

**Zoning Board of Appeals  
June 21, 2016**

The Zoning Board of Appeals met on Tuesday, June 21, 2016 at 7:00 p.m. in the Municipal Center courtroom, One Municipal Plaza, Beacon, New York. Chairman Jack Dunne, and Members Richard Kish, Robert Lanier, Claudia Haug, Judy Smith, and Neil Sullivan; and Deputy Building Inspector Dave Buckley were attendance.

Mr. Dunne outlined the format of the Board's proceedings for the benefit of the public. He noted six members were present and four votes would be needed to grant a variance. The meeting was then opened on a motion made by Mr. Lanier, seconded by Ms. Haug. All voted in favor. Motion carried.

Mr. Dunne called for corrections/additions or a motion to approve the minutes of the May 17, 2016 meeting. Mr. Kish made a motion to approve the minutes of the May 17, 2016 meeting as presented, seconded by Ms. Smith. All voted in favor. Motion carried.

**ITEM NO. 1 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)**

Mr. Dunne announced the hearing on this application was adjourned until the July meeting however allowed procedural questions from the public.

Tom O'Connor, 249 Liberty Street, asked if a limit exists on the number of times an item can be postponed. Mr. Dunne explained there is not a set limit but historically postponements haven't gone beyond two or three meetings, thereafter the board would request concurrence with the City Attorney. Mr. O'Connor asked if the public could access documentation outlining the request for postponement. He was informed that it is public information and a Freedom of Information (FOIL) request can be submitted.

**ITEM NO. 2 APPLICATION SUBMITTED BY STEPHEN AND DEVON BURNS, 58 TELLER AVENUE, TAX GRID NO. 30-5954-44-976696-00, LOCATED IN THE R1-5 ZONING DISTRICT, FOR RELIEF FROM SECTION 223.17(C) FOR AN OPEN REAR DECK WITH A 2.3 FT. SIDE YARD SETBACK (5 FT. REQUIRED)**

The public hearing on the application submitted by Stephen and Devon Burns, 58 Teller Avenue, for relief from Section 223.17(c) for an open rear deck with a 2.3 ft. side yard setback was opened on a motion made by Ms. Haug, seconded by Mr. Kish. All voted in favor. Motion carried.

Stephen Burns, 58 Teller Avenue, explained his house is situated on the northeastern portion of the property and is only 1.9 ft. from the rear property line. The original brick structure is 21 ft. x 24 ft. and has an 8 ft. x 10 ft. wood frame addition. He described his proposal to construct a 9 ft. x 21 ft. rear deck off the main living space and kitchen on the second floor. Now there is only a front door that leads to the small front porch and this project will allow them to add a back door leading to the new deck. The deck will not extend beyond the main structure of the house.

There were no comments from the public and Mr. Dunne verified with the Board secretary that no correspondence had been received regarding this appeal. Mr. Sullivan 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 Mr. Lanier. All voted in favor. Motion carried; 6-0.

**ITEM NO. 3 APPLICATION SUBMITTED BY CURTIS AND ASHLEY HARVEY, 22 NORTH BRETT STREET, TAX GRID NO. 30-5954-28-943923, LOCATED IN THE R1-5 ZONING DISTRICT, FOR RELIEF FROM SECTION 223.17(C) FOR A SIDE ADDITION WITH A 11.36 FT. FRONT YARD SETBACK (30 FT. REQUIRED) [NOTE: EXISTING HOUSE HAS A 9.6 FT. FRONT YARD SETBACK] AND A 5.13 FT. SIDE YARD SETBACK (10 FT. REQUIRED)**

The public hearing on the application submitted by Curtis and Ashley Harvey, 22 North Brett Street, for relief from Section 223.17(c) to construct a side addition with an 11.36 ft. front yard setback was opened on a motion made by Ms. Haug, seconded by Ms. Smith. All voted in favor. Motion carried.

Curtis Harvey described his proposal to construct an addition for a new bedroom and bath on the north side of the house requires variance for the front and side yard setbacks. The driveway and kitchen location restrict alternate placement of the addition. In addition, a small enclosed porch will be added off the bedroom. He reported the stockade fence lies approximately 6-inches from the actual property line.

Paula King, 20 North Brett Street, supported the variance and felt they need the extra space to accommodate his family.

Randy Caruso, 18 North Brett Street, supported the variance. He felt Mr. Curtis would do quality work and understands the need for additional space.

Mr. Dunne read the following letter into the record:

I understand that Curtis and Ashley Harvey, 22 North Brett Street, have applied to the Zoning Board for a variance to build an addition to their home. I have reviewed the plans and survey and have no objection to the project.

Donato Antonecchia, 17 North Brett Street  
Violica Osmani, 24 North Brett Street  
Randal Caruso, 18 North Brett Street

Justin King, 20 North Brett Street  
Dara Silverman, 23 North Brett Street  
Paula King, 20 North Brett Street

There were no additional comments from the public and Mr. Dunne verified with the Board secretary that no additional correspondence had been received regarding this appeal. Mr. Kish made a motion to close the public hearing, seconded by Mr. Sullivan. All voted in favor. Motion carried.

