

A regular meeting of the Zoning Board of Appeals of the Village of Cooperstown was held in the Village Office, 22 Main Street, Cooperstown, New York on September 9, 2014 at 4:00 pm. Members in attendance were Chair Susan Snell, Frank Leo, John Sansevere, and Marcie Schwartzman. Also in attendance was Zoning Enforcement Officer – Tavis Austin and Deputy Village Clerk – Jennifer Truax. Eleven members of the public were present.

Ms. Snell recused herself.

Ms. Schwartzman called the meeting to order at 4:00 p.m.

Public Hearing

32 Delaware Street (Susan Snell for Erin McKay) – Preliminary review for an area variance in the side yard setback

Ms. Schwartzman opened the public hearing at 4:00 p.m. She stated that unfortunately there are time constraints on tonight's meeting due to HPARB meeting at 5 p.m. She asked the members of the public to keep their comments brief and if their comments are a repeat of a previous comment to just indicate so without reiterating all of the same information.

Ms. Phyllis Orlowski, 30 Delaware Street, addressed the board. She read the following from prepared comments which were provided for the record.

"As I read this statement, and should you need any clarifications, please stop me and ask. I realize you may not have the answers to all of these questions but presume you will find the answers, and share them with me, prior to any decision on this project.

The following are my reactions to the Area variance appeal under Section 300-66.C.1 for 32 Delaware St., Cooperstown, NY. submitted by Susan D. Snell, Architect and not dated. We do know, however, the ZBA meeting to discuss this was August 5, 2014.

- For the record, the home owner, in early August, 2014, did share she planned to build an attached garage with mudroom and on the upper level a closet attached from her bedroom. She promised to keep me informed of all details concerning the project. In my mind I thought she was just in the idea stage with additional information to follow. I did learn of the Cooperstown Village zoning laws by mid-August that stipulates a 20' set back from property lines to newly built structures. I expressed to Ms. McKay my concern and disappointment in the placement of the attached garage. . McKay staked out, and wrapped string around her proposed garage addition on her lawn. I asked how high it would be. She said she did not know and that the architect had that information. To date, she has never consulted me concerning any of the details, has not sought any questions or concerns from me or shown me the architect plans related to this project on 32 Delaware Street.*
- We are here primarily to discuss the necessary property variance to the 20' property set back needed for the construction of a garage with connecting mudroom and I need your help to respond to some questions.*
- Here goes....*
- What is the distance from the base of the proposed garage north to the property line of my home at 30 Delaware Street? Also, the distance from the roof eave north to the same property line?*
- Drainage...what is the plan? What is the roofing material? Tin, shingles? We have snow/ice/rain to be concerned about.*
- What is the underground depth for the foundation? How much digging will be involved to accommodate pipes for the shower?*

- *How will electric be accommodated? Underground? Overhead wires?*
- *The Project Summary states this is for a “single car garage with connecting mud room.” and it appears to be more than that. Will there be any more surprises like the very recent addition to the plan of two feet to the garage length and the expansion of the rear garage doors? What about the outdoor shower enclosure that has not been mentioned until one reads Section 7-712-b-3. Area Variances # (3)?*
- *The second level area connecting the house to the loft invites questions? What is the sketch of the box in the north west corner and what is the sketch on the east, front side? **(Show visual #1)***
- *Furthermore, in the opening statement of “A single car garage with connecting mudroom” does not include a “loft level.” Please define loft vs. a second story?*
- *Why does the visual, from the front of the house, appear to not be drawn to scale with a loft height of 5’ x 6”? What are dimensions of loft windows? **(show visual #2)***
- *What does Section A-A (East) on this same plan represent **(show visual #2)***
- *What is the measurement of the height of the house at its highest points? What is the measurement of the loft at its highest points? **(show visual #3)”***

Mr. Sansevere stated that the board is only interested in and can only address issues related to the proposed garage addition.

Ms. Schwartzman stated that the architect, Ms. Snell, is in attendance and maybe able to answer some of the questions and address concerns indicated by Ms. Orlowski.

Ms. Snell came forward and clarified for Ms. Orlowski the height of the proposed garage as well as the height of the first floor of the garage and the height of the loft.

Mr. Orlowski continued to read the following excerpt from her statement.

- *Upon observing, an overwhelming number of Village homes have detached garages located to the rear of the properties.*
 - *According to the Zoning Officer, this property for 32 Delaware Street, accommodates other location options less invasive and still fulfills the home owner’s desire for an attached or separate standing garage with mudroom. I certainly am willing to consider a compromise for a variance to build a garage in rear of house **(show visual #4)”***

Mr. Austin stated that his only comment regarding the proposed project was that there is room on the property for the garage to be located in an area where no variance is required.

