

Zoning Board of Appeals
November 15, 2016

The Zoning Board of Appeals met for a scheduled meeting on Tuesday, November 15, 2016 at 7:00 p.m. in the Municipal Center courtroom, One Municipal Plaza, Beacon, New York. Chairman Jack Dunne, and Members Claudia Haug, Judy Smith, Neil Sullivan, and Robert Lanier; and Deputy Building Inspector Dave Buckley were present. Richard Kish was excused.

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

Mr. Dunne called for corrections/additions or a motion to approve the minutes of the September 20, 2016 and October 18, 2016 meetings. Mr. Lanier made a motion to approve the minutes of both meetings as presented, seconded by Mr. Sullivan. All voted in favor. Motion carried.

ITEM NO. 1 APPLICATION SUBMITTED BY MATTHEW KANE, 20 MASE STREET, TAX GRID NO. 30-6054-31-283754-00, R1-5 ZONING DISTRICT, IS SEEKING RELIEF FROM SECTION 223.17(E) TO CONSTRUCT A 816 SQ. FT. ACCESSORY BUILDING (ONE-STORY GARAGE) (434 SQ. FT. MAXIMUM PERMITTED), AND 1,016 SQ. FT. CUMULATIVE ACCESSORY BUILDINGS (720 SQ. FT. MAXIMUM PERMITTED)

The public hearing on the application submitted by Matthew Kane, 20 Mase Street, for relief from Section 223.17(e) to construct a 816 sq. ft. accessory building (one-story garage) and 1,016 sq. ft. cumulative accessory buildings was opened on a motion made by Ms. Haug, seconded by Mr. Sullivan. All voted in favor. Motion carried.

Matthew Kane, apologized for missing last month's meeting and described his proposal to construct a new two-car garage with a small workshop on his property at 20 Mase Street. Due to recent changes in the accessory building law, he is only permitted to construct a 434 sq. ft. building. Mr. Kane explained they have been planning this project for several years and paid a licensed architect to create a design that appropriately fits the property. Their parcel is five times larger than the minimum permitted in the R1-5 zoning district and the size of the garage is modest in comparison. Lastly an old shed exists on the property which they want to keep therefore a variance is also needed to allow the total cumulative accessory buildings to be 1,016 sq. ft. where only 720 sq. ft. is permitted under the new law. Mr. Kane explained the two-car garage and small woodwork shop will be built in the footprint of a garage that was previously demolished. Mr. Dunne read the following letters into the record:

I am a neighbor of Matthew and Mindy Kane (residing at 20 Mase Street. Matthew has made me aware of his plans to construct a garage on his property and that the proposed garage area exceed the maximum size regulated by the recent "Accessory Coverage Law" passed by the City of Beacon in 2016. Matthew has shown me the plans for his garage including the proposed garage location. I understand that Matthew is submitting a variance application to allow for the exceedance of the size of his proposed garage as it relates to the City's Schedule of Regulations for Accessory Buildings on Residential Lots, 223-17E [added 1-19-2016].

- Maximum garage area allowed by current size: 434 square feet
- Matthew's proposed garage size: 816 square feet

I wish the Zoning Board of Appeals to know that I take no exception to the size of Matthew's proposed garage.

Patrick Lucas
16 Mase Street

Gerald Antalek, Sr.
47 Boyce Street

Memorandum from the Planning Board:

At their last meeting, the Planning Board reviewed the Zoning Board of Appeals agenda and offered an advisory opinion for 20 Mase Street. The accessory building law for lot coverage was recently enacted therefore members asked that the board be sensitive to the neighboring properties when considering this application. 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.

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

After careful consideration, Ms. Smith made a motion to grant the variance as requested, seconded by Ms. Haug. All voted in favor. Motion carried; 5-0. Variance granted.

ITEM NO. 2 APPLICATION SUBMITTED BY ANTHONY HARDISTY, 30 DUNCAN STREET, TAX GRID NO. 30-6054-47-307522-00, R1-5 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223.26(C)(1) TO CREATE PARKING IN A REQUIRED SIDE YARD ADJACENT TO A STREET LINE

The public hearing on the application submitted by Anthony Hardisty, 30 Duncan Street, for relief from Section 223.26(c)(1) to create parking in a required side yard adjacent to a street line was opened on a motion made by Ms. Haug, seconded by Mr. Sullivan. All voted in favor. Motion carried.

