

Zoning Board of Appeals
August 20, 2019

The Zoning Board of Appeals met for a scheduled meeting on Tuesday, August 20, 2019 at 7:13 p.m. in the Municipal Center courtroom, One Municipal Plaza, Beacon, New York. Chairman Robert Lanier, Members Judy Smith, Jordan Haug, David Jensen, and Garrett Duquesne; City Attorney Drew Gamils and Building Inspector David Buckley were in attendance.

Mr. Lanier called for corrections/additions or a motion to approve the minutes of the July 16, 2019 meeting. Ms. Smith made a motion to approve the minutes of the July 16, 2019 meeting as presented, seconded by Mr. Haug. All voted in favor. Motion carried; 5-0.

Miscellaneous Business

Consider request for one (1) year extension of 1/17/2018 area variances - Edgewater

Attorney Taylor Palmer, Cuddy & Feder, presented his client's request for an extension of the variances granted on January 17, 2018 for the Edgewater project. The variances had one year expiration from the date of obtaining the last land use approval which was issued by the Planning Board at their September 11, 2018 meeting. Mr. Palmer reported the applicant is working with the Dutchess County Health Department to satisfy conditions, and all have been fulfilled with the exception of providing hydraulic modeling of the receiving City sewer system. City Attorney Drew Gamils advised members that the City Council extended their approval for six (6) months therefore recommended if an extension is granted that it remain the same time frame. After careful consideration, Mr. Jensen made a motion to grant a six (6) month extension, seconded by Mr. Duquesne. All voted in favor. Motion carried; 5-0.

ITEM NO. 1 APPLICATION SUBMITTED BY 23-28 CREEK DRIVE, LLC, 23-28 CREEK DRIVE, TAX GRID NO. 30-6054-37-037625-00, FISHKILL CREEK DEVELOPMENT (FCD) ZONING DISTRICT, TO CONSTRUCT A MIXED USE DEVELOPMENT WITH EIGHT APARTMENTS AND 20,000 SQ. FT. OF COMMERCIAL SPACE WHICH REQUIRES RELIEF FROM SECTION 223-26(F) TO PROVIDE 93 PARKING SPACES (113 PARKING SPACES REQUIRED), SECTION 223-4.14(C) FOR APARTMENT SIZE OF 2,750 SQ. FT. FOR TWO OF THE UNITS (2,000 SQ. FT. MAXIMUM PERMITTED), SECTION 223-1.14(F) FOR A FOUR STORY BUILDING (THREE STORIES MAXIMUM PERMITTED) AND SECTION 223-1.14(F) FOR A BUILDING HEIGHT OF 53 FT.-4 IN. (40 FT. MAXIMUM PERMITTED)

The public hearing on the application submitted by 23-28 Creek Drive, LLC, 23-28 Creek Drive, for the referenced variances was reopened on a motion made by Mr. Haug, seconded by Mr. Duquesne. All voted in favor. Motion carried.

Attorney Taylor Palmer of Cuddy & Feder, was joined by Architect Aryeh Siegel and principle member Rodney Weber. Mr. Palmer explained they were before the board last month and have returned with responses to comments from board members and the public, as well as to submit an addition 28 letters of support for the project at 23-28 Creek Drive. The traffic study, parking study, and an alternate parking layout were also provided as requested. Mr. Palmer

reported the Planning Board performed an extensive review and issued a Negative SEQRA Declaration for the project.

Discussion took place with regard to sharing the parking lot with the general public and it was noted that the Planning Board and City Planner took under consideration that parking requirements in adjacent CMS and Linkage zoning districts would be much less. Shared parking will be incorporated as they anticipate employees of the commercial use will live on or near the site. Mr. Palmer also pointed out that a municipal lot is located adjacent to this property, they are providing parking for trail users, and have included parking under the building.

Members reviewed the alternate parking layout which showed a reduction in green space and would affect the Greenway Trail. Discussion took place with regard to contours and setback requirements that would need to be considered. The alternate parking scheme would require retaining walls and additional variances because the lot is too close to property lines, too close to the trail and has very steep topography. Mr. Palmer felt the applicant demonstrated that adequate parking is provided for the commercial use and residential space although more spaces are required by zoning. He pointed out the alternate layout is merely a visual aid to show the impacts on the Greenway Trail and open green space on the site. After much discussion, Mr. Lanier opened the floor for public comment.

