

Board of Appeals
April 17, 2014

Members Present: Alison Varley, Chairman
Chris Drutjons
Todd Brice
Richard Ubert
Scott Erath
Kirk Hurme, Alternate Member

Also Present: Tom Whalen, Code Enforcement
Diane Ortiz, Secretary to the ZBA

Meeting called to order at 7:00 p.m.

Chairman Varley welcomed everyone to the April 17, 2014 meeting of the Zoning Board of Appeals, and introduced all the members. Chairman Varley thanked past ZBA Chairman Roger Smith for his many years of service to the Board and welcomed new alternate Kirk Hurme.

Chairman Varley stated applicants are hereby notified that any/all agreed concessions, promises, pledges, assurances or declarations given by them or their duly appointed agents, during their hearing process shall become stipulations to any approvals given by this Board.

Chairman Varley called for a motion to approve the minutes of the March 20, 2014 meeting of the Board of Appeals, copies of which were sent to all members of the Board, with no corrections. Mr. Drutjons so moved; Mr. Ubert seconded the motion.

Vote on the Motion	Mr. Erath	-aye
	Mr. Drutjons	-aye
	Mr. Smith	-aye
	Mr. Brice	-aye
	Ms. Varley	-aye

Motion Carried: 5 ayes 0 nays

Application of Rafael Taveras (14-01-15). Applicant seeks a use pursuant to the conversion of a one family dwelling to an owner occupied two family dwelling pursuant to Section 183-43, of the Village Code. Premises located on the south side of Maple Drive approximately 183' W/o Cedar Lane in a Residential B District k/a 86 Maple Drive a/k/a SCTM #101-1-1-52

Findings:

1. Has owned the property since 2008
2. History of violations, most recent contrary to the Certificate of Occupancy
3. Applicant has failed to demonstrate that he cannot realize a reasonable rate of return on the subject property through competent evidence. Applicant stated that he needed the use variance because of economic hardship but failed to produce financial data; applicant stated he has not tried to sell the property.
4. Direct neighbors spoke in opposition; Neighbors claim he doesn't live there and that approximately 11 people live in the home. Neighbors are concerned about the parking situation at the residence with numerous vehicles located at the property.

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5. Approval of this use variance would substantially change the character of the neighborhood because neighbors are concerned that other people in the neighborhood will start to seek this type of a use variance; the multiple cars cause a safety hazard in the neighborhood, and the residents of the home fail to upkeep it; i.e. they failed to shovel the snow.

Motion was made by Mr. Brice, and seconded by Mr. Erath, to deny the application pursuant to NY Village Law §7-712(b) 2 (a) and (b), the applicant failed to demonstrate that the applicable zoning regulations and restrictions have caused unnecessary hardship based on the findings above.

Vote on the Motion	Mr. Erath	-aye
	Mr. Drutjons	-aye
	Mr. Smith	-aye
	Mr. Brice	-aye
	Ms. Varley	-aye

Motion Carried: 5 ayes 0 nays

Application of **Jean Kennedy** as agent for owner **Yong Zhang** (14-01-16). Applicant seeks to reduce the required side yard and front yard setbacks pursuant to the installation of a new detached accessory building pursuant to Section 183-40 and Section 183-134(A) of the Village Code. Premises located on the northwest corner of Farragut Pl. and Macdonald Ave. in a Residential BB District k/a 1 Farragut Pl. a/k/a SCTM #101-14-1-4-47.1

Findings:

1. Owned property for 8 years. Applicant is seeking to construct a 10' x 20' accessory building with a 18.3' front yard setback where code allows for a 60' front yard setback and, zero side yard setback, where the code allows for a 4' side yard setback, which are substantial requests. Applicant is seeking accessory building for storage of jet ski, possibly a lawn mower and garden supplies
2. Area variance sought due to a self-created hardship as a result of the applicant paving his backyard and building a possible non-conforming wood/stone fence surrounding the property.
3. Two neighbors said the proposed accessory building would block their water view causing undesirable physical conditions to the neighborhood
4. Four neighbors total spoke against the application
5. Two letters were received in favor of application but lacking any characteristics of accessory building
6. Neighbor not opposed to replacing existing shed thereby allowing the benefit applicant is seeking to be achieved by another method

Motion was made by Mr. Drutjons, and seconded by Mr. Erath, to deny the application, pursuant to NY Village law §7-712(b) 3 (a) and (b). The detriment to the health, safety and welfare of the neighborhood is greater as compared to the benefit to the applicant if the variance was granted as demonstrated by findings above. The applicant can achieve his desired benefit through another method. Applicant

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seeking a substantial area variance request. The area variance will cause undesirable physical or environmental conditions to the neighborhood and the difficulty was self created.

