

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

**2-21-2019 Public Hearing**

The Village of Cold Spring Zoning Board of Appeals held a Public Hearing on February 21, 2019 at 7:30pm at the Village Hall, 85 Main St. Attending were ZBA members: Aaron Wolfe, chair, Eric Wirth, John Martin Donald MacDonald and Grace Lo.

**Chair Remarks:** Chair Aaron Wolfe opened the meeting stating that both public hearings on the agenda (59 Morris Avenue for a lot width variance and 6 Chestnut Street for setback variance for a shed) were instances of the applicant seeking a variance after the fact. The chair reminded members that the Zoning Board of Appeals does not enforce code.

**PUBLIC HEARING**

**59 Morris Avenue (Tax ID 49.8-3-32.2):** for a 6" variance on lot width from 75' (required) to 74' 6" (requested). The property is located within the R-1 Zoning District. Glenn Watson of Badey & Watson represented the applicants, Richard and Karen Shea. Board member MacDonald recused himself from the discussion and voting as he was the Chair of the Village Planning Board that granted subdivision approval to the applicant previously.

The applicant submitted the green return receipt cards, mailing receipts and affidavit attesting to the display of the Public Hearing sign on the property for 10 days.

The applicant summarized the events that have necessitated the request for this variance. Of note:

- Karen & Richard Shea purchased the original property at 57 Morris Ave (49.8-3-32.1) in 2013
- The Sheas' sought and received approval to subdivide the property in 2015. The Planning Board granted the approval based on the survey presented at that time indicating that the original lot width was 150'. This created two lots each with a width of 75'.
- The applicants recently entered into contract to sell one of the two lots, the northern lot and house at 59 Morris Avenue. It was discovered at this time that the original survey conducted erroneously included 6" that had been conveyed to the property owners to the north in 1958. This resulted in a lot that is 74'6" wide in an R-1 District where 75' is required.
- This series of events has led to the applicants seeking the lot width variance.

**Public Comment**

Josephine Pidala, owner of the adjacent property to the north (61 Morris Ave.) verified that she does own the 6" in question, it was conveyed in 1958 and that she had no objection to the variance.

**Board Discussion**

No discussion by Board

J. Martin made a motion to close the public hearing. E. Wirth seconded and the motion passed 4-0 at 7:45 PM.

The board reviewed and discussed the application and variance criteria, and engaged a balancing of the criteria in reaching a determination. During the review of the Five Criteria, it was noted that:

- The variance will not adversely impact the appearance of the neighborhood.
- The benefits of the variance cannot be achieved by other means.
- The variances are not substantial.
- The variance will not have any adverse environmental impact.
- The difficulty is self-created.

J. Martin made a motion to grant the requested variance. G. Lo seconded and the motion passed unanimously.

**6 Chestnut Street (Tax ID # 48.8-6-12) property owned by Todd Seekrich and Thomas O'Quinn** for variances to:

- Section 134-17(D)(1) fence height. 4' permitted, 6' requested for a gate perpendicular to the north property line at the end of the driveway
- Section 134-17(C)(6) rear yard setback for a shed. 20' required, 3' requested

Mr. O'Quinn was in attendance representing the applicants.

The applicant submitted the green return receipt cards, mailing receipts and affidavit attesting to the display of the Public Hearing sign on the property for 10 days.

ZBA Chair Aaron Wolfe stated that these would be handled as two separate applications.

#### **Gate**

The applicant summarized the events that have necessitated the request for this variance. Of note:

- The gate is wrought iron and was discovered in the basement of the residence
- The applicant wishes to install the gate at northeast corner of the house (currently the end of the driveway) as an entrance to the backyard.

#### **Public Comment**

None

#### **Board Discussion**

- J. Martin stated that the variance should be limited to the specific gate.
- D. MacDonald stated that consideration should be given to the facts that the placement of the gate does not infringe upon front yard setback requirements, the property is not a corner lot and the gate does have historical significance.

J. Martin made a motion to close the public hearing. E. Wirth seconded and the motion passed 5-0-0-0

The board reviewed and discussed the application and variance criteria, and engaged a balancing of the criteria in reaching a determination. During the review of the Five Criteria, it was noted that:

- The variance will not adversely impact the appearance of the neighborhood.

- The benefits of the variance can be achieved by other means, but doing so would diminish the historical significance of the gate.

- The variance is not substantial.
- The variance will not have any adverse effect on the neighborhood.
- The application is self-created, but is not sufficient for denial.

J. Martin made a motion to grant the requested variance. E. Wirth seconded and the motion passed 5-0-0-0 with the following conditions:

- The variance is granted only for this particular gate, because this appears to be the original or historic gate that was found on the property. No other gate or section of fence may be used with this variance.
- Any and all gate posts are limited limited to the minimum height necessary to mount the gate.
- The supporting posts must be substantially smaller than the footings shown in the Exhibit B. The posts are considered part of the gate and may not stand alone.

### **Shed**

The applicant summarized the events that have necessitated the request for this variance. Of note:

- The applicants had installed the shed prior to seeking the variance based on Philipstown Code. The applicant filed for a variance after being informed by the Code Enforcement Officer that the shed had been installed in violation of Village Code.
- Placement of the shed at the rear property line is the least intrusive option

### **Public Comment**

None

### **Board Discussion**

- D. MacDonald stated that existing grade at the rear property line that borders Academy Street makes the shed non-intrusive.
- Concerns were raised that the requested setback could limit access to that portion of the property in an emergency situation. However, as there is no permanent foundation it could be moved if necessary.

J. Martin made a motion to close the public hearing. G. Lo seconded and the motion passed 5-0

The board reviewed and discussed the application and variance criteria, and engaged a balancing of the criteria in reaching a determination. During the review of the Five Criteria, it was noted that:

- The variance will not adversely impact the appearance of the neighborhood.
- The benefits of the variance can be achieved by other means
- The variance is not effectively substantial
- The variance will not have any adverse effect on the neighborhood.
- The difficulty is self-created

J. Martin made a motion to grant the requested variance. E. Wirth seconded and the motion passed 5-0-0-0

### **Workshop – 21 Parsonage Street**

A workshop was held to review the application of Samuel and Marella Broe for variances for setbacks at 21 Parsonage Street. The applicant wants to remove the existing barn structure and replace it with a new

residence within the existing footprint. In addition to setback variances, the property may require parking variances (2 required per code).

A. Wolfe stated that this should go to the Planning Board first for Site Plan Review and Change of Use and made a motion to send the application to the Planning Board. J Martin seconded and the motion passed 5-0-0-0.

J. Martin made a motion to adjourn. This was seconded by E. Wirth and the motion passed 5-0-0-0.

The meeting adjourned at 9:50 PM.

Prepared by: Jeff Vidakovich



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Aaron Wolfe, Zoning Board of Appeals Chair

5/2/19

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Date