

**Zoning Board of Appeals
September 18, 2018**

The Zoning Board of Appeals met for a scheduled meeting on Tuesday, September 18, 2018 at 7:00 p.m. in the Municipal Center courtroom, One Municipal Plaza, Beacon, New York. Acting Chairman Robert Lanier, and members Judy Smith, Jordan Haug, and David Jensen; City Attorney Drew Gamils and Building Inspector Tim Dexter were in attendance. Chairman Jack Dunne was excused.

Mr. Lanier outlined the format of the Board's proceedings for the benefit of the public, explaining four out of five members were present and three votes would be needed to take action on a variance request. Mr. Haug made a motion to open the meeting, seconded by Mr. Jensen. All voted in favor. Motion carried.

Executive Session

Mr. Haug made a motion to go into executive session for advice of counsel, seconded by Mr. Jensen. All voted in favor. Motion carried. Members went into executive session at 7:07 p.m. Members came out of executive session on a motion made by Mr. Haug, seconded by Mr. Jensen. All voted in favor. Motion carried. The regular meeting began at 7:25 p.m.

Regular Meeting

Mr. Jensen made a motion to approve the minutes of the July 17, 2018 meeting, seconded by Ms. Smith. Mr. Haug pointed out the last paragraph noted "Mr. Jordan" as making a motion and it should have been "Mr. Haug". Mr. Jensen withdrew his motion of approval. Mr. Jensen made a motion to approve the minutes as corrected, seconded by Ms. Smith. All voted in favor. Motion carried.

ITEM NO. 1 APPLICATION SUBMITTED BY ICEBLOCK, INC., 71 MAPLE STREET, TAX GRID NO. 30-6054-21-082982-00, R1-5 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-10(B)(1) TO ENLARGE A PRE-EXISTING NON-CONFORMING USE WITH AN 82 SQ .FT. ADDITION; AND SECTION 223-17(C) FOR THE ADDITION TO HAVE A 19 FT. FRONT YARD SETBACK (30 FT. REQUIRED)

The public hearing on the application submitted by Iceblock, Inc., 71 Maple Street, seeking relief from Section 223-10(B)(1) to enlarge a pre-existing non-conforming use with an 82 sq. .ft. addition; and Section 223-17(C) for the addition to have a 19 ft. front yard setback was opened on a motion made by Mr. Haug, seconded by Mr. Jensen. All voted in favor. Motion carried.

Michael Benzer reported he has owned the commercial property at 71 Maple Street for nearly 33 years. He explained ten years ago half of the building was torn down and an apartment for he and his wife was created in a portion of the structure. Mr. Benzer described his plan to square off the portion of the building that was once a loading dock with an 82 sq. ft. addition to add to his living space. The loading dock was setback to allow large trucks to back in for loading/unloading without sticking out in the road. The addition will eliminate the loading dock, square off the building, and be used for a personal office and storage space. He explained two

variances are needed – one to extend the use of a pre-existing non-conforming use and one to allow the addition to extend into the required front yard setback.

Mr. Lanier opened the floor to public comment however no one from the public wished to speak. Mr. Jensen made a motion to close the public hearing, seconded by Mr. Haug. All voted in favor. Motion carried.

Mr. Lanier reported an inspection of the premises by the Deputy Building Inspector revealed no illegal connections to the sanitary sewer system. He read the following email into the record:

We live at 47 Maple Street in Beacon, New York next door to Iceblock, Inc. and wish to tell you that we support wholeheartedly their application for a variance. Michael Benzer and Jennifer Smith are friends of ours and they have a very high standard for all the projects we have seen them take on. I think this one would enhance our neighborhood. Thank you for considering this letter of recommendation.

Claire and Barry Nelson
47 Maple Street

Members carefully reviewed each of the five criteria established for granting area variances as they related to the request to extend the pre-existing non-conforming use with an 82 sq. ft. addition and for the addition to have a 19 ft. front yard setback. Members discussed each factor and gave careful consideration to any impacts to the character of the neighborhood, achieving the benefit by other feasible methods, whether the request was substantial, review of environmental and physical impacts, and whether the need for a variance was self-created.

Mr. Jensen made a motion to grant to a variance to extend the pre-existing non-conforming use as requested including all standard conditions set forth in the draft resolution, seconded by Ms. Smith. All voted in favor. Motion carried; 4-0.