James Grigg, 11 Creek Drive and Beacon's representative on the Dutchess County Board of Health, expressed his support of the project and the requested variances. He said the average size of the apartments is less than 2,000 sq. ft. and that the two larger apartments will attract professionals, larger families, and those that are downsizing from large homes yet who want a more spacious apartment. The building roofline elevation is still lower than homes on Tioronda Avenue therefore won't be out of context for the area. Mr. Grigg commended the developer for utilizing natural landscaping and for creating space that will support natural flora and fauna local to the area. He felt Docuware will bring new jobs to Beacon with a focus on young talented individuals that will live and utilize services the City has to offer.

Diane Green, 11 Creek Drive, supported variances needed for the project and felt the applicant has great vision as proven by his nearby developments.

Rhonda Littenburg, Creek Drive, spoke about the need to bring jobs to Beacon and listed several professional positions that are already being offered by Docuware. She believed Docuware to be a strong company and did not want to lose them to a neighboring community because business will be good for Beacon.

Theresa Kraft, 315 Liberty Street, submitted 68 letters in opposition to the development. She expressed concern for the adverse impact the project will have on residents of Spring Valley Street and impacts the development will have on traffic.

Arthur Camins, 39 Rombout Avenue, felt circumstances for variances should be absolutely extraordinary and that proof of that has not been provided. He believed that there is a perception that developers get what they want and felt residents of Beacon need the City to be on

their side. He felt the developer should come up with a development plan that fits in the space without the need for variances.

Paula Dowd, 19 Russell Avenue, explained she had trouble finding housing when she first moved to Beacon. She was impressed the development at 7 Creek Drive and was even more impressed with the quality of the environment. She felt there is a need for this type of housing and pointed out that she makes it a point to spend money on Main Street. Ms. Dowd has been in Real Estate business for many years and realizes variances are needed because the cost of construction has become phenomenally expensive. She feels this developer will do an awesome job on this project.

Steve Maddy, 52 Leonard Street, sees a great deal of development and believed Mr. Weber's developments rate far above others. He feels the Creek Drive developments are beautiful and that these variances will continue the flow. He said municipal parking is nearby and this type of business is needed during the week. Mr. Maddy offered full support of the project and requested variances.

Mr. Lanier read letters of support and opposition to the project (see attached).

Mr. Palmer reiterated his client's position that this property is a former DPW site that will be cleaned of contaminants and utilized in a much more environmentally friendly manner. All environmental and school impacts have been fully vetted by the Planning Board, and parking requirements in adjacent zoning districts are far less than the FCD zoning district. Mr. Palmer contended that the difference between three and four stories does not dramatically change the view and the applicant is providing an additional benefit by means of a public park and Greenway Trail along Fishkill Creek. He explained this property is unique in the FCD zoning district and the requested variances are unique to this location. The structure will be reflective of historic factory buildings that already exist and the topography and layout of the property does not apply to all properties in this zoning district.

A lengthy discussion took place with regard to the number of bedrooms and that elimination of the fourth floor would dismiss the need for a parking and building height variance. Mr. Palmer explained they reduced the number of residential units in order to increase the commercial space, and the building on the adjacent property is four stories and is taller than this structure. He reported the larger residential units will help defer the cost of the added commercial space.

There were no further public comments and Mr. Duquesne made a motion to close the public hearing, seconded by Ms. Smith. All voted in favor. Motion carried. Detailed discussion took place regarding the five factors that must be considered for area variances in order to provide information to include in a draft resolution that will be prepared for consideration at the next meeting.

Parking

Members carefully reviewed each of the five criteria established for granting an area variance as it related to the request to provide 93 parking spaces where 113 spaces are required.

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. They considered whether the parking area could be open to the public, limiting hours of business operations, information provided by the Planning Board, traffic studies, benefits of reduced parking, and the alternate parking layout presented. Discussion took place about the building design and other conceptual layouts that had been considered. Land-banking was discussed and consideration was given to possible future changes which would need to return for additional approvals.

