

**Zoning Board of Appeals  
May 17, 2016**

The Zoning Board of Appeals met on Tuesday, May 17, 2016, at 7:06 p.m. in the Municipal Center courtroom, One Municipal Plaza, Beacon, New York. Acting Chairman Robert Lanier, and Members Claudia Haug, Judy Smith, and Neil Sullivan; Deputy Building Inspector Dave Buckley and City Attorney Eric Gordon were attendance. Chairman Jack Dunne was excused.

Mr. Lanier opened the meeting with the Pledge of Allegiance. He then called for corrections/additions or a motion to approve the minutes of the April 19, 2016 meeting. Ms. Smith made a motion to approve the minutes of the April 19, 2016 meeting as presented, seconded by Mr. Kish. All voted in favor. Motion carried. The meeting was then opened on a motion made by Ms. Haug, seconded by Ms. Smith. All voted in favor. Motion carried.

**ITEM NO. 1 APPLICATION SUBMITTED BY LAUREN MAPLES, 869 WOLCOTT AVENUE, TAX GRID NO. 30-6054-45-057563-00, LOCATED IN THE R1-10 ZONING DISTRICT, FOR AN INTERPRETATION AS PROVIDED IN SECTION 223.55(C) TO APPEAL THE BUILDING INSPECTOR'S DETERMINATION THAT THE OPERATION CONDUCTED IN THE ACCESSORY BUILDING IS NOT INCLUDED UNDER THE DEFINITION OF "ARTIST STUDIO" AS LISTED IN SECTION 223.17(C)**

Mr. Lanier announced the application submitted by Lauren Maples was withdrawn at her request.

**ITEM NO. 2 APPLICATION SUBMITTED BY JOHN BLESSO, 17 BAYVIEW AVENUE, TAX GRID NO. 30-5954-33-571799-00, LOCATED IN THE R1-10 ZONING DISTRICT, FOR RELIEF FROM SECTION 223.17(C) TO REPLACE AND CONVERT AN EXISTING ATTACHED GARAGE INTO HABITABLE LIVING SPACE WITH A 1.9 FT. SIDE YARD SETBACK (15 FT. REQUIRED) AND 22.6 FT. FRONT YARD SETBACK (35 FT. REQUIRED)**

The public hearing on the application submitted by John Blesso, 17 Bayview Avenue, for relief from Section 223.17(c) to replace and convert an existing attached garage into habitable living space with a 1.9 ft. side yard setback and 22.6 ft. front yard setback was opened on a motion made by Ms. Smith, seconded by Mr. Sullivan. All voted in favor. Motion carried.

Architect Aryeh Siegel reported his client, John Blesso, owner of 17 Bayview Avenue, is planning to convert the existing three-family dwelling into a two-family residence and he will live in the second floor apartment. The existing garage is located at the bottom of a very steep slope making it impossible to access it from the front of the property. The only access is to go around the property through the back yard, therefore it is not utilized as a garage. In order to make better use of the space, Mr. Blesso proposes to create a bedroom where the garage was on the first floor, and an entrance to his apartment on the second floor where a covered deck existed above the garage. This will allow for better landscaping and site improvements. Adequate off-street parking exists for both apartments and the existing footprint of the house will not change, it just makes better use of the existing space. Because this proposal changes a garage and deck



stated that this would improve the home to make it more consistent with the rest of the community and would have no adverse impacts.

Mr. Lanier advised the applicant that five members of a seven member board were present and four votes would be needed to grant a variance. The applicant was then offered the opportunity to postpone the hearing and continue when more members may be present. Mr. Agosta felt comfortable and asked to continue with his application.

There were no comments from the public and Mr. Kish made a motion to close the public hearing, seconded by Ms. Smith. All voted in favor. Motion carried. After careful consideration, Mr. Kish made a motion to grant the variance as requested, seconded by Ms. Haug. All voted in favor. Motion carried.