Paul Hardisty described their proposal to create an 18 ft. wide by 22 ft. deep driveway off Union Street for the house at 30 Duncan Street. The front of the house is consistent with neighboring driveways and will eliminate the need for on-street parking. There is not enough frontage to put the driveway on the other side of the house which triggers the need for a variance. The driveway will be paved within 30 days if approved.

Alan Flynn, 160 Union Street, had concern that recent renovations changed the orientation of the house to now face Union Street which creates a rear yard only two feet deep. He felt such a small yard would make the house less than desirable and degrade the character of the neighborhood. Mr. Flynn explained the front of the house faced Duncan Street and parking was provided in a separate lot where a garage was recently demolished. It was noted that the two parcels are pre-existing, non-conforming and were previously owned by the same person. Mr. Flynn felt the two foot rear yard would not conform to the remainder of the neighborhood.

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. Mr. Lanier made a motion to close the public hearing, seconded by Mr. Sullivan. All voted in favor.

After careful consideration, Ms. Haug made a motion to grant the variance as requested, seconded by Mr. Lanier. All voted in favor. Motion carried; 5-0. Variance granted.

ITEM NO. 3 APPLICATION SUBMITTED BY LAUREN PERAGINE, 290 EAST MAIN STREET, TAX GRID NO. 30-6054-48-444607-00, R1-10 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223.17(E) FOR AN ADDITION TO AN EXISTING ACCESSORY BUILDING (GARAGE) THAT WILL BE 352 SQ. FT. (343 SQ. FT. MAXIMUM PERMITTED), AND SECTION 223.17(C) FOR A 2.8 FT. SIDE YARD SETBACK (15 FT. REQUIRED)

The public hearing on the application submitted by Lauren Peragine, 290 East Main Street for relief from Section 223.17(e) for an addition to an existing accessory building that will be 352 sq. ft. in size, and Section 223.17(c) for a 2.8 ft. side yard setback was opened on a motion made by Mr. Sullivan, seconded by Ms. Haug. All voted in favor. Motion carried.

Lauren Peragine explained they recently purchased this house, currently under renovation, for her daughter Nicole to reside in. They are seeking relief to extend the garage (accessory building) by 6 ft. to accommodate a vehicle and lawn maintenance equipment. They considered building a new structure however in order to remain within the setbacks it would need to be situated to the rear of the property which would be too far away for use as a garage. The existing structure will be renovated with 6 ft. added to the front so it is large enough for a vehicle and yard equipment. Mr. Dunne read the following letter of support into the record.

It is my understanding that a request for a variance is being made to allow the extension of 6 feet in length only to the storage shed/garage that already exists on the property of 290 East Main Street, Beacon, New York. I have no objection to this request.

James Bell
5 Laurel Street

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

After careful consideration, Ms. Smith made a motion to grant the variance as requested, seconded by Ms. Haug. All voted in favor. Motion carried; 5-0. Variance granted.

ITEM NO. 4 APPLICATION SUBMITTED BY DAVID BUCKLEY, 73 WEST WILLOW STREET, TAX GRID NO. 30-5955-76-960179-00, R1-7.5 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223.17(E) TO CONSTRUCT A 512 SQ. FT. ACCESSORY BUILDING (ONE-STORY GARAGE) (416 SQ. FT. PERMITTED)

The public hearing on the application submitted by David Buckley, 73 West Willow Street, for relief from Section 223.17(e) to construct a 512 sq. ft. accessory building (one-story garage) was opened on a motion made by Ms. Haug, seconded by Ms. Smith. All voted in favor. Motion carried.

David Buckley described his request for relief from the accessory building regulations to construct a detached garage on his property at 73 West Willow Street. His original plan was to construct a smaller one-car garage with a workshop however felt a wider structure would look better on the lot. The maximum allowed structure is 416 sq. ft. and the proposed structure would be 512 sq. ft. Mr. Buckley reported he spoke with neighbors on both sides and received support from a neighbor who voiced her support via the board secretary. Mr. Buckley spoke to Barry Herbold, his neighbor to the rear of his property who had concern about how near it would be to his property. He explained the end of the garage would be 32 feet from his property line and a row of trees exists between them. He provided photographs of the property marking out where the garage would be located. Mr. Buckley explained the structure will be a bit lower than the house with the same roof angle.

