

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

**Public Hearing
3-18-2021**

The Village of Cold Spring Zoning Board of Appeals held a public hearing via video conference pursuant to Executive Order 202.1 on March 18, 2021, at 7:30 p.m. Attending were chair Eric Wirth and board members Laura Bozzi, John Martin, and Heath Salit.

PUBLIC HEARING

34 Kemble Ave. Public hearing on an application to operate a preschool regulated by an agency other than the NYS Department of Education (NYSDOE) in the R-1 District. Karen Kapoor is the applicant. Kim Conner is the property owner. Beth Sigler is the applicant's architect.

Chair's Remarks

E. Wirth noted that the Code Enforcement Officer referred the application to the ZBA per Village code section 134-7A that states a school in R-1 must meet NYSDOE requirements. Applicant maintains that her proposal complies with the code and seeks an interpretation from the ZBA.

B. Sigler noted the following, in support of the application:

- Applicant seeks to convert an event space into a school licensed by the Office of Children and Family Services.
- Applicant will complete a voluntary registration with the NYSDOE. Once the registration is complete and approved by the NYSDOE, applicant will be in compliance with Village code.
- There are precedents for schools in the R-1 district, including a former Montessori school, Haldane, First Presbyterian Church, and others.
- Reuse of the former VFW Hall meets goals of the Comprehensive Plan, reusing an existing building that meets all code requirements.

Public Comment

Stacy Morrison, 36 Kemble Ave, noted the following:

- Her property is directly adjacent to the site.
- She has been comfortable with the previous building use, which has been infrequent and relatively quiet.
- She is a writer.
- As her property is next to the proposed school, she is concerned about noise (when the children are outside) and pickup/drop-off traffic.
- She believes that the school will lower the value of her property.

E. Wirth commented that the application is for an interpretation of the code rather than a variance (no variance is being sought). Public support and opposition are not factors in a ZBA's decision-making on a question of interpretation.

K. Kapoor noted that OCFS licensing is required before the voluntary registration with the NYSDOE and that the requirements of both organizations are similar regarding health and safety. The prime difference is that the NYSDOE is also concerned with curriculum.

Board Comment

During its discussion, the board noted that

- The applicant presented two arguments: compliance with code (which is primary) and continued preexisting nonconforming use (which is less germane).
- Code doesn't allow extension of a preexisting nonconforming use.
- The prime concern of a ZBA is code compliance.
- Applicant is in a bit of a "chicken and egg" situation regarding NYSDOE and OFCS registration.
- A ZBA resolution could be conditioned upon successful registration with NYSDOE.

H. Salit made a motion to close the public hearing. L. Bozzi seconded and the motion passed unanimously.

E. Wirth made a motion to approve applicant's request to overturn Code Enforcement Official's ruling subject to successful NYSDOE registration and the maintenance of that registration. J. Martin seconded, and the motion passed unanimously.

MINUTES

J. Martin made a motion to adopt the 3-4-2021 minutes as amended. L. Bozzi seconded, and the motion passed unanimously.

ADJOURNMENT

E. Wirth made a motion to adjourn. L. Bozzi seconded, and the motion passed unanimously at 8:49 pm.

Submitted by M. Mell



Eric Wirth, Zoning Board of Appeals Chair
Dated: April 1, 2021