**ITEM NO. 5 APPLICATION SUBMITTED BY FULTON AVENUE REALTY (CURRENTLY OWNED BY DONALD PAVELOCK), LIBERTY STREET (VACANT LOT ADJACENT TO #249), TAX GRID NO. 30-6054-24-401940-00, R1-10 ZONING DISTRICT, TO CONSTRUCT A NEW SINGLE FAMILY HOUSE REQUIRING RELIEF FROM SECTION 223.17(C) FOR THE FOLLOWING: 5,000 SQ. FT. LOT (10,000 SQ. FT. REQUIRED); 10 FT. SIDE YARD SETBACKS (15 FT. REQUIRED) TO PROVIDE 20 FT. TOTAL SIDE YARD SETBACKS (40 FT. REQUIRED); 30 FT. FRONT YARD SETBACK (35 FT. REQUIRED); AND A 30 FT. REAR YARD SETBACK (35 FT. REQUIRED)**

Ms. Haug made a motion to open the public hearing on the application for a new single family house on a vacant lot on Liberty Street, seconded by Mr. Kish. All voted in favor. Motion carried.

Bob Palisi, representing Fulton Avenue Realty explained they are in contract to purchase a vacant lot from the owner, Donald Pavelock. However, several variances are needed in order to construct a single family house on the lot. Mr. Palisi noted that upon further review of the application, it was determined that one additional variance is required for lot width. Therefore, Mr. Palisi made a request to continue the public hearing with the understanding that they would return next month after submitting an amended application which included the additional variance. City Attorney Eric Gordon explained that the public hearing could be adjourned and continued at the next meeting after submission of an amended application. Mr. Gordon further noted that all public comments from the hearing tonight would be included the record for the board's consideration.

Owner Donald Pavelock stated that he had purchased the property in 1989 and has paid full taxes on the separate 50 ft. x 100 ft. lot which is the subject of the current application. After retiring in March he contacted two realtors in the area to obtain appraised values on the three lots he owned - two vacant parcels and one with a house where he resided. Since that time both the lot with the residence and the larger vacant parcel have been sold. Mr. Pavelock reported both realtors provided market values for each parcel. Before marketing the property, he made good faith effort to approach each bordering neighbor about purchasing the properties before putting them on the market; however, none of them had an interest in purchasing the properties. He provided the board members with a hand drawn map showing the size of adjacent properties and

explained that 247 Liberty Street, 245 Liberty Street, and the lot in question (251 Liberty Street) are each 50 ft. wide and have houses with the same or less side yard setbacks as are being requested. He reported that 264 Liberty Street is 55 ft. wide and the setbacks are less than being requested. In addition 349 Liberty Street, 351 Liberty Street, 22 Wilson Street, 28 Wilson Street, and 30 Wilson Street are all 50 ft. x 100 ft. and have the same zoning guidelines. Mr. Pavelock reported that the lot in question is shown on Filed Map No. 1181 (shown as #30 and #31), filed in 1920 as a 50 ft. x 100 ft. parcel, and pre-dated zoning which came into effect in 1977. He purchased the properties in 1989 from Ruth Higgs and that no further subdivision has taken place since that time. Mr. Pavelock stated he did not create the need for the variances and believes he went above and beyond what was required to go to neighbors before attempting to sell the separate parcel. He feels the variances would not be adverse to the neighborhood because it fits in with the character of three other homes adjacent to the property and other homes in the immediate area; and if variances were granted there would be no detriment to the health, safety or welfare of the neighborhood or community.

Ms. Smith asked to see aerial views of the parcels or scaled lot sizes to obtain a better understanding of the variety of parcel sizes in the neighborhood because the drawing the applicant had submitted was not to scale. A discussion took place with Mr. Pavelock and it was noted that anyone could look at Dutchess County's Parcel Access online for an overview of the neighboring lots and house locations. Mr. Lanier then opened the floor to public comment.

Jacob Weintraub, owner of 248 Liberty Street, reported he did not receive a written notice of the public hearing yet lives within the 250 ft. notification radius. The secretary confirmed his address as listed with Dutchess County is known as "67 Verplanck Avenue". He was advised to make an address change with the City Assessor's office and that future notices would be mailed to 248 Liberty Street. Mr. Weintraub reported that Mr. Pavelock had offered to sell the land to him; however, after speaking to other people he was told the lot couldn't be built on because it was too small. In addition he was not interested in the price Mr. Pavelock was asking, but stated that he might have been interest had the price been more reasonable. Mr. Weintraub stated that he had reviewed the Parcel Access website and noted that nearby parcels are much bigger than 50 ft. x 100 ft. He supported Mr. Pavelock in getting value out of property he's owned and paid taxes on for some time. However, he did not feel comfortable with the requested variances. He felt the large house would be out of character but would consider supporting a smaller house with smaller variances.

