

Minutes

Village of Ballston Spa

Zoning Board Meeting

July 27, 2016

The meeting was called to order at 7:00 p.m. by Chairman Kevin McDonough

Members Present: Bruce Couture, Anna Stanko

Alternate Member Present: Ed Fernau

Approval of Minutes

Motion made by Member Stanko, seconded by Member Couture, to approve the minutes of the previous meeting, held on June 29, 2016.

Member Couture: yes

Alternate Member Fernau: yes

Member Stanko: yes

Chairman McDonough: yes

Old Business:

There was none.

New Business:

Chairman McDonough addressed applicants gathered that it was a 4-member board and they are entitled to a full 5-member board as a variance needs the majority of the board. If they wished to have their application reviewed by a full board, they could have their matter tabled until the next meeting, August 31, 2016.

Chairman McDonough read the legal notice for a variance request by Thomas E. Kelly for a special permit to establish an attorney's office at 16 Fenwick St., Ballston Spa, located on the first floor in the CBD zoned district.

Chairman McDonough stated the building permit was denied because operating a business on the first floor in a CBD zoned district requires special permit.

Mr. Thomas E. Kelly and Mrs. Patricia Leonard Kelly were in attendance to make their appeal. Mr. Kelly stated they were under contract to purchase 16 Fenwick Street and were planning to make minor renovations to open a law office.

Mr. Kelly said their law practice is 95% defense work, and as such there would be no foot traffic into the office. Plans call for 5-6 parking spaces, with no parking on the street. He said there would be no changes to the foot print or changes to the interior other than updating/modernizing. However, the building needs to be made handicap accessible.

Chairman McDonough entered the sketch of the plan done by Mr. Kelly as Exhibit A. He then read the 5 tests applicants must pass in order to receive a variance.

Chairman McDonough asked applicants if there would be anything unusual in the plan, such as changing the façade, egress and ingress.

Mrs. Kelly replied they might need an exit on Fenwick and King Street, and won't be significantly changing the façade except for modernizing it. She said the plan calls for green space out front, and that they are a 9 a.m. to 5 p.m. business with a staff of 3 bringing no foot traffic.

Chairman McDonough said the drawing shows a barn on the property will be removed to make space for 6 parking spots.

Mr. Kelly indicated that is the plan.

Chairman McDonough asked if handicapped ramps exist.

Mr. Kelly said they will need to install them.

Chairman McDonough asked if the project will bring any obstructions on the sidewalk.

Mr. Kelly said they will actually be replacing the sidewalk out front.

Chairman McDonough asked what the signage will be.

Mrs. Kelly replied signs will be small as they are not looking to market themselves. They are an established practice dealing primarily with liability issues.

Chairman McDonough inquired if exterior lights will be changed or added.

Mr. Kelly said there would perhaps be a porch light, since the business is 9 a.m. to 5 p.m.

Mrs. Kelly added there could need to be a light in the parking lot for when it gets dark at 4 p.m. in winter months.

Chairman McDonough opened the meeting to members of the public at 7:15.

Joanne Monaco, whose home is next door on Fenwick St., said once the barn is taken down on the property, there could be more lights shining onto her property. She stated she has tenants in that home and is concerned with bright lights at night.

Mrs. Kelly responded the lights could be on a motion sensor so they were not on at all times, and that they would keep green space along the edge of the parking lot, and if neighbors want a privacy fence they would consider that.

Chairman McDonough closed the public hearing at 7:21.

Member Couture read a proposed motion:

"The Village of Ballston Spa Zoning Board of Appeals hereby grants a special use permit for a law office on the first floor at 16 Fenwick Street."

Member Stanko asked if the motion should include anything about the lighting, and if there could be a limit established for the timing of the lights.

Alternate Member Fernau said the ordinance requires a total of 7 parking spaces.

Mr. Kelly replied he could add 3 or 4 more if necessary.

