

Meeting of the
VILLAGE OF COLD SPRING ZONING BOARD OF APPEALS

Thursday, Nov. 18, 2021, 7:00 p.m.

To Be Conducted over Zoom Video Conferencing

Participants can join the meeting using these instructions:

<https://us06web.zoom.us/j/98267742874?pwd=dzhKOEERLlBmdW0xSmZML09wUnZadz09>

By phone: 646-876-9923

Meeting ID: 982 6774 2874

Passcode: 010934

Agenda

1. **3 High Street:** Review of a draft resolution of the board's decision on September 16.
2. **15 Orchard Street:** Review of a draft resolution of the board's decision on September 16.
3. Review of the minutes for September 16.

**Village of Cold Spring
Zoning Board of Appeals
85 Main Street, Cold Spring, N.Y. 10516**

September 16, 2021

Resolution 10-2021—DRAFT

**IN THE MATTER OF THE APPLICATION OF
Felix Jimenez and Elizabeth Wisler, 3 High Street
for construction of a second-floor addition**

- Whereas Felix Jimenez and Elizabeth Wisler** own real property at **3 High Street**, Cold Spring (R-1 zoning district), also identified as **tax map parcel no. 48.8-5-16**;
- Whereas** Felix Jimenez and Elizabeth Wisler applied to the Village of Cold Spring Building Department for a permit to construct a second-floor addition at the rear of the one-family residence at 3 High Street;
- Whereas** the Village of Cold Spring Code Enforcement Officer issued a referral (2021-06-013) directing Felix Jimenez and Elizabeth Wisler to seek from the Zoning Board of Appeals (ZBA) variances from §134-7.C(5) (side-yard setback) and §134-7.D(2) (lot coverage) in the Village Zoning Code;
- Whereas** Felix Jimenez and Elizabeth Wisler’s application to the ZBA, being a request for area variances for a one-family residence, is a Type II action under 6 NYCRR Part 617 and therefore requires no review under the State Environmental Quality Review Act;
- Whereas** the ZBA held a workshop (on Aug. 19, 2021) and a public hearing (on Sept. 16, 2021) on the request at Village Hall, Cold Spring;
- Whereas** the ZBA received no public comments about the application;
- Whereas** the applicants intend to reduce the total building coverage in the lot from a preexisting nonconforming 42.5% to 41.3% by razing a shed; although coverage of 41.3% is greater than the maximum specified in §134-7.D(2), it is permissible without a variance under §134-19.H because it results from a change to a preexisting nonconformity that does not increase the degree of nonconformity or create a new nonconformity;
- Whereas** the lot at 3 High Street meets the criteria for the narrow-lot exception in §134-17.E and is thus required to have side yards at least 7 feet, 6 inches, wide;
- Whereas** the proposed second-floor addition would extend the building’s footprint 1 foot, 1.5 inches, into the southern side yard, necessitating a variance from §134-17.E; the part of the footprint located in the yard would be a triangular corner amounting to 3.5 square feet;
- Whereas** the ZBA finds that granting the variance would create no undesirable change in the character of the neighborhood or detriment to nearby properties, because such second-floor additions are typical of the neighborhood (neighboring houses on the north have them) and because the intrusion faces spacious backyards in the two adjoining lots to the south;
- Whereas** the ZBA was divided on whether the applicants could obtain the desired benefit (expanded living space) by other feasible means not requiring a variance: on one hand, the

tight lot allows little flexibility in design; on the other hand, the addition could be scaled back to stay clear of the yard (though it might then not fulfill the applicants' needs);

Whereas the ZBA finds that the requested variance is not substantial, since the intrusion is only a small triangular corner;

Whereas the ZBA finds that granting the variance would have no adverse effect on the physical or environmental conditions in the neighborhood;

Whereas the ZBA finds that the alleged difficulty is self-created; now, therefore, be it

RESOLVED, that the applicant does not need variances from §134-7.C(5) and §134-7.D(2) but needs one from §134-17.E, which the ZBA grants. The board finds, on balance, that the request is reasonable and would have no detrimental consequences.

A motion to adopt Resolution 10-2021 was made by _____, seconded by _____, and approved by _____ on November 4, 2021.

Eric Wirth
Chair, Zoning Board of Appeals
Dated: November 4, 2021

**Village of Cold Spring
Zoning Board of Appeals
85 Main Street, Cold Spring, N.Y. 10516**

September 16, 2021

Resolution 11-2021—DRAFT

**IN THE MATTER OF THE APPLICATION OF
Megan Shea and Michael Guillorn, 15 Orchard Street
for construction of a detached garage**

Whereas Megan Shea and Michael Guillorn own real property at **15 Orchard Street**, Cold Spring (R-1 zoning district), also identified as **tax map parcel no. 48.8-4-42**;

Whereas Megan Shea and Michael Guillorn applied to the Village of Cold Spring Building Department for a permit to construct a detached garage at the rear of the lot at 15 Orchard Street;

Whereas the Village of Cold Spring Code Enforcement Officer issued a referral (2021-07-013) directing Megan Shea and Michael Guillorn to seek from the Zoning Board of Appeals (ZBA) variances from §134-17.A(1)(b) (setbacks of accessory buildings and garages) in the Village Zoning Code;

Whereas Megan Shea and Michael Guillorn’s application to the ZBA, being a request for area variances for a one-family residence, is a Type II action under 6 NYCRR Part 617 and therefore requires no review under the State Environmental Quality Review Act;

Whereas the ZBA held a workshop (on Sept. 2, 2021) and a public hearing (on Sept. 16, 2021) on the request at Village Hall, Cold Spring;

Whereas the ZBA received three written comments before the hearing and two spoken comments during it, all of them supporting the application;