Mr. Haug made a motion to grant to a variance for the addition to have a 19 ft. front yard setback as requested including all standard conditions set forth in the draft resolution, seconded by Mr. Jensen. All voted in favor. Motion carried; 4-0.

ITEM NO. 2 APPLICATION SUBMITTED BY RABBI BRENT SPODEK, 32 ALICE STREET, TAX GRID NO. 30-6054-47-320616-00, R1-7.5 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-17(C) TO CREATE A LOT WHERE THE WIDTH IS LESS THAN THE REQUIRED 75 FT. AND SECTION 223-12(H) FOR A PROPOSED BUILDING WHICH WILL BE LOCATED ON A PORTION OF THE LOT WHERE THE LOT WIDTH IS LESS THAN THE REQUIRED 75 FT.

The public hearing on the application submitted by Rabbi Brent Spodek, 32 Alice Street, seeking relief from Section 223-17(C) to create a lot where the width is less than the required 75 ft. and Section 223-12(H) for a proposed building which will be located on a portion of the lot where the lot width is less than the required 75 ft. was opened on a motion made by Mr. Haug, seconded by Mr. Jensen. All voted in favor. Motion carried.

Engineer Dan Koehler of Hudson Land Design explained his client has lived in Beacon since 2009 and currently lives at 2 Green Street. They have outgrown their house but want to remain in the same neighborhood. The property at 32 Alice Street became available so they purchased it with the hopes of subdividing the property in order to construct a new larger home for their growing family. They have been before the Planning Board for review of the subdivision and a SEQRA Negative Declaration was issued for the project. The new lot has an average lot width of 68 ft. where 75 ft. is required in the R1-7.5 zoning district. As required, the house has been situated on the lot to line up with adjacent houses however it will be located on a portion of the lot that is only 63 ft. wide therefore requiring a 12 ft. variance. A study of the neighborhood revealed the majority of parcels in the area are similar and many lots sizes are smaller than required by current zoning. Mr. Koehler stated four of the five criteria considered for area variances have been met; the owners were aware that the condition was self-created as they knew early on that a variance would be required.

Mr. Lanier opened the floor to public comment however no one from the public wished to speak. Mr. Jensen made a motion to close the public hearing, seconded by Mr. Haug. All voted in favor. Motion carried.

Mr. Lanier reported an inspection of the premises by the Deputy Building Inspector revealed no illegal connections to the sanitary sewer system. He read the following letter of support into the record.

We have met with our neighbors, Rabbi Brent and Alison Spodek, and are aware of their plans to divide the property at 32 Alice Street and build a new house for their family there. We have no objections to welcoming them to our street.

Larry Sedore, 1 Judson Street	Mary Gertel, 44 Alice Street
Jeffrey Gertel, 44 Alice Street	Vincent Komer, 25 Alice Street
Steve Munoz, 24 Alice Street	Jeff Brown, 19 Alice Street
Rosa Cordero, 15 Alice Street	

Mr. Lanier read the following advisory opinion from the Planning Board:

At their last meeting, the Planning Board reviewed an application for a two-lot residential subdivision of property located at 32 Alice Street submitted by Rabbi Brent Spodek. The application is to subdivide a 0.467-acre parcel with an existing house into two lots for the construction of a new house for his family. The average lot width of the new lot is less than the required 75 ft. outlined in Section 223-17(C) of the City Zoning Code and the proposed house is located on a portion of the lot that does not meet the minimum 75-foot lot width standard outlined in Section 223-12. Members reviewed the property's topography, location of adjacent houses and layout proposed for the new house. After careful consideration of the variances needed for the subdivision proposal as presented, members voted unanimously to advise the Zoning Board of Appeals that they have no objection to approval of the variances. 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.

Members carefully reviewed each of the five criteria established for granting area variances as they related to the request to create a lot with less than the required width and for the proposed building to be located on a portion of the lot that is less than the required 75 ft. width. Members discussed each factor and gave careful consideration to any impacts to the character of the neighborhood, achieving the benefit by other feasible methods, whether the

request was substantial, review of environmental and physical impacts, and whether the need for a variance was self-created.

A discussion took place with regard to the standard conditions set forth in the draft resolution, and because this applicant is still before the Planning Board for Subdivision Approval, the conditions will be amended to allow the applicant six months to commence construction and one year to complete construction and obtain a Certificate of Occupancy from the date of their last appearance before the Planning Board.