Member Stanko asked if there was sufficient room for cars to turn around in the proposed lot.

Mr. Kelly stated there would be almost 30 feet of space.

Chairman McDonough stated there was a member of the public concerned with lighting.

Mrs. Monaco said they were talking about street lights or parking lights, but a motion sensor would be ok, just no lights shining continuously in the tenant's bedroom.

Chairman McDonough said this was a legitimate concern for residential neighbors.

Alternate Member Fernau stated if the neighbors don't want a pole light, the permit could include the wording that exterior lights be extinguished by 8 to 9 p.m.

Member Couture read the new motion:

"The Village of Ballston Spa Zoning Board of Appeals hereby grants a special use permit for a law office on the first floor at 16 Fenwick Street. Exterior parking lot lighting must be extinguished no later than 9 p.m."

Motion made by Member Couture, seconded by Member Stanko.

Member Couture: yes

Alternate Member Fernau: yes

Member Stanko: yes

Chairman McDonough: yes

The second order of business was an application by Jeannette Schmitt and Pat Stack for a variance to construct a carport within the required side yard setback in an R-1 zoned district at 26 Crestline Drive, Ballston Spa.

Chairman McDonough stated the application was denied because the carport would be less than the 12-foot setback required by the village.

Applicant's representative Dave Pentkowski, stated they wanted the matter tabled until the August meeting in which they would have a full 5-member board.

The third matter of business was a proposal by Victoria Jasinski to construct a garage exceeding the permitted height in an R-1 zoned district at 134 McLean Street, Ballston Spa.

The building permit was denied because the garage would exceed the maximum height of 15-feet.

Chairman McDonough said the applicant must show if denied, the project would result in hardship.

Mrs. Jasinski replied she runs a daycare at the site and needs proper storage. She said the garage would not change the character of the neighborhood as it will match the appearance of her existing home.

Chairman McDonough read the 5 tests that must be passed by applicant before a variance be allowed.

Mr. Richard Jasinski stated the property has limitations for building because of a sewer line right of way, so they can't build on that portion of the property. He said they also need open play space for the daycare, and part of the property holds water due to the cul de sac elevation.

Mrs. Jasinski said to meet the requirements of education, she must rotate the toys used in the daycare, which are currently being stored under tents.

Mr. Jasinski stated they need the top of the proposed garage space for storage, and with sufficient height to stand up and walk the length of it. He said the garage would have the same siding as their home, and that all 4 neighbors had signed statements that they had no concerns with the proposal. He produced 3 photos of garages at 50, 76 and 80 McLean showing garages built over the maximum height.

Chairman McDonough asked what the total square footage of the storage area would be, and calculated in the 12-foot by 36-foot space it would be 432 square feet.

Mrs. Jasinski said they would need a full set of lights inside the storage area, which would also take up space.

Chairman McDonough referred to the photos that Mrs. Jasinski had presented.

Member Stanko said the homes were way down the street, not direct neighbors.

Chairman McDonough asked if Mrs. Jasinski had any idea when the garages were built.

Mrs. Jasinski said she did not know.

Chairman McDonough asked applicant why storage couldn't be achieved in any other way, such as expanding the ground floor.

Mr. Jasinski said space is at a premium in the yard, and they can't build on top of a sewer pipe.

Member Stanko stated they don't need to build on top of the pipe, they could go back further on the $\frac{3}{4}$ acres.

Mrs. Jasinski said it is not all usable land. He stated the way the land is laid out, it is wooded and wetland and they would need to cut trees down. He said they were told not to be within 5 to 8-feet of the sewer line in case the village needed to access it, and that a portion of the land is not usable due to water problems.

Chairman McDonough asked if board members had any additional questions. He then opened the meeting to public comments at 7:55 p.m.

There were no public comments. The hearing was closed at 7:56.