Whereas the proposed garage would be located 1 foot from the side lot line and 7 feet, 6 inches, from the rear lot line, while §134-17.A(1)(b) requires setbacks of 10 feet from each lot line;

Whereas the ZBA finds that granting the variances would create no undesirable change in the character of the neighborhood or detriment to nearby properties, because this kind of small, detached garage, located in a back corner of the lot at the end of driveway that runs along the side property line, is typical of the neighborhood: such garages are part of the logic underlying the placement of the houses on the lots (indeed, a garage once existed in the same location at 15 Orchard Street);

Whereas the ZBA finds that the applicants cannot obtain the desired benefit (a garage for parking a car and for storage) by other feasible means not requiring variances: to place the garage outside the setbacks, in the middle of the backyard, would disrupt the architectural tradition of the neighborhood, require more driveway paving and a reduction in yard space, and threaten a valuable ornamental tree in the yard;

Whereas the ZBA finds that the requested variances are substantial: the applicants would be

introducing new nonconformities since the garage would be new and placed where there was currently no structure;

Whereas the ZBA finds that granting the variances would have no adverse effect on the physical or environmental conditions in the neighborhood;

Whereas most of the ZBA members find that the alleged difficulty is self-created (one disagreed); now, therefore, be it

RESOLVED, that the ZBA grants the requested variances from §134-17.A(1)(b). Although the proposal would create substantial new nonconformities, the board finds that this disadvantage is outweighed by the fact that the proposal restores a traditional architectural element of the property and reinforces the character of the neighborhood, without causing detrimental consequences.

A motion to adopt Resolution 11-2021 was made by _____, seconded by _____, and approved by _____ on November 4, 2021.

Eric Wirth
Chair, Zoning Board of Appeals
Dated: November 4, 2021

Village of Cold Spring Zoning Board of Appeals
Thursday September 16, 2021
Draft Meeting Minutes

The Village of Cold Spring Zoning Board of Appeals held a Meeting at Village Hall, 85 Main Street, on Thursday September 16, 2021. Members present: Chair Eric Wirth, Laura Bozzi (arrived at 8:50pm), John Martin, Marianne Remy and Heath Salit. The meeting was called to order at 7:32 pm.

Public Hearing for 3 High Street (48.8-5-16)

Felix Jimenez and Liz Wisler, owners, requesting variance for side yard setback to add a second-floor addition and one story screened porch. David Hottenroth, architect, presented an overview of the project and noted that it has been revised to eliminate the need for a lot coverage variance due to the removal of the shed on the property. Net effect is proposed percentage of lot coverage is less than existing percentage.

No public comments received (written or verbal).

H. Salit made a motion to close the public hearing. M. Remy seconded the motion and it passed by a vote of 4-0-0-1 (L. Bozzi not present).

During the discussion weighing the five factors. J. Martin requested that it be on the record that he doesn't agree with the Boards interpretation of the Code that eliminates the need for a variance because the proposed lot coverage percentage is less than the existing percentage.

After weighing the five factors as they applied to the application, E. Wirth made a motion to approve the application as presented. H. Salit seconded the motion, and it passed by a vote of 4-0-0-1 (L. Bozzi not present).

Public Hearing for 15 Orchard Street (48.8-4-42)

Homeowner Meghan Shea and architect Madeleine Sanchez present. Construction of garage requiring variances for side and rear yard setbacks.

M. Sanchez presented an overview of the application:

- Construction of detached garage
 - Previous garage had been torn down
 - New garage closely follows previous garage's footprint
- Follows pattern of detached garages on Orchard Street and throughout Village
- Proposed rear yard setback is 7.5' (10' required)
- Proposed side yard setback is 1' (10' required)
- The only way to build the garage within setbacks would be to change location of the garage thus necessitating removal of a cherry blossom tree, reducing amount of yard space available and reconfigure the driveway.

M. Remy asked how does the Board take into account that there was once a garage in the space? E. Wirth responded that since the old garage was previously torn down the Board treats as this as new construction of an accessory building.

J. Martin commented that the proposed garage keeps in character of the community.

H. Salit added that the proposal preserves green space and vegetation.

Public Comment

M. Culbert, 15 Mountain Avenue: Supports the application

T. Mullane, 17 Mountain Avenue: Supports the application and thanked the Board for its time and efforts

E. Wirth read into the record written public comments received, all in support of the application:

Michelle Smith, 13 Orchard Street

John Plummer, 16 Orchard Street

Matt Francisco and Joe Patrick, 18 Orchard Street

E. Wirth made a motion to close the public hearing. J. Martin seconded the motion and it passed by a vote of 4-0-0-1.

After weighing the five factors as they applied to the application, J. Martin made a motion to approve the application as presented. E. Wirth seconded the motion, and it passed by a vote of 4-0-1-0 (L. Bozzi abstained).

Board Business

E. Wirth made a motion to approve the minutes of the 8/19/2021 meeting as amended. H. Salit seconded the motion and it passed by a vote of 3-0-2-0 (J. Martin and L. Bozzi abstained)

J. Martin made a motion to approve the minutes of the 9/2/2021 meeting as amended. L. Bozzi seconded the motion and it passed by a vote of 4-0-1-0 (M. Remy abstained).

E. Wirth made a motion to accept the resolution as presented granting a variance to 10 B Street. H. Salit seconded the motion and it passed by a vote of 3-0-2-0 (J. Martin and L. Bozzi abstained).

The Board agreed that meetings will be held via Zoom until further notice and begin at 7:00pm

Adjournment

J. Martin made a motion to adjourn the meeting. M. Remy seconded the motion and it passed by a vote of 5-0.

Meeting adjourned at 9:30 pm.

Submitted by: Jeff Vidakovich

Eric Wirth

Date