Thomas O'Connor, owner of 249 Liberty Street, the residence formerly owned by Mr. Pavelock, also noted that he did not receive a written notice of the public hearing. He expressed opposition to the requested variance because it would negatively impact the value of his home, and lower his quality of life by limiting his privacy. Mr. O'Connor felt Mr. Pavelock may have also believed an additional house would have a negative impact or he would have sold the lot before moving. In addition, he also knew the lot was for sale but felt it was priced for development, not to use as a side yard, and stated that he would have been interested in buying the lot had it been a more reasonable price. Mr. O'Connor purchased his property in July of 2015 with the knowledge that his driveway was on the lot line. City Attorney Eric Gordon noted that property lines shown on Parcel Access are not 100% accurate therefore it may appear that the driveway is on the vacant lot.

Phil Shaw, 263 Liberty Street, thanked the neighbors for their comments and the board for their service to Beacon. He expressed objection to the requested variances and believed Mr. Pavelock would profit more by selling the lot as buildable therefore he had taken a gamble on getting variances. Mr. Shaw provided members with a packet of information he had prepared outlining the reasons why the variances should not be required. The information has been made part of the public record and will remain on file. In summary Mr. Shaw felt the variances would create a negative impact on the neighborhood, the requested variances are substantial, and the hardship was self-created because he chose not to sell the lot as part of the adjacent primary residence, and he no longer lives in the neighborhood. He encouraged the board to reject the requested variances.

Joe Straub and his wife Peggy, 230 Liberty Street, reported they also have a similar situation with a primary house and an adjacent vacant parcel that is taxed separately. He submitted two letters from neighbors, Peggy Jones at 229 Liberty Street and Anne H. Bellissimo at 231 Liberty Street, citing their opposition to the requested variances. Mr. Straub expressed his opposition to the variances because parcels in the area are varied, but are on the whole much larger than the lot at issue, and the landscaping is mature. He feels the hardship is self-created because Mr. Pavelock could have sold the parcel with the primary house. He stated that he no longer lives in the neighborhood, and therefore would not be affected by the change. But Mr. Straub was upset by the request due to the self-imposed situation.

James McCollum, 266 Liberty Street, explained his house is tucked not in view of the lot in question but voiced his support of neighbors and their concern for a change in the quality of the neighborhood. He felt houses shouldn't be stuffed in existing areas because it degrades the value of the community. Mr. McCollum grew up in Beacon and has witnessed many neighborhoods change for the same reason. He noted the quality of an area can't be changed once a house is built.

Linda Alexis, 247 Liberty Street, mirrored the comments previously raised and expressed opposition to the variances requested. She indicated zoning laws haven't changed since Mr. Pavelock purchased the property, and the lot is half the size it should be. Therefore, is not big enough for a house.

Joseph Baxter, 264 Liberty Street, supported his neighbors' comments and objected to the requested variances. He lives next to Mr. McCollum and is also set back from the property and would not be directly impacted by the variances. However, he wanted to express support for his neighbors' opposition. Mr. Baxter once lived in a different neighborhood and moved because this neighborhood is more spacious.

Jim Boolukas, 262 Liberty Street, lives on a ¾-acre parcel across the street from the lot in question. He noted that most houses in the neighborhood are on larger parcels with only a few on smaller lots. Mr. Boolukas feels what was done in the 1920's doesn't mean it's the right thing to do now. He believes existing aesthetics should be preserved in order to maintain property values and conveyed his opposition to the requested variances.

Bill Alexis, 247 Liberty Street, believed the proposed house would block his vision of the road and ability to see. The lot is half what is required and therefore he did not support the variances requested.

