

**Village of Cold Spring Zoning Board of Appeals
85 Main Street, Cold Spring New York 10516**

Workshop & Public Hearing

The Village of Cold Spring Zoning Board of Appeals held a workshop and public hearing on February 20, 2020 at 7:30pm at the Village Hall, 85 Main St. Attending were board members: Aaron Wolfe, chair, and Laura Bozzi, John Martin, Donald MacDonald and Eric Wirth. Also present was Village attorney John Furst.

CALL TO ORDER: A. Wolfe called the meeting to order at 7:30pm and made introductory remarks noting that the purpose of the meeting was to approve minutes, hold a workshop for 192 Main Street and to continue the public hearing for 21 Parsonage Street

MINUTES

The Board discussed the 2-6-2020 minutes of the initial public hearing for 21 Parsonage Street, including suggestions from the applicant. E Wirth made a motion to adopt the minutes as amended. L. Bozzi seconded and the motion passed 4-0 with A. Wolfe abstaining.

WORKSHOP

192 Main Street: application for the expansion of an existing accessory building and an addition to the house.

Jennifer Zwarich (applicant) presented materials requested at the previous workshop.

J. Martin made a motion to schedule a public hearing on 3-5-2020. E. Wirth seconded and the motion passed unanimously.

PUBLIC HEARING FOR 21 PARSONAGE STREET

Board chair A. Wolfe, who resides across the street from the property, recused himself and acting chair D. MacDonald took over the proceedings. It was noted that Sam Broe (applicant) has submitted a revised application in an effort to reduce the number and quantity of variances that would be required. The changes to the application include: adding a second parking space (on the property), relocation of the proposed building to reduce the variance required for side yard setback, and relocation of the building to align the building front more closely to those of the adjacent properties.

BOARD/PUBLIC DISCUSSION

Mayor Merandy asked whether the revised application should require a revised public notice. During the discussion of this item it was noted that:

- Village attorney J. Furst stated that the proposed changes are within the scope of the requested variances, which impact the application but not the public notice requirements
- E. Wirth commented that if a new public notice was required for every change to an application it would hamstring the ZBA
- Stephanie Hawkins commented that the lack of public notification (of the revised application) puts neighbors at a disadvantage

- D. MacDonald asked whether ZBA should keep the hearing open but give a new public notice. J. Furst recommended against this approach, but said that an informal notification is an acceptable approach while the public hearing remains open.
- Donna Nameth (22 Parsonage) commented that the issue of notice is besides the point as none of the issues related to notification changes her opinion that the application is ill-advised
- Sara Gurland (36 Pine) commented that a new public notification is not a problem given that the entire project is the major issue
- E. Wirth made a motion to take J. Furst's advice, note the public comment and continue deliberation of the application. Should the public hearing be closed at the end of this meeting, a two week written comment period would remain before the ZBA took any action. J. Martin seconded and the motion passed 4-0.

Sam Broe noted that the Cold Spring Planning Board (CSPB) was unable to find any minutes related to any deliberations regarding subdivision of the property (per his FOIL request.)

D. MacDonald read a letter from Bernard Bunye, (44 Parrott St.) dated 2-19-20 expressing his desire to see the application approved.

D. MacDonald has received comments from the CSPB summarizing their research into the history of the property and matters relating to the application. J. Furst commented that based upon the limited documentation of legal actions by previous owners, those documents should be "taken with a grain of salt." That being said, Furst expressed his opinion that the lot was created by an informal, private agreement.

Luke Hilpert (applicant's attorney) commented that: no judgement was issued, no record of the sub-division or minutes exists and the lot was divided "by deed". What does this mean for the applicant? J. Furst responded that the argument about whether the lot was legally or illegally created could be addressed by the ZBA during their balancing statement.

A discussion ensued about whether the absence of a legal record (of the previous owners lawsuits) indicates that a decision was made and the impact this may have on the application. During this discussion it was noted that:

- Sam Broe would like the Village to make a formal determination regarding the legality of the sub-division. J. Furst responded that this is not the Village's responsibility and suggested the ZBA continue its review of the application regardless of the legal status.
- Mayor Merandy asked whether the fact that the previous owner didn't disclose information regarding the buildability of the property is a factor. He continued saying it isn't the Village's responsibility to prove the legality one way or the other and suggested that the applicant sue the seller.
- CSPB chair Matt Francisco commented that the legal status of the lot should be established.
- Paul Henderson (Sigler Henderson Architects) also commented that the legal status should be established

- Sam Broe stated that the determination of legality is essential to how he will proceed with the application
- Sara Gurland commented that all of the evening's discussions don't change her or her neighbors opinion against approval of the application.
- Donna Nameth agree with Gurland's assessment
- Mayor Merandy asked what the next step for the Village would be should the ZBA grant the variances. It would go to the building inspector to monitor compliance. In that case what would the Village liability be?
- D. MacDonald commented that regardless of the ZBA decision, either party can appeal to the Putnam County Supreme Court in Carmel.
- J. Martin commented that there may be case law that can provide guidance to the ZBA. Furst will research applicable case law and confer with ZBA in executive session before the next meeting.

ADJOURNMENT

J. Martin made a motion to continue the public hearing at the 3-5-20 meeting and to close the 2-20-2020 meeting. E. Wirth seconded and the motion passed unanimously.

Submitted by M. Mell



Aaron Wolfe, Zoning Board of Appeals Chair

7/16/2020

Date