Apartment Size

Members carefully reviewed each of the five criteria established for granting a variance to allow two apartments to exceed the 2,000 sq. ft. maximum. 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. Discussion took place with regard to the impact larger apartments would have on the area. Mr. Jensen expressed his belief that the applicant was attempting to avoid the need to provide workforce housing. He felt the larger units could be broken up to increase the unit count so affordable housing would be required. Members felt it would be beneficial to ask City Council why the square footage limitation was established and City Attorney Drew Gamils advised members she would research the matter. Members felt the increased unit size was numerically substantial but not so in terms of density.

Building Height and Number of Stories

Members carefully reviewed each of the five criteria established for granting area variances as they related to the request to create a fourth story where three stories are permitted and for the building to be 53 ft. 4 in. in height where maximum building height of 40 ft. is permitted. 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. Consideration was given to the impact increased height may have on the surrounding neighborhood, views of the mountain, site topography, consistency with adjacent buildings, and that a smaller footprint would preserve greenspace.

After a very lengthy discussion and debate of all the variance requests and related factors, members authorized that a draft resolution outlining items discussed should be prepared for review at the September meeting.

ITEM NO. 2 APPLICATION SUBMITTED BY 184 MAIN, LLC, 184 MAIN STREET, TAX GRID NO. 30-5954-27-811956-00, CMS ZONING DISTRICT, FOR RELIEF FROM SECTION 223-41.18(E)(4) TO ADD A SECOND STORY ON THE BUILDING WITH A 10 FT. REAR YARD SETBACK (25 FT. REQUIRED)

The public hearing on the application submitted by 184 Main, LLC, 184 Main Street, for relief from Section 223-41.18(E)(4) to add a second story on the building with a 10 ft. rear yard setback was opened on a motion made by Mr. Jensen, seconded by Mr. Haug. All voted in favor. Motion carried.

Building/business owner Mike Arnoff and Project Manager Gabrielle Lanfrit were present to continue review of the proposal to extend the rear of the building into the existing outdoor patio area at 184 Main Street in order to add space to the kitchen. The code requires a 25 ft. rear yard setback on lots that are more than 100 ft. deep and they are requesting at 10 ft. rear yard setback. Mr. Arnoff reported they are before the Planning Board for site plan review and the board issued a positive recommendation for the variance request. Discussion took place about extending toward the front, and that for all practical purposes the lot is less than 100 ft. deep because it extends two feet into the City's right-of-way and sidewalk. Mr. Lanier read the Planning Board's memorandum into the record:

At their last meeting on July 9, the Planning Board reviewed the applicant's proposal to demolish most of the existing one-story restaurant (Meyer's Old Dutch) to create a new two-story building with restaurants on each floor. The parcel is 100 ft. deep therefore a variance to allow a 10 ft. rear yard setback where 25 ft. is required is needed. A lengthy discussion and review took place and members unanimously agreed to support the variance because the property just makes the 100 ft. depth. 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.

Mr. Arnoff reported he spoke to the neighbor to the rear who has agreed to grant access over his property at 5 Willow Street for construction purposes. Mr. Lanier opened the floor for public comment.

Theresa Kraft, 315 Liberty Street, commended the owner for making the new structure fit in with the historic nature of the neighborhood. She had concern for safe access through the alley to the rear of the property. It was noted the width of the alley is 8 ft. 6 inches.

There were no further public comments and 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 applicant's request for a 10 ft. rear yard setback where 25 ft. is required. 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. The applicant was informed of the standard conditions set forth in the draft resolution. After careful consideration, Mr. Haug made a motion to approve the variance with the standard conditions as discussed, seconded by Ms. Smith. All voted in favor. Motion carried; 5-0.

ITEM NO. 3 APPLICATION SUBMITTED BY JAMES SCHUMM, 27 MONELL PLACE, TAX GRID NO. 30-5955-04-635190-00, FOR RELIEF FROM SECTION 223-17(C) TO CONSTRUCT A BEDROOM ADDITION WITH 14.5 FT. SIDE YARD SETBACK (20 FT. REQUIRED)

The public hearing on the application submitted by James Schumm, 27 Monell Place, for relief from Section 223-17(C) to construct a bedroom addition with 14.5 ft. side yard setback was opened on a motion made by Mr. Haug, seconded by Mr. Jensen. All voted in favor. Motion carried.