After careful consideration, Mr. Lanier made a motion to grant the variance as requested, seconded by Ms. Smith. All voted in favor. Motion carried; 6-0.

**ITEM NO. 4 APPLICATION SUBMITTED BY ERIC HELMUTH, 867 WOLCOTT AVENUE, TAX GRID NO. 30-6054-45-064560-00, LOCATED IN THE R1-10 ZONING DISTRICT, FOR RELIEF FROM SECTION 223.17(C) TO CONVERT AN EXISTING ACCESSORY STRUCTURE INTO AN ACCESSORY APARTMENT WITH A 3.10 FT. REAR YARD SETBACK (35 FT. REQUIRED)**

The public hearing on the application submitted by Eric Helmuth, 867 Wolcott Avenue, for relief from Section 223.17(c) to convert an existing accessory structure into an accessory apartment with a 3.10 ft. rear yard setback was opened on a motion made by Ms. Haug, seconded by Mr. Kish. All voted in favor. Motion carried.

Eric Helmuth, 867 Wolcott Avenue, described his request for a rear yard variance to create an accessory apartment in an existing brick garage (built in 1935) which is located only 3.1 ft. from the property line. He explained an application for a Special Use Permit is before the Planning Board to allow the accessory apartment however a variance is required. He spoke to neighbor Jillian Bono on the east side of the property and she had no objection; and he called Steve Pietrowski who owns property to the rear however did not hear back from him. The parcel beyond is wooded and drops off significantly beyond the property line.

Mr. Buckley explained accessory apartments are a permitted use in the single family zoning district however must remain owner-occupied. He reported setback requirements change when habitable space is created in an accessory building, and explained both City Council and Planning Board approvals are required.

There were no comments from the public and Mr. Dunne verified with the Board secretary that no correspondence had been received regarding this appeal. Mr. Sullivan made a motion to close the public hearing, seconded by Ms. Smith. All voted in favor. Motion carried.

After careful consideration, Mr. Lanier made a motion to grant the variance as requested, seconded by Ms. Smith. All voted in favor. Motion carried; 6-0.

**ITEM NO. 5 APPLICATION SUBMITTED BY DAVID MARCINAK (CURRENTLY OWNED BY FRED PENZETTA), TAX GRID NO. 30-5954-36-880824-00, LOCATED IN THE R1-5 ZONING DISTRICT, FOR RELIEF FROM SECTION 223.17(C) FOR A SECOND FLOOR ADDITION ON AN EXISTING ONE-STORY STRUCTURE (TO CREATE A NEW SINGLE FAMILY HOUSE) WITH A 19.2 FT. FRONT YARD SETBACK (30 FT. REQUIRED), 3.2 FT. SIDE YARD SETBACK (10 FT. REQUIRED), AND A 5.0 FT. REAR YARD SETBACK (30 FT. REQUIRED)**

The public hearing on the application submitted by David Marcinak for relief from Section 223.17(c) for a second floor addition on an existing one-story structure with the above noted setbacks was opened on a motion made by Mr. Kish, seconded by Ms. Haug. All voted in favor. Motion carried.

David Marcinak described his proposal to renovate a pre-existing non-conforming garage into a single family house. The property is located in a residential zoning district therefore a single family house conforms to zoning however the proposal to add a second story triggers the need for variances. Mr. Marcinak explained the lower level of the structure is approximately 980 sq. ft. and the proposed addition 400 sq. ft. would create an overall living area of 1,200 sq. ft. There will be no change to the footprint as the existing structure will be used. Mr. Marcinak reported the second floor will have a roof deck to the front of the structure.

Mr. Dunne read the following memorandum from the Planning Board into the record and opened the floor to public comment:

At their last meeting, the Planning Board reviewed the Zoning Board of Appeals agenda and offered an advisory opinion for 35 Catherine Street. The pre-existing non-conforming building used for a plumbing storage will be changed to a more conforming use in a residential neighborhood. Members felt this would be the best use for this property.

Members voted unanimously to send a favorable recommendation to the Zoning Board of Appeals. As always the final decision will be based on your review of the application but the Planning Board felt the aforementioned factors should be offered as an advisory viewpoint.

Susan Stouter, 19 South Cedar Street, lives east of the rear property line which is only 3.2 ft. from this structure and noted two 55 ft. tall Maple trees are located seven feet from the building. Ms. Stouter had concern for the mature trees and felt a second story would cause her to lose afternoon light. Every other building in the center of the block have back yards and are only one story in height. She was did not support the requested variance.