Barry Herbold, 82 East Willow Street, confirmed his back yard is adjacent to the applicant's and felt the structure would be visible from his back yard and windows. He reported they spoke about the application and hoped differences with this appeal wouldn't affect their neighborly connection. Mr. Herbold pointed out errors in the letter sent to neighbors – a typographical erroneously cited the proposed structure to be 412 sq. ft. when it was actually was 512 sq. ft. He suspected the drawing was not to scale because it minimized the size of the building to the lot and existing structure. After researching the zoning code, he offered three points for consideration. The variance is substantial because the proposed structure is 23% larger than permitted in this zoning district and neighborhood. He believed the proposed structure would have a negative impact on the neighborhood because buildings on West and East Willow Street are unique in that they were built by the same developer in the 1950's. The neighborhood still has many original owners, holds a certain rhythm and harmony, and there are no accessory buildings aside from sheds. The garages that do exist in the neighborhood were either built at same time of house or as attached additions to the dwelling. The garages average 307 sq. ft. in size and the applicant's would be nearly 67% larger which will change the character of the neighborhood. Lastly Mr. Herbold believed the applicant's hardship to be self-created and is only because he wants additional square footage. Mr. Herbold supported construction of a conformingly sized building and felt the applicant's request to be excessive. He had fear that a precedent will be set that would further damage the character of neighborhood and did not support the variance. He felt the hearing should be delayed due to factual errors in the notice sent to neighbors and that a 32 ft. long building would extend into the rear yard setback to his property line.

Ms. Haug asked the applicant why he did not attach the garage to the house, and whether he would consider making the building shorter. Mr. Buckley explained an attached garage would not work with the interior layout of the house, and offered to shorten the building to a depth of 30 ft. Mr. Dunne read Mr. Herbold's letter into the record.

I am writing to you to voice my opposition to the appeal for relief, in its current form, as submitted by David Buckley for 73 West Willow Street. The reasons for my objection are as follows:

1. The letter sent to neighboring property owners is unclear and contains apparent factual errors. It states Mr. Buckley has applied for "relief from Section 223.17(e) to construct a 412 sq. ft. accessory building (one-story garage) (416 sq. ft. maximum permitted)." Clearly the

- requested 412 sq. ft. is less than the 416 sq. ft. maximum permitted. This error in the letter makes the request for variance appear to be a minimal departure from the current zoning.
2. The survey included with the above referenced letter depicts a proposed 16' x 32' garage. The area of this proposed structure is 512 sq. ft. not 412 sq. ft.
 3. It appears that the proposed structure may not be drawn to scale on the survey map. It appears to be depicted smaller than the dimensions indicate.
 4. The attached survey does not include setbacks from the proposed structure to the front and rear property lines.
 5. The application for appeal submitted by Mr. Buckley also contains conflicting information including building dimensions of 16' x 30'.

In order for the board and neighboring property owners to consider the appeal, the property owners should be sent a factually correct letter including a properly scaled depiction of the proposed building including setback to front and rear property lines. Thank you for your consideration

Barry Herbold
82 East Willow Street

After Mr. Herbold asked who scaled the drawing and if it was done by a certified professional, Deputy Building Inspector Dave Buckley confirmed that he scaled the survey appropriately with an engineering ruler. He added that the rear and side yard setbacks comply with zoning requirements which is why they were not noted on the survey. Mr. Herbold questioned the depth of the existing building and felt it had not been done by surveyor or architect because the proposed building appears smaller. He felt neighboring property owners would have shown up if they had proper information and that the average property owner may not understand the request based on the information they received.

Bob Ferrone, 99 East Willow Street, agreed with Mr. Herbold's points, including the error printed in the letter that went to neighboring property owners. He felt this parcel would look different in comparison to all other houses on East and West Willow Streets.