Architect Aryeh Siegel described his client's proposal to construct an addition with a 14.5 ft. side yard setback in order to expand a very small master bedroom. The existing house currently has a pre-existing non-complying side yard setback of 17.5 ft. where 20 ft. is required. They spoke to the adjacent neighbor who would be most affected and they have no objection to the variance being requested. Mr. Siegel reported that due to the layout of the house there is no alternative that would not require a variance. The small shrubs along the side will be relocated or substituted with new landscaping.

Mr. Lanier opened the floor for public comments however no one wished to speak. Mr. Duquesne made a motion to close the public hearing, seconded by Mr. Jensen. 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 bedroom addition with a 14.5 ft. side yard setback where 20 ft. is required. 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. The applicant was informed of the standard conditions set forth in the draft resolution. After careful consideration, Mr. Haug made a motion to approve the variance with the standard conditions as discussed, seconded by Mr. Jensen. All voted in favor. Motion carried; 5-0.

There was no further business to discuss and the meeting was closed on a motion made by Mr. Haug, seconded by Ms. Smith. All voted in favor. Motion carried. The meeting adjourned at 9:43 p.m.

Attachments:

Dear Mayor Casale, Chairman of Planning and Zoning, et al board members:
 Please find the enclosed 68 letters in opposition of granting any of the four variances requested by the developer/s and its legal team for the 22-28 Creek Drive project. We, the signatories are requesting that the COB Zoning Board deny any issuances of any of these four variances. Following the remarks made by the applicant's lawyer representing Cuddy & Feder at last month's Zoning Board meeting who state multiple times that the applicant submitted 30 letter in full support of the 22-28 Creek Drive project. We have collectively gathered 68 letters many of which are from surrounding neighbors that will be directly impacted by this large project in their backyard, which will infringe on their quality of life on a daily basis. We thank you in advance.

Biodiversity, the diversity of life on earth, is essential to the healthy functioning of our ecosystems and our city at-large. Habitat loss, overexploitation and the loss of open spaces, driven by the rapid development growth, are the primary causes of species extinction and the upheaval of Beacon residents. We are in a bottleneck of overdevelopment in our city that is wreaking havoc on our infrastructure, and it will only get worse. NO MORE FOUR FLOORS. We urge you to stop all future development large and small. The rapid growth of the City of Beacon is affecting our 'quality of life' and that of our eco-habitat and my fellow city residents. We request that you enact a minimum six-months to a full one-year building moratorium throughout all Beacon's zoning districts. We appeal to your senses, and also ask that you do not allow the issuance of a single variance to the pending 22-28 Creek Drive development project, we believe the issuance of variances is against the zoning laws, in this instance it is self-created and not a hardship to the developer who seeks to gain profit at the expense of my investment in this city, the crown jewel of Dutchess County.

Erika Foy 432 Main Street	Alice Matthew 8 Hartsook	Neil Vaughn 432 Main Street	Jessica Adams-Woods 351 Tioronda Avenue	Carol Salvas 5 Rockwell Place
Shirley M. Hamish 11 North Elm Street	Marilyn Joseph 7 Colonial Road	Susanne Moss 30 Church Street	Scott Lerman 40 North Street	Bobbi Zappala 66 Spring Valley Street
Hollis Bogdanffy 19 DeWindt Street	Roger Owen, Jr. 315 Liberty Street	Theresa Kraft 315 Liberty Street	Russell Cusick 530 Main Street	Paulette Myers-Rich 469 Main Street
David Rich 469 Main Street	Diane Murphy 17 Falconer Street	Robert Murphy 17 Falconer Street	Donna Francis 85 West Willow Street	Miles Fah 85 West Willow Street
Sheila Benash 5 Digger Phelps Ct	Donna Trappe 44 Anderson Street	Sylvia Davis 11 Creek Road Walkkill, NY	Janeen M. Foy 432 Main Street	Jan Dolan 53 Overlook Avenue
Michael Kriegh 19 DeWindt Street	Manna Jo Greene 724 Wolcott Avenue	Giovanna Rogow 7 Academy Street	Lou Amoroso 40 Vail Avenue	Mark Baylash 2 Forrestal Heights
Kelly Colton 106 Spring Valley	Donato Santivenere 100 Spring Valley	Elizabeth Hirshorn 116 Spring Valley	Sylvia Davis 138 Spring Valley	April Farley P.O. Box 248
Lisa Marie No address	Amanda D... 209 Main Street	Alexander Alvarez 23 Hammond Plaza	Neftaliz Velez 3 Rector Street	Jennifer Velez 3 Rector Street
Savannah Green 3 Rector Street	Iris Stewart 23 Hammond Plaza	Zoe Green 3 Rector Street	Lisa Gallina Alvarez 23 Hammond Plaza	Laetitia Ganem-Salcedo 313 Liberty Street
Edwardo Salcedo 313 Liberty Street	Gary Wilke 38 Doris Lee Drive Cortlandt Manor, NY	Helen Wilke 66 Spring Valley	Jessica Eriksmoen 98 Knevels Avenue	Elizabeth Strelchun 335 Tioronda Avenue
T. Cunningham 10 Newlins Mills	Andrew Bell 50 Verplanck Ave	T. Andrew Ciccone 31 Mountain Ln	Penelope Hedges 31 Mountain Ln	Eleanor Kheiner 868 Wolcott Avenue
Katie Kleiner 868 Wolcott Avenue	Isabel Kleiner 868 Wolcott Avenue	James McGovern 111 Vine Street	Lisa Jessup 61 Tioronda Avenue	Frank Baxter 222 Main Street

