

# **DRAFT - Zoning Board of Appeals Meeting Minutes**

## **Village of Ballston Spa**

**Held on December 28, 2022**

**Present:** Chairwoman Anna Stanko, Member Kevin McDonough, Member Kamran Parwana, Alternate Member Mary Price Bush, Attorney Stefanie Bitter

**Absent:** Member James Jurcsak, Member John Luciani

Chairwoman Stanko called the meeting to order at 7:00 pm.

The meeting began with the Pledge of Allegiance.

### **Approval of Minutes:**

Chairwoman Stanko requested approval of the minutes from the November 30, 2022 Zoning Board of Appeals meeting. A motion was made by Member Parwana and seconded by Member McDonough to approve the minutes. Alternate Member Bush abstained. The motion carried.

**Old Business:** None

### **New Business:**

*Use variance extension application for:*

Property SBL: 203.81-2-30 (25 Hyde Blvd.) Charles Escher for the Fraternal Building Association of Ballston Spa, Inc. – Requesting use variance extension.

Chairwoman Stanko stated that the Board is not addressing the Fraternal Order of the Masons Building Permit Application for the construction of an 40' x 30' addition on the existing building. When the applicant applied, the Building Inspector informed them that they had been granted a special use permit back in 2014 and that it was a two year special use permit. They were supposed to come back after those two years. A lot of that was based on the public's input that came to the original meeting and some of their concerns. The Board is only addressing the permanent extension of the special use permit.

Applicant Charles Escher (8 Currie Court) stated that they forgot all about the use variance permit running out after 2 years and were not notified by anyone that they had to reapply. They were never forwarded any minutes. The first time he saw the minutes was when it was brought to his attention by the Building Inspector, Dave LaFountain, when he applied for a building permit for an addition to the existing building. He stated

that they are not changing any uses. The building will still be used for Masonic events, birthdays and a couple picnics and they have not had a single complaint so far. He noted that they believe they are good to the neighborhood. Chairwoman Stanko asked him if there were any complaints received in the Village Office. Mr. Escher stated he is not aware of any. Chairwoman Stanko stated that it is his responsibility to reach out to the Village after that two years, not the Village's responsibility to reach out to you after those two years. Mr. Escher stated that originally, they were only going to give him a one year use variance. He then asked for a two-year variance. He stated that neither the Fraternal Association, their attorney, nor himself personally ever received the minutes from that meeting. Chairwoman Stanko asked if he and their attorney were at the meeting. He responded yes. She then stated that you knew there was a two-year limit. Mr. Escher stated that he understands that now, however, at that time he did not understand that they needed to come back and reapply. Chairwoman Stanko stated that she is sure their attorney understood that at the time. Chairwoman Stanko stated she reached out to the Saratoga County Planning Board. Since they found no significant county wide impact in 2013, they did not want to review this part of the application again. If you decide to go forward with the addition, they will need to review that part and we will have to have another meeting at that time. Member McDonough made a motion to declare the Village of Ballston Spa Zoning Board as lead agency for SEQR for property located at 25 Hyde Blvd in the Village of Ballston Spa. Alternate Member Bush seconded the motion. The motion carried.

Chairwoman Stanko opened Public Comment.

John Cromie, attorney for the applicant, stated that they are requesting three changes to the use variance extension, if granted. (1) to allow any successor organization that performs the same functions to be added to the variance, (2) to modify the wording to state permissive apartment on the second floor, and (3) to modify the existing requirement of a fence only to state fence or green buffer. He also stated that they knew they had to come back, but got complacent, and now understand that they are a few years late. Chairwoman Stanko stated that part of the approval was to place a fence along the east side of the rear driveway. She asked if they are saying that they did not do that. Mr. Escher stated that they took down the fence last year, and the neighbor, Pete Hanson, asked that they don't take out any trees, Mr. Escher stated he would like to put in evergreens as a buffer. Chairwoman Stanko stated that they need something from Mr. Hansen stating that he doesn't want the trees cut. Mr. Escher stated that a chain link fence was put up at that time, and has since taken it down.