Ms. Orlowski continued to read from her statement.

- *Does the Historic Preservation and Architectural Review Board have a role in this project? If so, what is it?*

Mr. Sansevere stated that he assumes, based on the comments this far, that Ms. Orlowski does not want the board to grant the variance. He continued to state that the board only has two options they may grant or deny the variance. He explained that they do not negotiate with the applicant or public to find a compromise.

Ms. Orlowski asked if HPARB has a role in the approval of the proposed garage.

Ms. Schwartzman stated that HPARB does have a role in the approval. She explained that HPARB reviews the application separately based on the visual components of the project.

Mr. Orlowski continued to read her statement.

“PROJECT SUMMARY

- *Project Summary states “The lot at 32 Delaware Street measures a narrow 50’ in width? Please define “narrow.”*

Mr. Austin stated that the minimum buildable lot size within the Village is 5,000 square feet.

Mr. Sansevere stated that the requested variance is for 2.5 feet. He asked Ms. Orlowski what her objection to the project is.

Ms. Orlowski stated that she is getting to the objection and finished reading her statement.

- *Project Summary also states “The proposed building “(here stating a building rather than a garage)” will provide a garage space and much needed storage?” How is needed determined?*
- *Project Summary also states “A second large door opening on the rear (changed from original plan dated 7/29/14) will allow vehicle access, such as small backhoes, to the back yard through the garage.” Backhoes? Would you explain the homeowner’s intent?*
- *Why is there no mention of an outdoor shower enclosure in the Project Summary for a Garage with connecting mudroom. however, it is now only mentioned in Section 7-712-b-3? Why is this a need?*

Section 7-712-b-3. Area variance (Ms. Snell’s comments/justifications)

- *(b) “In making its determination, the Zoning Board of Appeals shall take into consideration the detriment to the health, safety and welfare of the neighborhood...” Ms. Snell states “no”; however I state “yes.” This will close in almost all of my entire back yard to the south of my home and eliminate much sunshine to the back yard (plantings and enjoyment) and 5 windows on two stories facing south and west. As I’ve mentioned, the overwhelming number of Village homes have detached garages located to the rear of the properties; why can’t this one?*
- *(1) Mature plantings for screening are not the issue, but presumably stated to distract the true issue here. How does this account for screening a structure two stories high and already not enough room to provide for the required set back on the north side? Are we talking trees that probably have large roots that grow to an excess of 22’ high to screen the now garage/mudroom/loft/shower? What type of trees is the owner proposing that will not infringe on my property?*
- *(2) I disagree with Ms. Snell and the response of “No”. To reiterate, the Zoning Officer stated, the property accommodates other location options less invasive and still accommodates home owner’s desire for a garage with connecting mudroom. I am willing to consider a compromise for a variance to build in rear of house.*
- *(3) Ms Snell’s response of “No” does not fully respond to question “Whether the requested area variance is substantial.” She addresses the length of the property, east to west, which is a lesser issue, but does not address the length, north to south which is the main issue. T*
- *Also, this is the first time an outdoor shower enclosure is mentioned.*
- *(4) I again do not understand how Ms. Snell can be accurate and state “no” as to whether this variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. She does state “The location of the garage recessed from the street and close to a side property line is very common in the Village” This is avoiding the question. I believe this project has a direct adverse effect on my property for all the reasons stated and I will reiterate them if you wish? In response to her statement, that avoids the question, does this make it right just because it’s “common”? Haven’t the zoning rules changed over the years? Aren’t we*

fortunate to know this situation now so it can be avoided? Can Ms. Snell provide the information on this research of "common garages close to side property lines" reflecting recent situations under these zoning laws?

- *(5) Agree there are limitations for the proposed attached garage in desired location, the ZBA Officer did state to me the size of the yard accommodates other locations. Prior to the 20' set back, it was a 10' set back which still would not accommodate an addition without a variance. This is stated in your meeting minutes of 8/5/14. Owner was well aware, or could have made herself aware, of the property limitation upon the purchase of the home.*

How many of you would like a structure, such as this, so close to your property?

Mr. Sansevere stated that if the proposed garage is not attached to the residence it would be able to be located in nearly the same location without requiring a variance.

Ms. Schwartzman asked that board discussion be held until the close of the public hearing.

Ms. Schwartzman asked if there was any further public comment.