Neil Caplan 120 Howland Ave	William Irwin 494 South Avenue	Alfred Espisito 335 Tioronda Ave	not legible 61 Wilson Street	Ronald Madeo Jr. 63 Hasbrouck Street Newburgh, NY
Laurie Clark 41 Tioronda Ave	Jenny Donovan 62 South Brett St.	not legible 71 Tompkins Street		

I am (we) are the abutting or neighborhood property owner(s) of 23-28 Creek Drive, Beacon, New York (the (“Premises”), which is classified in the FCD zoning district. This letter will serve to confirm that I (we) have had a chance to review the application of 23-28 Creek Drive, LLC (the “Applicant”) to the Zoning Board of Appeals of the City of Beacon requesting four(4) area variances in order to construct a mixed-use development consisting of commercial space and eight (8) residential apartment units on the Premises in place of the underutilized former City of Beacon Department of Public Works property. I (We) have reviewed the application materials and/or have walked the property and have become familiar with the proposal. This shall confirm that I (we) have no objection to the issuance of the approvals described above. Further, the variances will have no adverse impact on the neighborhood. Indeed, I (we) feel the proposed commercial and residential mixed-uses and the proposed public park and Greenway Trail will be an enhancement to the community and that the proposal is in keeping with the character of the neighborhood. I (We) therefore recommend the Zoning Board of Appeals approve the application described above.

Rick Rogers 476 Main Street	Lillian & John Guarino 7 Creek Drive	Bob Nevelus 472 Main Street	Jonathan Lombard 110A Prospect Street
Diane Green 11 Creek Drive, Apt. 201	M. Frehel & C. Connery 11 Creek Drive	Jillian K... <i>(not legible)</i> 451 Main Street	Nicole Corneyea 71 Liberty Street
Robert J. Rutherford 193-195 Main Street	Ata Nakhleh 179 Main Street	A. Chomiz & R. Darling One East Main	Debra Adamsons 7 Creek Drive
Karoline Newillo 7 Creek Drive, Apt. 301	Daniel Hudson Jr. 25 East Main, Apt. 1	Rowan Johnson Difeo One East Main, Unit 403	John Anthony Gargiulo 39 Madison Avenue
Corey Webstone 2 Ackerman Street, Apt. 2	Marisa Lomonaco 39 Madison Avenue, Apt. 1	Patricia Gargiulo 7 East Main Street	Josh Adams 10 West Church Street
Khitam Nakhleh 179 Main Street	John Mesnick 26 Verplanck Avenue	Riem . . . <i>not legible</i> 15 Park Lane	Riley Sewing 41 Old Town Road
Glen Tabone 144E Booth Boulevard Wappingers Falls, NY	Andrea McCollum 42 Booth Boulevard Wappingers Falls, NY	Collenn M. Johnson 35 Booth Boulevard Wappingers Falls, NY	Patricia O’Brian 106 North Walnut Street