which doesn't meet the current building codes.

- **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:**

We want to make the addition look like it belongs to the house. Some neighbors have additions to their houses similar to what they want to do with their home, so that it would fit into the character of the neighborhood. The existing deck would be torn off to put the addition on. There would be no basement, just poured cement foundation.

- **Whether the variance is substantial:**

When she calculated out the square footage of the property, the whole part of the house, garage, and new addition would not be more than 20%, which seems to be the threshold, and the only side that we need the variance on is the one side. The other side we have 19' and about 150' from behind the house.

- **Whether the variance will have adverse physical or environmental effects on neighborhood or district for the following reasons:**

They will be removing the deck. The greenery and trees stay. The drainage has already been dealt with.

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

We now have kids and we need more room. They have an 8 year old and a 4 year old. The attic is currently being used as a bedroom for one kid and it is not working out.

Chairwoman Stanko opened Public comment.

Dan Senecal (76 McLean Street) - He asked if a site plan was submitted. Chairwoman Stanko replied yes, a sketch of what they plan on doing was provided. She said basically they are planning on going straight back along the side of the house. He said that his driveway is 6' from the property line. He said his concern is that his fence takes the force of the snow load from the second story of the neighbor's house and that it lands in his driveway. He noted that the furnace vent from the house is on his side, which makes the snow melt quickly and his driveway turns to ice. He is concerned that if the variance is granted, he will have more snow melt to shovel and/or drive over. Chairwoman Stanko asked how far past their house does your driveway go. Mr. Senecal replied his driveway is about 250' and their house is about parallel with his.

Building Inspector LaFountain asked if the current roof is metal and if they are proposing to use shingles on the new addition. He noted that a shingle roof would not be apt to slide off as fast as a metal roof. Ms. Ahl said the roof on the addition is going to be metal or shingles. The current roof on the house is slate. She added that the furnace is gas, and it has not been working properly, so it has not been on all winter. Building Inspector LaFountain asked if changing the current slate roof is part of this project. Ms. Ahl replied no.

Chairwoman Stanko closed Public Comment

Alternate Member Bush asked if the side setback on the addition is in a straight line with the current house. Ms. Ahl replied yes.

Member Parwana asked if the deck and patio will be removed. Ms. Ahl replied the deck will completely come off and part of the patio will be covered.

Member McDonough asked what kind of shingles they will be using. Ms. Ahl replied asphalt. He asked how tall the current house is. Ms. Ahl replied it is 3 stories, and the addition will be 2 stories tall.

Chairwoman Stanko stated she would like to declare this a Type 2 SEQR, no significant impact.

Chairwoman Stanko asked what the builder was going to use as an overhang. Ms. Ahl stated that they are waiting for the design from the builder. They can determine the overhang required when planned if the variance is granted.

Alternate Member Bush made a motion to grant a 6' west side yard variance for the property located at 80 McLean Street for the purpose of building a 2 story addition as shown on Exhibit A with the condition that the roof material will be asphalt shingles on the addition. Member Parwana seconded the motion. The motion carried.

Chairwoman Stanko stated Ms. Ahl is all set with the variance and good luck with the builder.

Meeting Adjourned:

A motion to adjourn was made by Member McDonough, seconded by Alternate Member Bush. The motion carried. The meeting was adjourned at 8:45pm.

Respectively submitted,

Kathleen Barner
Building Department Clerk