Richard Straight (105 Columbia Avenue Extension) asked what the special use variance allows. Chairwoman Stanko stated that at the time when this original use variance was granted, the building was a funeral home in an R1 District. Any other use must come

before the Zoning Board of Appeals. At that time, there was a meeting to discuss the special use variance with members of the public in attendance, I assume. It was agreed to operate a fraternal order at that location for two years so that the neighborhood could see if there was going to be any disruptions with traffic and parking and all of that. Building Inspector LaFountain stated that the special use variance was granted specifically for the Masonic Fraternal Organization use only. Mr. Straight asked if the property sells, what happens to the special use variance. Chairwoman Stanko stated that the variance does not run with the property, it runs with the organization. She stated that the new owner would have to come before the Board and ask for a use variance.

Jason Townley (31 Hyde Blvd) stated that he has no complaints. He has no complaints about parking on the street when they do have meetings. He noted that he hopes they can continue to use the property for their meetings.

Chairwoman Stanko closed Public Comment.

Attorney Bitter stated that even though it is a renewal of a special use permit, because it expired, she believes that you still have to review it as 205.72, which contains the conditions applicable to this review. Per Section C, this application should be sent to the Planning Board for their review, understanding that the Village Planning Board reviewed it at the first go around, it needs to go back to them because we are also talking about a fence that was included in their commission. It also identifies the public hearing from that condition that at least 30 days before the date of the public hearing, the application should be sent to the Planning Board for their review. She asked if there was a survey or site plan demonstrating what this property is from the original review. Mr. Escher provided a site plan. Attorney Bitter stated that since the extension has expired, this application should be referred to the Planning Board. Member McDonough asked if the application should be tabled upon review of the Village of Ballston Spa Planning Board. Attorney Bitter answered yes.

Member McDonough stated that in respect to the fence, the proposed green buffer might be good, considering the objective was to screen the property. He noted that obviously the chain link fence didn't screen the property. He stated that one of the conditions regarding parking was that parking was supposed to be utilized on site before using the street. He asked what is going on at the property tonight. He said he drove by the property on his way to the meeting tonight and there were no cars parked in the lot and there were a lot of cars parked on the street. Mr. Escher stated that there were 2 cars parked in the lot when he went by. Member McDonough stated that even if there were 2 cars parked in the lot, there are still many cars parked on the street. He

stated that they need to address the parking before coming back to this Board. Attorney John Cromie stated that before they come back to this Board, they will have something in place to encourage people to park in the lot. Member McDonough stated that they need to convince the Board that you are adhering to the conditions that were applied to the special use permit.

Attorney Bitter asked about the status of the apartment. Mr. Escher said it was rented. He stated that the apartment is a legal non-conforming unit. He also noted that once they stop renting it, they know they cannot re-rent after it has been empty for one year. Building Inspector LaFountain stated that it is two years in this case. Mr. Escher stated if we want to rent after two years, we will come back to the Board. Member McDonough asked who decided to use the word permissive on the proposed second-floor apartment language – was it him or his attorney? Mr. Escher said he did not. Building Inspector LaFountain stated if the original non-conforming use of the apartment is vacant for one year, the variance goes away.

Alternate Member Bush asked if anyone is planned to be a successor. Mr. Escher responded no. It will just be for Masonic purposes. This was requested to be added to the variance in case they merge with another organization and change the name as numbers go down. Building Inspector LaFountain stated under that scenario, it would fall under the Planning Board, and a Site Plan Review would be needed where any change of use, tenancy, or intensity of use would require a Site Plan Review. He stated if that were to happen, it would have to go to the Planning Board. Chairwoman Stanko agreed.

Member McDonough made the motion that the Village of Ballston Spa Zoning Board of Appeals table the matter currently before the Board regarding property located at 25 Hyde Blvd in the Village of Ballston Spa, NY for submission to the Village Planning Board for their review under 205.72 and receipt of their recommendations. Member Parwana seconded the motion. The motion carried.

Chairwoman Stanko stated that an application for 16-18 Fairground Avenue will be coming before the Board next month. It is currently a vacant two-family residence which will require a use variance and an area variance. She also stated that the Saratoga County Planning & Zoning Conference will be on February 1, 2023 at the Saratoga Springs City Center. Information was provided to everyone to sign up if interested in going.

**Meeting Adjourned:**

A motion to adjourn was made by Member Parwana, seconded by Member Bush. The motion carried. The meeting was adjourned at 7:35pm.

Respectively submitted,

Kathleen Barner  
Building Department Clerk

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