Mr. Haug made a motion to grant to a variance to create a lot with less than the required width as requested including the amended conditions stated above, seconded by Ms. Smith. All voted in favor. Motion carried; 4-0.

Mr. Haug made a motion to grant to a variance to allow the proposed building to be located on a portion of the lot that is less than the required 75 ft. width as requested including the amended conditions stated above, seconded by Mr. Jensen. All voted in favor. Motion carried; 4-0.

ITEM NO. 3 APPLICATION SUBMITTED BY BRIAN KENNY, 35 JOHN STREET, TAX GRID NO. 30-5954-44-967664-00, R1-5 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-17(E) FOR A 214 SQ. FT. ADDITION TO AN EXISTING 370 SQ. FT. GARAGE FOR A TOTAL OF 584 SQ. FT. (430 SQ. FT. MAXIMUM IS PERMITTED)

The public hearing on the application submitted by Brian Kenny, 35 John Street, seeking relief from Section 223-17(E) for a 214 sq. ft. addition to an existing 370 sq. ft. garage for a total of 584 sq. ft. was opened on a motion made by Mr. Haug, seconded by Mr. Jensen. All voted in favor. Motion carried.

Architect Aryeh Siegel presented his client's proposal to construct an addition to an existing garage at 35 John Street located at the end of a cul de sac to create studio space. The addition meets all height and setback requirements however a variance is needed because the size of the addition is limited to a percentage of the house footprint. Based on the small house footprint, the addition can only be 430 sq. ft. which is not large enough for adequate studio space. Mr. Siegel explained the lot is larger than most in the neighborhood and the addition is located away from property lines so it won't crowd adjacent properties. Most of the addition will be screened by the existing garage and hardly visible from the street. Consideration was given to putting the addition on the house however due to the layout, it made more sense to use the garage. There is no second floor, crawl space or bathroom and a Special Use Permit would be required to create an accessory apartment if desired.

Mr. Lanier opened the floor to public comment however no one from the public wished to speak. He reported an inspection of the premises by the Deputy Building Inspector revealed no illegal connections to the sanitary sewer system. Mr. Haug made a motion to close the public hearing, seconded by Ms. Smith. All voted in favor. Motion carried.

Members carefully reviewed each of the five criteria established for granting area variances as they related to the request to construct a 214 sq. ft. addition to the existing garage. Members discussed each factor and giving careful consideration to any impacts to the character of the neighborhood, achieving the benefit by other feasible methods, whether the request was substantial, review of environmental and physical impacts, and whether the need for a variance was self-created.

Mr. Jensen made a motion to grant to a variance for the 214 sq. ft. addition to the garage as requested including all standard conditions set forth in the draft resolution, seconded by Mr. Haug. All voted in favor. Motion carried; 4-0.

ITEM NO. 4 APPLICATION SUBMITTED BY PIE DEVELOPERS, 53 ELIZA STREET, TAX GRID NO. 30-6054-29-031870-00, R1-5 ZONING DISTRICT, SEEKING RELIEF FROM SECTION 223-17(C) FOR A USE VARIANCE TO ALLOW A 9-UNIT MULTI-FAMILY DEVELOPMENT

The public hearing on the application submitted by PIE Developers, 53 Eliza Street, seeking relief from Section 223-17(C) for a Use Variance to allow a 9-unit multi-family development was opened on a motion made by Mr. Haug, seconded by Ms. Smith. All voted in favor. Motion carried.

Attorney Taylor Palmer, Cuddy & Feder, described his client's proposal to replace the pre-existing non-conforming commercial operations at 53 Eliza Street with multi-family buildings to create 9 dwelling units. The City is becoming more desirable as a residential community therefore they want to eliminate the commercial use to conform more to the character of the neighborhood. Mr. Palmer explained they received comments from the City Attorney's office that additional details are needed so they want to continue the public hearing at the October meeting. A total of 23 letters of support and a tax map representing supportive those properties were submitted for consideration, as well as an advisory memorandum from the Planning Board.

Aryeh Siegel described the proposal to replace the pre-existing non-conforming commercial buildings and operations on the half-acre parcel with a nine-unit residential development. The existing stone building to rear of property would be converted into two apartments, the office building facing Eliza Street will be replaced with a new three-unit building with a gateway entrance into an interior courtyard where a new four-unit building will be constructed. New construction will reflect the stone and brick facades of existing buildings. The commercial use generates a lot of traffic in and out of the site which would be less with a residential use. He reported the existing offices, storage and contractor yard will be moved to another location in the City. One entrance under the proposed building along Eliza Street will lead into a paved and landscaped courtyard that will provide parking for the units that don't have garages and guests. Building materials will be designed to tie in with the existing rear stone structure. A full Site Plan review will take place with the Planning Board.