Member Couture offered a proposed motion:

"The Village of Ballston Spa Zoning Board of Appeals hereby grants an area variance to allow an additional 5-feet of height for purposes of building a garage at 134 McLean Street, Ballston Spa."

Alternate Member Fernau said requests such as this often come before the board for additional height for a garage on unusually shaped lots with steep grades, and these applicants have testified a large portion of their property is unusable due to water conditions.

Member Couture noted there were no neighbors present complaining about the project.

Alternate Member Fernau said applicants must meet all requirements for the sewer easement.

Member Couture offered an amended motion:

“The Village of Ballston Spa Zoning Board of Appeals hereby grants a 5-foot area variance to build a 24 x 36 x 20-foot garage at 134 McLean Street that shall not infringe upon existing sanitary sewer easement.”

Motion made by Member Couture, seconded by Alternate Member Fernau.

Member Couture: yes

Alternate Member Fernau: yes

Member Stanko: yes

Chairman McDonough: yes

The next order of business was an application by Kelly and William Taylor proposing to construct a shed within the required rear and side yard setbacks at 121 Fairground Avenue, Ballston Spa.

Mr. Taylor said there were inherent difficulties currently and that a smaller shed wouldn't provide sufficient storage for motorcycles and tools. He stated all his neighbors have sheds built close to the property lines, and that he had built a shed close to the property line about 3-inches from his neighbor's property line. His proposal is to tear down the old 112 square-foot shed and build a new one 6-feet off the neighbor's property line.

Mr. Taylor stated he works as a mechanic and carpenter, and has a large group of tools currently stored in 2 rented garages in the village, which is costly. He said there is no other spot in the yard for the shed, which will stay in line with the garage and match the house in order to blend in.

Mr. Taylor said many other houses in their neighborhood have sheds.

Chairman McDonough asked if the shed would be attached to the house.

Mr. Taylor indicated it would not be.

Chairman McDonough asked if the garage was attached to the house.

Mr. Taylor said it is not. He said the shed would be used to store clothing, motorcycles and construction tools.

Chairman McDonough asked if the site would be turned into a repair shop. Mr. Taylor indicated it would not be.

Mrs. Taylor said there is no basement in the house, and the attic is just a crawl space.

Mr. Taylor said he now rents out 2 full-size garages for his motorcycles at a cost of \$400/month.

Chairman McDonough asked applicant why he can't push the shed back to meet the 12-foot requirement.

Mr. Taylor said he doesn't want to encourage his children to jump off the shed into the pool.

Mrs. Taylor presented letters from her neighbors supporting the project.

Member Stanko asked applicant how he hadn't known he needed a building permit for the original shed.

Mr. Taylor said he hadn't know, he just put it up, but now he is going to disassemble the shed and move forward with approval. He plans to pour a foundation to hold the 1,000-pound motorcycles, and wants a quality shed.

Chairman McDonough opened the matter to the public at 8:28. As there were no members of the public present, he closed the hearing at 8:29.

Building Inspector Randy Lloyd said if the shed shared a common wall with the garage, it would be an extension and would be a different application.

Member Stanko reminded applicant the shed must be inspected during building process by the village building inspector and it must meet NYS building codes.

Member Couture offered a proposed motion:

"The Village of Ballston Spa Zoning Board of Appeals hereby grants a side yard area variance of 8-feet, 3-inches for a 16 x 20 shed constructed in the rear of garage at 121 Fairground Avenue, Ballston Spa.

Motion made by Member Couture, seconded by Member Stanko.

Member Couture: yes

Acting Member Fernau: yes

Member Stanko: yes

Chairman McDonough: yes

Motion to adjourn meeting made by Member Couture, seconded by Member Stanko.

Member Couture: yes

Acting Member Fernau: yes

Member Stanko: yes

Chairman McDonough: yes

Meeting adjourned at 8:36 p.m.

Next meeting will be held Wednesday, August 31, 2016.

Respectfully Submitted,

Cari Scribner
Deputy Village Clerk