

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

Public Hearings & Workshops

The Village of Cold Spring Zoning Board of Appeals held two public hearings and a workshop on April 18, 2019 at 7:30pm at the Village Hall, 85 Main St. Attending were board members: Aaron Wolfe, chair, John Martin, Donald MacDonald, Grace Lo and Eric Wirth. Also in attendance 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 conduct a public hearing for 21 Parsonage and 3 Rock Street and a workshop for 3 Furnace Street.

PUBLIC HEARINGS

21 Parsonage. Application to permit construction of a single family dwelling on a substandard lot, requiring several variances.

Chair A. Wolfe, in opening remarks, outlined how the hearing would proceed and noted that:

- No vote will be taken until 5-16-19 to allow time for the County to indicate any interest in the application (as the property is adjacent to Rte 301.)
- ZBA has requested opinions from the CSPB and HDRB about any implications that ZBA actions may have on their respective areas of jurisdiction. Both boards declined to comment.
- Application is complete
- The existing building is on a non-conforming lot and many variances will be required
- 21 Parsonage is a pre-existing, non-conforming lot. 21 Parsonage St. and 36 Pine St. were separate tax map lots owned by the same person prior to establishment of the Village zoning code in the 1967. The code merged these two tax lots, for the purposes of zoning, to phase out non-conforming lots.
- Applicant is entitled to apply for variances from the ZBA
- If the requested variances are granted, the lot would become a “conforming lot.”
- The merger of the two tax lots, for zoning purposes doesn’t erase the tax division
- The underlying question to be answered is whether this substandard lot is buildable

The public hearing was opened at 8pm. The variances being sought are:

- Off-street parking
- Lot area
- Lot width
- Lot depth
- Front yard setback
- Side yard setbacks

Luke Hilpert, representing the property owners, presented a site plan, survey and aerial photographs and described the applications noting:

- The existing barn has been on the site since at least 1912
- Owners wish to construct a one family dwelling for use by their relatives and as a future long-term rental. Use as a B&B is not being considered.
- Property is in the R-1 district, and is 48' x 70'
- The existing barn has no foundation
- Owners wish to reuse as much of the existing barn as possible
- Lot is currently untended and overgrown
- There are legal precedents that support the application
- As noted by J. Furst, it is agreed that an owner is at risk when purchasing a substandard lot
- 21 Parsonage St. and 36 Pine St. have historically been regarded as two lots
- The existing condition of the lot is not beneficial to the neighborhood
- Owners plan to build a one family dwelling on the location of the existing barn with no significant change to the building footprint
- Pervious materials will be used in the parking spot
- Design of a new structure would mimic the appearance of the existing
- Pedestrian entry will be on the Pine Street side of the building
- An uncovered side porch would be added
- There is a benefit to the community to grant the variances and allow development of the property
- Many adjacent properties are similar in terms of limited side yards
- Many adjacent properties have minimal setbacks
- Many adjacent properties are narrower than specified by code
- Many adjacent properties do not meet the lot coverage specified by code
- Moving the structure to the middle of the lot would eliminate the need for several of the requested variances
- The five zoning area variance criteria were discussed
- Overall a one family dwelling for residential use is in the best interest of the neighborhood and is more consistent and desirable than an abandoned barn.

BOARD COMMENT

Board members noted that:

- Not locating the front pedestrian entry on Parsonage is inconsistent with the neighborhood
- Does the case law cited require the ZBA to regard the lots as separate? J. Furst said that it does but that doesn't mean the applicant is arguing against the need for variances.
- This could establish a precedent for expansion of non-conforming lots, where undesirable changes could be requested in the future (i.e. building creep). Applicant replied that expansion could happen to any house in the area, but that they are not looking to increase any non-conformity.

- Variances may be conditioned to prevent building creep and would be binding upon future property owners

PUBLIC COMMENT

Dave Merandy noted that:

- The “merger clause” is only a term of reference used by lawyers
- Adjacency of building to sidewalk is an important consideration
- This application is not so similar to other adjacent properties due to its unique nature
- Would a conditional approval prohibit use as a B&B? Furst replied that it would, but that it might not stand up to legal action.
- As a contractor, he can’t see reuse of existing building and so doesn’t understand discussion of historic fabric
- Were the owners aware of the difficulties they would face to develop the property? Applicants replied, “Yes.”
- Codes were created to prevent applications like this and this application is really “a bridge too far”
- Consideration of this application is important to the future of the village

Mary Elaine Hartman – 26 Parsonage – noted that:

- She likes the existing barn and looks at it every day
- She likes the applicants design approach
- There should be a parking spot on the site
- She would not object to granting of the requested variances
- Variances granted should be conditioned upon restrictions to further use

Donna Nemeth – 22 Parsonage – speaking for herself and Ms. Baldrige, noted that:

- She doesn’t want the structure moved back from its current location as that would create privacy issues
- She likes the design
- She would not object to granting of the requested variances

Tom Hubler – 36 Pine – noted:

- A driveway is desirable
- He likes the design
- He defers to Donna Nemeth regarding location of the dwelling on the lot
- He would not object to granting of the requested variances
- Variances granted should be conditioned upon restrictions to further use

Matt Francisco – speaking as chair of the Planning Board noted:

- The design has not been submitted or approved by any board and may change

- Conditioning of approval would be unenforceable
- The applicant's understanding of "merger" will be necessary to the Planning Board's considerations
- The purpose of the zoning code was to eliminate non-conforming properties
- This is a single lot, for zoning code purposes and has a dwelling on it and is non-conforming

Stephanie Hawkins noted that:

- Why does the zoning code seek to reduce non-conforming lots? ZBA did not answer.
- The unique nature of the property must be taken into consideration in addition to the Five Criteria

John Furst noted that precedent may be considered (in the evaluation of the application) but can't be the only consideration.

A. Wolfe noted that consideration of the application would continue at the next ZBA meeting on 5-2-19.

3 Rock Street. Application for a variance to the minimum livable area requirements for a dwelling. Applicant seeks to add a dwelling inside the existing single-family home in the R-3 district.

Karen Parks appeared on behalf of the applicant, described the project and presented plans and other drawings. She noted that:

- A variance is sought for a dwelling of less than 600 square feet on the first floor
- Current plan is 560 square feet
- There is no plan to alter the second floor
- There are no plans to alter the exterior
- There are no plans to alter the site
- An application is before the Planning Board
- Parking requirements have been met

PUBLIC COMMENT – None

D. MacDonald made a motion to close the public hearing. J. Martin seconded and the motion passed unanimously at 10:21pm.

BOARD DISCUSSION

The Board noted that the Comprehensive Plan encourages creation of rental units in the village. Reviewing 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.

WORKSHOP

3 Furnace Street. Variance to the maximum fence height in the R-1 District.

Bill Sussman presented the building inspector referral, site plan, environment impact statement, survey, photographs and diagrams indicating location of propose fence. He wishes to build a 6' fence around his property and pergola.

BOARD COMMENT

The Board noted that:

- The ZBA has a history of allowing 6' fences between the residential R-1 and business districts, but not between properties within the R-1
- Application materials should reference the photographs, indicate the fence location and include pergola dimensions.

A public hearing is scheduled for 5-2-19.

ADJOURNMENT

D. MacDonald made a motion to adjourn the meeting. J. Martin seconded and the motion passed unanimously at 11:04.

Submitted by M. Mell



Aaron Wolfe, Zoning Board of Appeals Chair

5/2/19

Date