Robert Koski, 29 South Cedar Street, can see the structure from his back yard and feels a second story will be a big problem. It will appear plunked down on substandard lot and they are seeking variances for three out of four sides. He reported the building was once a garage that served a home facing South Brett Street when L-shaped parcels where the garage faced another street were common. Mr. Koski believed the structure was expanded at some time because it is a concrete block and wood frame building. He questioned the building's structural ability to sustain a second floor. He noted the existing building footprint is bigger than others in the neighborhood and a second story will make it even larger.

Vanessa Adams, 28 South Brett Street, reported the building in question sits in her back yard. A second story will be so close that she will be able to have a conversation with the residents from her window because it is only five feet away from her stockade fence. Ms. Adams did not support the requested variances.

Mr. Marcinak said he would plant tall thin landscape trees to provide shielding between the two properties. Ms. Adams felt there would not be adequate space between the fence and property to plant anything. Mr. Marcinak believed the type of tree he is proposing would work within the space as well as provide additional privacy.

Mr. Dunne asked Mr. Marcinak if he had considered putting the second story deck toward the rear of the house. Mr. Marcinak felt it would be more private to push the outside space toward the street with proper landscaping to the rear of the building to improve the existing view. He proposed utilizing awning windows on the rear second floor to provide additional privacy.

Jim Korn, 19 South Brett Street, read the following letter:

It's a garage not a house (originally the garage for 28 South Brett Street?) in a residential neighborhood that was most recently used as storage for a plumbing supply business. It appears its footprint was enlarge since it was build. Was this approved? Or its current use?

Will changing the use from garage to house for this particular property set a precedent for all the other detached garages in the immediate vicinity and, for that matter, neighborhood at large. There are many of them. Is there something unique about this property? How does this square with the zoning for garages which the City Council spent a lot of time on?

Changing the height of a garage to that of a two story home is significant. Zoning exists, to among things, protect the character of the neighborhood. Think SEQR 6 – "Is this action consistent with predominate character of the existing built or natural landscape." No. Popping up or puffing out structures over time in a neighborhood changes its character. And, if not non-conforming today, it certainly will be if enlarged. And I haven't even mentioned the inadequate setbacks.

The square footage of the existing structure as stated in the application is greater than that of my home a block away and others in the neighborhood. Why is it necessary to build a second story at all?

The wording in the variance request suggests the second floor will be constructed as an addition to the existing one. Will the existing structure accommodate this addition? If the variances are approved, can the building be razed and entirely new structure built?

Will the height of the building change? And, if so, what is it today? What is proposed? 35 ft.? If taller than today, proportionately longer shadows will be cast.

There are three rectangles drawn on the applicant's graph paper sketch. Is the first to illustrate the existing structure only, or will it be part of the resulting structure as well? Can the design be changed materially from what is proposed in the application?

Mr. Korn reiterated the neighbors' concern that larger shadows will be cast on their property. He asked if the design could be changed after the hearing if the variance is granted. Mr. Korn opposed the variance in its current configuration.

A general discussion took place about setting precedent for other garage conversions in the neighborhood, and it was noted this garage is uniquely located on its own parcel. Mr. Buckley explained property owners are always permitted to bring their property back a conforming use, and explained if a second story was not being considered, variances would not be needed.

Mr. Marcinak explained the third bedroom is necessary because it is difficult to sell a two bedroom house, and even at 1,200 sq. ft. the house is below average in size. He assured neighbors that privacy is a priority therefore would heed their concerns. Discussion took place about bedroom count and square footage of the proposed house.

Sarah Boyd owns and resides at 17 South Cedar Street, and owns and rents out 26 South Brett Street. She reported the front of the structure faces the garage in her back yard, and the northwestern property line abuts her rental property. Ms. Boyd shared concerns for privacy, trees, and parking that would take place in the front yard or on the street. She expressed concern for trees abutting 19 South Cedar Street and since Beacon is a “Tree City” felt everything possible should be done to protect and maintain mature trees.

Vanessa Adams, 28 South Brett Street, expressed concern about noise during construction and asked when building would begin. Mr. Marcinak reported construction would begin as soon as possible with hope of completion within two months.

Robert Koski, 29 South Cedar Street, pointed out other properties in the neighborhood have adequate back yards and five feet of space can’t be considered a yard.

There were no additional comments from the public and Mr. Dunne verified with the Board secretary that no correspondence had been received regarding this appeal. Ms. Smith made a motion to close the public hearing, seconded by Mr. Kish. All voted in favor. Motion carried.

After some discussion and careful consideration, Mr. Kish made a motion to deny the variance as requested, seconded by Ms. Haug. On roll call Mr. Kish, Ms. Haug, Mr. Dunne, Ms. Smith and Mr. Lanier voted in favor. Mr. Sullivan voted against the motion. Motion carried; 5-1. Variance denied.

There was no further business to discuss and Mr. Kish made a motion to adjourn the meeting, seconded by Ms. Haug. All voted in favor. Motion carried. The meeting adjourned at 8:00 p.m.