Ms. Marianne Benton, 28 Delaware Street, she stated that her only issue is that the proposed garage is two stories. She explained that the two story structure in the proposed location will not only impact her view but also block a lot of light as it is in her southern exposure.

Ms. Schwartzman asked for additional public comment. There was no further comment. Ms. Schwartzman closed the public hearing at 4:25 p.m.

Mr. Austin stated that the lot is less than 60 feet in width and the law states that for principal and accessory structures on this size lot a combined side yard setback of 20 feet, with a minimum of 5 feet on either side is required.

Mr. Leo asked for details on the overhang of the roof.

Mr. Austin stated that the drawings indicate the distance to the structure's wall and the eaves will overhang approximately another 18 inches.

The board discussed the required setbacks and its relation to the current residence, the proposed attached garage and other possible garage locations.

Ms. Schwartzman stated that she objects to the proposed variance due to the fact that the current setback requirement was recently put into the law to relieve the need for excessive variances which had been being granted in the side yard setbacks. She stated that this proposed project is asking the board to grant a variance which goes into the "fix" by 50 percent when there are other locations available for placement of a garage which would not require a variance.

Mr. Sansevere stated that the ZBA would not have to review the project if it does not impede on the setbacks.

Ms. Schwartzman stated that to be correct. She continued to state that the application would still require review from HPARB.

Mr. Sansevere stated that there is the potential for the applicant to propose a structure that is just as intrusive, maybe right on the property line, which would not require a variance.

Mr. Austin stated that the minimum setback is 5 feet; therefore, it would have to be built at least five feet from the property line.

Ms. Schwartzman stated that two and a half feet is substantial in this situation.

Mr. Sansevere made a motion to deny the application for an area variance in the side yard setback at 32 Delaware Street for the proposed attached garage as presented. Mr. Leo seconded the motion and a vote had the following results:

AYES: Leo, Sansevere, Schwartzman Motion carried.

Regular Agenda

124 Main Street (John McManus for BTP Cooperstown) – Preliminary review for area variances and parking determination for a Special Use Permit Hotel

Ms. Snell returned to the board at 4:37 p.m.

Ms. Snell briefly reviewed the application stating that the Board of Trustees has accepted the application and notified all of the involved agencies of the application and asked if any of those agencies would like to be declared lead agency. She explained that the board must make a determination and reply to the BOT as to whether or not they want to be lead agency. She further stated that the Planning Board has already declined the role as lead agency. She explained that she is not sure that the ZBA is the best board to be lead agency as they do not have experience in the completion of SEQRA. She stated that she personally feels that the BOT is in a better position to be lead agency for this project than the ZBA.

Ms. Schwartzman concurred.

Mr. Leo stated that he spoke with village attorney, Martin Tillapaugh, regarding the role of lead agency and that though it might be a good experience for the ZBA this might not be the most appropriate project to take on.

Ms. Snell stated that she feels that the BOT is a better fit for lead agency as they have a broader role in the project.

Ms. Schwartzman made a motion that the Zoning Board of Appeals recommends that the Board Of Trustees declare themselves lead agency and be responsible for SEQRA review. Ms. Snell seconded the motion and a vote had the following results:

AYES: Leo, Sansevere, Schwartzman, Snell Motion carried.

Ms. Snell stated that the intention for this evening is for Mr. McManus and the board to identify areas which need clarification and or modification. Mr. McManus plans to return at our next meeting with answers to our questions and revised drawings.

Mr. McManus stated that since all of the members of the board have reviewed the file he feels that starting with the list of concerns provided through email by Ms. Snell would be most appropriate.

Ms. Snell stated that she would like to see the board review the application for missing information and to make a determination regarding parking requirements.

Ms. Schwartzman stated that she does not feel that she can make an informed decision regarding parking requirements at the meeting today.

Ms. Snell stated that she feels that they might be able to make a decision, after some discussion of the room configurations, such as a requirement for parking per suite.

The board discussed the areas of the project which may require parking including the sleeping rooms and the restaurant. They discussed what the law requires for parking for both the hotel and the restaurant and how they would determine parking if they were separate units and as a whole.

Mr. Leo asked how many parking spaces are legally required.

Ms. Schwartzman stated that one space is required per sleeping room therefore 44 parking spaces are required.

Mr. Leo asked how many parking spaces are proposed.

Mr. McManus stated that the plans indicate 15 legally conforming parking spaces.

Ms. Snell stated that historically the ZBA has not waived the 1 space per sleeping room requirement. She pointed out that the rooftop use could constitute an additional floor and that the structures on the rooftop and use of the rooftop could affect the required variances.