Vote on the Motion	Mr. Erath	-aye
	Mr. Drutjons	-aye
	Mr. Smith	-aye
	Mr. Brice	-aye
	Ms. Varley	-aye
Motion Carried:	5 ayes	0 nays

Application of Thomas D. Blore as agent for owner Helene Vaughn (14-01-17). Applicant seeks to maintain the existing non conforming lot size and non conforming side yard and aggregate pursuant to the rebuilding on the existing foundation a new two story one family dwelling with new front one story and new rear two story additions. Previous one family dwelling destroyed in fire. Pursuant to Sections 183-44 and 183-51 of the Village Code. Premises located on the S/s of Oak Street approximately 692' E/o Broadway [Rte. 110] in Residential "B" District k/a 59 Oak Street a/k/a SCTM #101-5-3-7

Findings:

1. Existing house destroyed by fire
2. Footprint remains the same
3. Same setbacks; same non-conforming use
4. Single family home; owner occupied
5. Cellar will be unfinished with a 7'5" ceiling height which is the height of the existing/previous dwelling cellar
6. Boiler and hot water heater located in cellar
7. No bathroom in cellar
8. Basement stairs and entranceway into basement pre-existing from previous dwelling
9. Elevation should be from curb
10. Detriment to the health, safety and welfare to the neighborhood was deminimus

Motion was made by Mr. Drutjons, and seconded by Mr. Erath, to approve the application, pursuant to NY Village law §7-712(b) 3 (a) and (b), in that the benefit to the applicant outweighed any detriment to the health, safety and welfare to the neighborhood, with the following stipulations:

1. Letter stating that the foundation is sound must be submitted to the Zoning Board of Appeals or Building Code Officer
2. Unfinished, not habitable space in basement/cellar
3. Building plans be amended to show elevation from curb to top of ridge
4. Applicant must submit to Planning Board for approval
5. Central Air unit must be in back of property 13 feet from property line
6. Applicant must abide by all applicable Federal, State and Local Codes
7. Applicant must obtain all necessary permits

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8. Conform to all height and side yard setbacks via submitted plans

Vote on the Motion	Mr. Erath	-aye
	Mr. Drutjons	-aye
	Mr. Smith	-aye
	Mr. Brice	-aye
	Ms. Varley	-aye

Motion Carried: 5 ayes 0 nays

Application of **Richard Handler** as agent for owners **Todd and Katherine Monte** (14-01-18). Applicant seeks to exceed the permitted lot coverage and encroach the required side yard pursuant to the erection of a one story addition on the west side of the existing one story one family dwelling pursuant to Sections 183-32 and 183-34 of the Village Code. Premises is located on the S/w corner of Towne Street and Bryan Avenue in a Residential "BB" District k/a 53 Towne Street a/k/a SCTM #101-8-3-34

Findings:

1. Richard Handler recused himself as agent because of his appointment as Village Attorney; replaced by architect Dave Lupins as agent
2. Request for extension to existing house to accommodate elderly parent
3. Letter of consent from westerly neighbor closest to addition in favor of application
4. A one-story addition to the one-story house was considered, but rejected because it was not in keeping with the style of the existing house and extension in back of dwelling is prohibited due to pool
5. Aerial views and photos showing how the addition meets the scale and character of the existing neighborhood; similar non-conforming houses with similar setbacks to proposed extension were shown
6. Signed endorsements from 23 neighbors were submitted
7. Architect indicated that the addition is closest to neighboring uninhabited space, thereby having approximately 45' between habitable space of neighboring properties, diminishing any privacy concerns
8. No one spoke for or against the application
9. The lot size variance sought is de minimus and the side yard setback sought is approximately 50% of allowable setback

Motion was made by Mr. Erath, and seconded by Mr. Brice, to approve the application pursuant to NY Village law §7-712(b) 3 (a) and (b), in that the benefit to the applicant outweighed any detriment to the health, safety and welfare to the neighborhood, with the following stipulations:

1. No air conditioning units within 12' of property line.
2. Applicant must abide by all applicable Federal, State and Local Codes
3. Applicant must obtain all Village required permits and inspections.
4. Conform to all height and side yard setbacks via plans

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Vote on the Motion	Mr. Erath	-aye
	Mr. Drutjons	-aye
	Mr. Smith	-aye
	Mr. Brice	-aye
	Ms. Varley	-aye
Motion Carried:	5 ayes	0 nays