City Attorney Eric Gordon informed the public that all letters will be included in the record and that all comments made at the meeting would will be considered by board members before they make any decision. If a revised application to include the request for a lot width variance is submitted, the public will have the opportunity to speak again at the continued public hearing. He advised the board to consider whether to adjourn or close the hearing, and explained if additional legal advice is needed, an executive session could be held.

Phil Shaw, 263 Liberty Street, felt the board should vote rather than wait another month for the additional variance request.

Don Pavelock responded to public comments. He was not aware of anyone offering to purchase his lot. He also reiterated that that the situation was not self-imposed because he purchased the lot as a separate lot and had been paying taxes on the lot since he purchased it.

Thomas O'Conner, 249 Liberty Street, reported there were discussions with the real estate agent about purchasing the lot during the course of purchasing the residence on the adjacent lot. The discussion ended because the price was deemed to be too high and inappropriate.

Phil Shaw, 263 Liberty Street, also stated that he had discussions about purchasing the lot with Mr. Pavelock but that the price was very high for a lot not zoned for building. He felt the price to have an additional side yard for his property was way out of range.

Mr. Palisi explained the current zoning was put into place after the lot was created and therefore, the lot predates zoning. He feels the owner must be allowed to benefit from the property sale and has a right to make profit from the parcel. Mr. Palisi felt the benefit must be weighed against the health and safety of the surrounding area and this is a single family house, not a business or apartment.

Joe Straub, 230 Liberty Street, was confused by the public notice received in the mail and asked whether the applicant was the builder or owner. He was informed that the applicant is Donald Pavelock, the owner, who is being represented by Fulton Avenue Realty. Mr. Straub felt the builder would not have the best interest of the neighborhood in mind.

Jacob Weintraub, 248 Liberty Street, said the lot existed but without a house on it and the existing neighborhood should be taken into account. The City designated the particular zoning in this area for a reason. Mr. Weintraub felt the proposed house was too large and would have an ill effect on the character of the neighborhood and adjoining property values.

Mr. Pavelock felt if the board denied the right to allow a building on the lot they would be deeming his property worthless. He believed that his rights would be taken away because the

lot existed before the current zoning was put into place. Mr. Pavelock also felt it possible that adjacent neighbors could benefit from a denial because his property would be worth less.

Ann Provet, 232 Liberty Street, believed every lot in the area must have pre-dated existing zoning laws but for the welfare of the community, zoning laws should be respected. She felt there was no logic in putting the hearing off for another month considering the amount of opposition to the first round of variances. She asked the board to respect zoning, neighbors' viewpoints, and the environment.

Jamie McCollum, 266 Liberty Street, asked why zoning is in place if it will just be appealed. There are too many crowded streets now and the City's master plan was designed for the density to decrease as the properties get further away from Main Street.

Mr. Lanier reported there are times when variances are needed and the purpose of the Zoning Board of Appeals is to weigh the evidence of the appeal. The board wants to be clearly informed and if members don't feel they have ample information to make a decision now, the hearing can be adjourned until more information is obtained.

Mr. Palisi asked for an adjournment on the application to allow for an amendment of the application and to provide the board with more information on neighboring lot sizes, setbacks and house locations.

Joe Straub, 230 Liberty Street, noted tax maps show property dimensions but not actual or accurate locations of houses on the lot.

Linda Alexis, 247 Liberty Street, felt the fact that the lot pre-dated zoning was irrelevant because the existing zoning was in place when Mr. Pavelock purchased the property.

Members then requested legal advice and Ms. Haug made a motion to go into executive session for legal advice, seconded by Mr. Kish. All voted in favor. Motion carried. Members went into executive session at 8:25 p.m. Mr. Kish made a motion to come out of executive session, seconded by Mr. Sullivan. All voted in favor. Members returned to the regular session at 8:36 p.m.

Based on the fact that the applicant asked for an opportunity to submit an amended application and present additional information, Ms. Smith made a motion to adjourn the public hearing until the June meeting (June 21, 2016), seconded by Ms. Haug. All voted in favor. Motion carried.

There was no further business to discuss and Ms. Smith made a motion to adjourn the meeting, seconded by Ms. Haug. All voted in favor. Motion carried. The meeting adjourned at 8:40 p.m.