Mr. McManus stated that other than the mechanicals there would be no fixed structures on the roof.

Mr. Austin asked if the elevator would access the rooftop.

Mr. McManus stated that it would be a surface level entrance.

Ms. Snell stated that the plans should indicate the mechanicals, bathrooms, storage, and any other stair or elevator structure on the rooftop.

Mr. McManus stated that it is possible that they may not bring the elevator to the rooftop. He further stated that the pool would be recessed into the roof and that all other structures other than the fencing would be temporary structures.

Ms. Snell asked about disabled access to the rooftop.

Mr. McManus stated that they can obtain a waiver to exempt them from providing disabled access to the rooftop.

Mr. Austin stated that if they want the rooftop to have elevator access to the rooftop it should be part of the application. He explained that they do not want to have to come back and ask for a field change for this type of structure.

Ms. Snell stated that the zoning law indicates that some rooftop structures must be stepped back in distance from the property line as the height increases. She asked that the plans provided an accurate measurement from the property line to each element of the rooftop, as well as size and height of each element.

Mr. McManus stated that the use of the rooftop is not set at this time. He stated that it will be discussed with the Planning Board at their September meeting.

Ms. Snell stated that the height of the structure and the number of stories needs to be exact in order to determine what variances are needed. She further stated that legal documents regarding the easement for the alleyway should be provided for the file.

Mr. Ferrara stated that the Stables property has an easement to use the alleyway which is primarily part of the 124 Main Street property.

Mr. Austin asked if there is an easement for the portion of the property owned by the Stables for use by the 124 Main Street property.

Mr. Ferrara stated that they have permission to use it.

Ms. Snell stated that the permission or right of way needs to be legally documented in order for the board to consider its use when making determinations regarding variances and proposed use.

Mr. Austin asked if a variance would be necessary, regardless of the width of the alley, as it is an existing driveway.

Ms. Snell stated that due to the change in use it would need to meet the law or obtain a variance.

Mr. Austin stated that the use has historically been as a driveway and parking.

Ms. Snell stated that the use has never been this intense.

Mr. McManus asked if Mr. Hargrove would also need to obtain a variance for his use.

Ms. Snell stated that he would not as the use of his property is not changing. She asked Mr. McManus the width of the parking spaces.

Mr. McManus stated that plan for valet parking is being revised. He stated that not much thought was put into the plan and that the Planning Board also had some concerns such as space size and staging. He further stated that they would like to start by considering the 15 spaces which they can legally provide and he will work on the redevelopment of possible valet parking with the Planning Board.

Ms. Snell stated that variances for parking space width and stacking parking would be required for valet parking. Ms. Snell also indicated that a variance will be required for removal of more than 30 percent of the existing trees on the property.

Mr. McManus stated that he knows that a big concern is that the parking lot spans Willowbrook. He stated that DEC and Army Corp of Engineers have provided statements as to their knowledge of the project and that they have no concerns.

The board discussed the required parking.

Mr. Austin stated that historically variances for parking have not been entertained in regards to sleeping rooms.

Mr. Sansevere stated that the Village has had change and those changes need to be considered. He stated that with instituting of paid parking there is a change in the parking flow in the Village. He further stated that there is only a parking issue in the Village between 10 AM and 10 PM approximately 100 days of the year, otherwise, there is not a parking issue. He explained that there are hotels throughout the country that do not provide parking for their guests and maybe that would be appropriate for this situation.

Ms. Snell asked if the board felt they could make a determination regarding parking.

Mr. Leo stated that making a change to the law is one thing, however, the board is required to work under the existing law and unless they can work out some way to meet the law then maybe it just won't work.

Mr. McManus stated that there is currently a new law proposed which would change the parking requirements and allow businesses to lease off site spaces. He further stated that families and multiple couples often travel in minivans reducing the number of spaces that would be needed for a suite. He explained that one vehicle with two couples or one vehicle with a family would be using one suite with two sleeping rooms.

Ms. Snell asked if anyone would like to make a determination regarding parking.

Ms. Schwartzman made a motion that the ZBA determines that one parking stall will be required for each sleeping room in the proposed hotel at 124 Main Street as consistent with the Zoning Law. Mr. Leo seconded the motion and a vote had the following results:

AYES: Leo, Sansevere, Schwartzmann, Snell

Motion carried.

Minutes

Due to time restraints review of the August minutes was held over till the October meeting.

Meeting adjourned at 5:03 PM

Respectfully Submitted,

Jennifer Truax
Deputy Village Clerk