Application of **Robert Amrhein** and **Sondra Patton** (14-01-19). Applicant seeks a special exception to remove sidewalk area in front of their premises pursuant to Section 152-14 of the Village Code. Premises is located on the east side of Ocean Avenue approximately 50' south of Coles Ave. in a Residential "A" District k/a 176 Ocean Avenue a/k/a SCTM #101-11-12-2

Findings:

1. Applicants purchased the home two years ago
2. Sidewalk was damaged due to Hurricane Sandy and removed prior to application
3. Sidewalk was a hazard prior to removal
4. Most adjacent properties don't have sidewalks
5. No consistency for sidewalks in that area
6. One resident spoke against the application, citing safety concerns for children walking to school
7. Applicant stated he lengthened the driveway to prevent cars blocking pedestrian paths, thereby insuring the safety of the neighborhood

Motion was made by Mr. Ubert, and seconded by Mr. Erath, to approve the application pursuant to NY Village law §7-725(b) 3 subject to the requirements to insure the proposed use is in harmony with the local law and not adversely affect the neighborhood.

Vote on the Motion	Mr. Erath	-aye
	Mr. Drutjons	-aye
	Mr. Smith	-aye
	Mr. Brice	-aye
	Ms. Varley	-aye
Motion Carried:	5 ayes	0 nays

Application of Gina Teuchtler (14-01-20). Applicant seeks to exceed the permitted maximum fence height pursuant to the erection of a six foot and seven foot pursuant to Section 183-139 of the Village Code. Premises located on the west side of Ketcham Ave. approx. 50' south of Orchard Place in a Residential "B" District k/a 144 Ketcham Ave. a/k/a SCTM #101-5-5-17

Findings:

1. Other fences in the area are over 5 ft.
2. Owned property for six months

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3. Fence necessary for privacy citing neighbor's pool
4. One adjoining neighbor spoke in favor as long as their existing fencing remains
5. Property to have wood stockade fence, nice side facing neighbor
6. East side 5 ft. fence to street which will diminish any concerns with regard to obstruction of police watch
7. All Returns must be 5 ft.
8. No 7 ft. fencing allowed

Motion was made by Mr. Drutjons, and seconded by Mr. Erath, to approve the application pursuant to NY Village law §7-725(b) 3 subject to the following stipulations to insure the proposed use is in harmony with the local law and not adversely affect the neighborhood:

1. Applicant must obtain all necessary permits
2. Fence must be erected as diagrammed or amended on the plot survey as submitted
3. Fence must be securely anchored with the good side facing out (their neighbors property).
4. Applicant must adequately maintain the fence and conform to all Village building codes

Vote on the Motion	Mr. Erath	-aye
	Mr. Drutjons	-aye
	Mr. Smith	-aye
	Mr. Brice	-aye
	Ms. Varley	-aye

Motion Carried: 5 ayes 0 nays

Application of Kevin Feldmann (14-01-21). Applicant seeks a special exception to maintain an existing six foot high fence with associated gate and archway pursuant to Section 183-139 of the Village Code. Premises located on the north side of Sterling Place approx. 335' west of Burch Avenue in a Residential "B" District k/a 137 Sterling Place a/k/a SCTM #101-3-1-41

Findings:

1. Fencing in front of property is 5 ft. including 1 ft. of see-through lattice
2. There is an archway and gate because of swimming pool
3. Applicant is seeking the special exception due to safety concerns with regard to their in-ground pool, security concerns of the neighborhood, nearby dogs, concern with condo development located close to dwelling and safety concerns with regard to his child and children in the neighborhood
4. One person spoke in favor, citing safety concerns of children
5. See-through lattice work diminishes any concerns with regard to obstruction of police watch

Motion was made by Mr. Erath, and seconded by Mr. Brice, to approve the application pursuant to NY Village law §7-725(b) 3, subject to the following stipulations to insure the proposed use is in harmony with the local law and not adversely affect the neighborhood:

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1. Applicant must obtain all necessary permits
2. No fencing above the lattice
3. Fence must be erected as diagrammed or amended on the plot survey as submitted.
4. Fence must be securely anchored with the good side facing out (their neighbors property).
5. Applicant must adequately maintain the fence and conform to all Village building codes and adhere to all pool regulations regarding gates

Vote on the Motion	Mr. Erath	-aye
	Mr. Drutjons	-aye
	Mr. Smith	-aye
	Mr. Brice	-aye
	Ms. Varley	-aye

Motion Carried:	5 ayes	0 nays
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There being no further business to come before the Board of Appeals; Mr. Ubert made a motion to adjourn the meeting; Mr. Drutjons seconded the motion.

Diane C. Sheridan, Administrator/Clerk

Meeting was declared adjourned at 9:55 p.m.