Owner Ed Pietrowski reported he has been in Beacon since the early 1980's and has raised his family and been in business in the city for the last 20 years. The property was unsightly and unkempt when he purchased it and he has made many improvements. Mr.

Pietrowski reported he wants to move his business to the other side of town and felt it would be better to conform with the residential portion of the neighborhood rather than transfer the property into another contractor's hands.

Ray Clary, 27 Eliza Street (also spoke for Ahmet Albra 36 Eliza Street who was in attendance), strongly expressed his opposition to any variances for the project. He read the following statement into the record:

Let's stick to the R1-5 Zoning for Eliza Street . . . not grant variances and get a good start on preserving our neighborhood. My family and several neighbors would like to express our objection to the newly proposed commercial housing development for 53 Eliza Street. We are against granting this owner another modification of the current zoning law. They should be held to the agreement of complying with current zoning if they want to use the property for purposes other than the original agreement. He already had profited from the previous privilege of being allowed to use the property commercially for many years and should be satisfied with reverting to the current zoning use as agreed. All other property owners are held to the legal use of R1-5 properties and now so should the owner of 53 Eliza Street. We feel that granting this variance will only encourage other property owners eager for profits and who do not live in the properties to request increasing commercial development variances in the future. This is sure to happen if you approve this variance. In a few years the single family homes here will be at a much small percentage and will change the character of the entire neighborhood going forward. As residential homeowners we expect the City of Beacon to hold down, not expand commercial uses of properties in the R1-5 area and to preserve the character and quality of life in this area. The new Comprehensive Plan is very good for this area especially because it is so close to Main Street and we are asking the City not to compromise the plan by granting commercial variances to property owners or other investors as time goes by. With increased population density in this primarily single family area, the quality of life will be eroded ensure this for the future years to come, we need to reduce the number of multi-family developments in the R1-5 zone in which I live. We are already too heavily peppered with multi-family houses and commercial variances as this will heavily compromise the character and quality of the new Comprehensive Plan that the city planners have currently in place for the benefit of all homeowners in the R1-5 zoning in which I have been living for 17 years.

In addition, Mr. Clary had concerns about a three-story building and that fire services would not have adequate access to the site. He reiterated the increased density will affect the quality of the neighborhood and compromise the Comprehensive Plan.

Daniel Aubry, 5 Bridge Street, pointed out Beacon is 4.9 square miles in size and is completely surrounded by the Town of Fishkill. He felt the thought of reducing density is misguided and believed this site is a perfect example of property that needs a variance. He felt nine units would not be excessive and the proposal was sensitive to the historic context of the site. He strongly supported the variance because more multi-family development is needed.

Andre Richards, 56 Eliza Street, reported he saw what the property looked like before Mr. Pietrowski purchased and made great improvements to the site. He felt nine units would not be excessive and conversion to residential use would be good for the community.

Steve Partlow, 48 Eliza Street, supported the variance and felt it would be a positive move away from the commercial use. He would rather see family traffic over commercial truck traffic.

The public hearing will be continued at the October meeting to allow the applicant time to provide additional details in support of the application. Members requested more information on traffic, additional financial information, additional land cost appraisal information, economic viability, and how the change would be consistent with the Comprehensive Plan. A lengthy discussion took place about the historical zoning of the property, the odd shape of the property, and whether any variances were previously granted. Mr. Taylor reported they will provide more information on zoning. Mr. Lanier offered the public another opportunity for comment.

Ron Clary, 27 Eliza Street, asked how many multi-family units are needed on Eliza Street because three currently exist and they don't need a fourth. He felt three single family houses should be constructed in conformance with current zoning regulations. Mr. Clary asked where development would end and expressed concern about the aesthetics of the community.

There were no further comments and Mr. Haug made a motion to continue the public hearing at the October meeting, seconded by Mr. Jensen. All voted in favor. Motion carried.

There was no further business to discuss and Mr. Haug made a motion to adjourn the meeting, seconded by Mr. Jensen. All voted in favor. The meeting was adjourned at 8:59 p.m.