Mr. Lanier made a motion to table the hearing to readdress the application, re-notify all property owners with accurate information, and reopen the public hearing at the December meeting, seconded by Mr. Sullivan. All voted in favor. Motion carried.

ITEM NO. 5 APPLICATION SUBMITTED BY JOSEPH DONOVAN, 36 NORTH CEDAR STREET (CURRENTLY OWNED BY THE CITY OF BEACON), TAX GRID NO. 30-5954-28-985930-00, R1-5 ZONING DISTRICT, FOR AN INTERPRETATION AS PROVIDED IN SECTION 223.10(C)(3) TO CHANGE A VEHICLE AND EQUIPMENT MAINTENANCE BUILDING INTO A TWO-FAMILY RESIDENTIAL BUILDING (*The non-conforming use of a building may be changed only to a use of less non-conformity as determined by the Zoning Board of Appeals*)

The public hearing on the application submitted by Joseph Donovan, 36 North Cedar Street, for an Interpretation as provided in Section 223.10(C)(3) to change a vehicle and equipment maintenance building into a two-family residential building was opened on a motion made by Ms. Smith, seconded by Ms. Haug. All voted in favor. Motion carried.

Jinny St. Goar described the proposal to convert an existing maintenance garage located in a single family residential zoning district into a two-family dwelling. They are seeking an interpretation as to whether a two-family dwelling would be deemed less or more non-conforming than the existing City of Beacon's maintenance garage. Ms. St. Goar explained they will renovate the building and create a duplex building with two garages and a parking area between the two entrances. The applicant will go before the Planning Board if the board deems the proposed use to be less non-conforming than the existing use. Members reviewed the building and floor plans in detail.

Ken Lazzari, 33 North Cedar Street, reported the notification to residents eludes that the building will be modified rather than taken down and the applicant confirmed that the building will not be demolished. Mr. Lazzari reported the DEC website had recorded incidents with no closure reports therefore he had concern for environmental impacts. The development where he lives was formerly a cheese factory and extensive environmental testing took place. He felt neighbors should have been notified about any environmental studies. Mr. Dunne explained environmental review takes place at the Planning Board level and that the Zoning Board is tasked with making a determination on the non-conforming use. Mr. Lazzari reported homes in his development have deed restrictions that do not allow two-family dwellings and there is only one other two-family dwelling on the street which pre-existed zoning. He reported they struggle to find adequate parking now and this use would further impact the neighborhood. Mr. Lazzari felt the building should be knocked down and left as open space or converted into a single family house. Discussion took place about the change of use and concern for excavation of the soil without remediation. Mr. Lazzari felt the City should have performed environmental testing before selling the property.

Allison Chesnick, 32 North Cedar Street, felt a two-family house would change the footprint of the neighborhood. It is a single family zone where most properties are owner occupied.

Debra Rhodes (Cedar Street Daycare) owner of 35 and 37 North Cedar Street, had concern with renters because she runs a daycare from her home. A recently renovated house is now a rental which is creating constant traffic. They don't know the people and she had concern for the children she cares for. Ms. Rhodes felt the soils should be tested before doing anything with the building. She suggested allowing local artists to paint the building and leave it as is.

Flora Jones, 36 Melio Bettina Place, recalled being traumatized and ill when the adjacent seven house development was constructed. She asked about the Zoning Board's roll and felt the board can make a difference as to what is done on that site. Ms. Jones believed homeowners have suffered from commercial trucks on the block and felt it important to keep the neighborhood a community. Mr. Dunne explained the Zoning Board's roll is to make a determination about the non-conforming use and the Planning Board will address all environmental issues. Ms. Jones believed the Zoning Board was setting them up to go into the quagmire of the Planning Board process. She expressed concern for neighbors during construction.

Mr. Lazzari explained the mechanics have been respectful and have not had a negative impact on the neighborhood. He reiterated concern for a two-family residence and explained he purchased his house knowing that a mechanic's garage existed in the neighborhood. They've adapted to the daycare facility however the addition of two families with three bedrooms and workspace will be a burden to the community. Mr. Lazzari said this would be the first approval of a two family house dwelling in the area and he'd rather see the building sit there as is. Ms. Smith reiterated the Zoning Board's task is to make a determination as to whether a two family residence is less or more non-conforming than a mechanic's maintenance garage.

Allen Spiro, 32 North Cedar Street, felt parking would be a problem due to the current lack of adequate parking. The amount of traffic on the street is increased because it is a direct route to the high and middle school. He felt the parking shown on plans was not accurate and pointed out the street can't handle any more vehicles.

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. Mr. Haug made a motion to close the public hearing, seconded by Mr. Sullivan. All voted in favor. Motion carried.

After careful consideration, Ms. Smith made a motion to deem a two-family residential dwelling a more non-conforming use than a vehicle and equipment maintenance garage, seconded by Mr. Lanier. On roll call Ms. Smith, Mr. Lanier, Ms. Haug and Mr. Sullivan voted in favor of the motion; Mr. Dunne voted against the motion. Motion carried; 4-1.

ITEM NO. 6 APPLICATION SUBMITTED BY KAREN GOWAN, 310 SOUTH AVENUE, TAX GRID NO. 30-5954-16-769428-00, R1-40 ZONING DISTRICT, FOR RELIEF FROM SECTION 223.17(C) FOR A LOT LINE REALIGNMENT WHICH WILL CREATE A 38,000 SQ. FT. PARCEL (40,000 SQ. FT. REQUIRED)

The public hearing on the application submitted by Karen Gowan, 310 South Avenue, for relief from Section 223.17(c) for a lot line realignment which will create a 38,000 sq. ft. parcel was opened on a motion made by Ms. Haug, seconded by Ms. Smith. All voted in favor. Motion carried.

Attorneys Ken Stenger representing Karen Gowan introduced Jennifer VanTuyl representing Yaun Lee, and described their clients' proposal for a lot line realignment of property between 300 and 310 South Avenue. These parties have had issues over use of the driveway which they hope to resolve with an application before the Planning Board and this variance. The two parcels were created in 1972 when the family's mother planned to move into the carriage house (Gowan's) from the main house (Lee's). An easement along the existing driveway was created so the families would have access to each parcel. The properties were sold and the main house is now a Bed & Breakfast which produced stress and strain on the residential house. In order to resolve these issues, a portion of the Gowan property will be added to the Lee property to allow for the creation of two separate and distinct driveways. This action, however, reduces the size of the Gowan property to 38,500 sq. ft. in a zoning district that requires 40,000 sq. ft. per dwelling unit. Mr. Stenger reviewed his letter highlighting five points that the board must consider in its analysis of the application. In summary they believe the action will not

create an undesirable change in neighborhood; the benefit can't be achieved by some other method due to the topography of the land; the size of the variance is not substantial as it is only a 3.75% reduction in the Gowan parcel; no adverse effect or impact will be created in the neighborhood as it only allows construction of a separate driveway easing traffic for Gowan and creating a safer driveway for Lee; and the situation is not self-created because the driveway was constructed many years ago when no one thought it would become an issue.

Ms. VanTuyl explained this joint application will result in an improvement in two ways. The driveway for Lee will no longer cross over the Gowan parcel and the new driveway will lessen the number of vehicles entering an intersection with poor sight distance. Overall the request will be an improvement to both applicants and the City, and meets all standards for an area variance.

Mr. Dunne read the following correspondence and memorandum from the Planning Board into the record:

At their last meeting, the Planning Board reviewed the Zoning Board of Appeals agenda and offered an advisory opinion for the lot line realignment of property between 300 South Avenue (Lee) and 310 South Avenue (Gowan). The lot line realignment will result in the creation of two separate driveways rather than the current shared driveway situation. Members felt would be in the best interest for all parties involved to grant the requested variance for a lot line realignment which will resolve disputes that have taken place in the past. 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.

I object to Ms. Gowan's appeal for relief from Section 223.17(c). However, if Yaun Lee, at 300 South Avenue accepts this bogus deal, I will support his decision.

Bob Kacur
163 Sargent Avenue

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

After careful consideration, Mr. Lanier made a motion to grant the variance as requested, seconded by Mr. Sullivan. All voted in favor. Motion carried; 5-0. Variance granted.

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 8:35 p.m.