

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 November 4, 2014 at 5:00 pm. Members in attendance were Chair Susan Snell, Ruth Ayres, Frank Leo, and Marcie Schwartzman. Also in attendance was Zoning Enforcement Officer – Tavis Austin and Deputy Village Clerk – Jennifer Truax. Five members of the public were present.

Ms. Snell called the meeting to order at 5:00 p.m.

8 Susquehanna Avenue (Margaret and Fred Kaplan) – Preliminary review for an area variance for a 6' fence

Ms. Schwartzman recused herself.

Ms. Snell asked Mr. Austin to review the application.

Mr. Austin stated that the original application was for a 6' black chain link fence. He explained that when the applicants were informed about the required acquiescence of the neighbors or variance process due to the fence being over 4' in height and they choose to modify the request. Mr. Austin stated that the application was reviewed by HPARB and the minutes from that meeting reflect that, HPARB member, Mr. Ralph Snell questioned why they were choosing to reduce the height of the fence and that Ms. Kaplan indicated that installing the fence was more important than the height and that she was willing to reduce the height to 48" to quicken the process. He further stated that HPARB approved the fence design. Mr. Austin stated that recently he was notified that the fence as installed was over the allowed height he visited the site and found that the fence as installed is approximately 5' 6" in height. Due to the fence being over the allowed 4 feet and the fact that the neighbors have not provided acquiescence the only option at this time is for the Kaplans to apply for a variance.

Ms. Snell clarified that HPARB has approved the fence design.

Mr. Austin concurred and reviewed the different applications which the Kaplans have applied for over time and the structures and fences of both the Kaplans and their neighbors which are located on the property line.

The board reviewed the location of the fence which requires a variance, as well as photos of other fences and structures which surround the property on the property line.

Ms. Snell informed Dr. Kaplan that given that the neighbors are not willing to acquiescence the only option is to ask for a variance. She explained the variance process, the required public hearing and requested that answers to the Area Variance Test be submitted in writing prior to the meeting.

Mr. Leo clarified that the variance request is for a 6' fence to enclose the remainder of the property.

Dr. Kaplan clarified that the fence is 5.5 feet.

Ms. Snell set a public hearing for Tuesday, December 2, 2014 at 5 PM or as soon thereafter as possible.

16 Susquehanna Avenue (Arthur Newell) – renewal of Tourist Accommodation

Ms. Schwartzman returned to the board at 5:17 p.m.

Ms. Snell reviewed the application and stated that this is the third renewal request for this property.

Mr. Austin indicated that that is correct and stated that there have been no complaints regarding this tourist accommodation.

Ms. Snell stated that this is a two room tourist accommodation and that the previous parking issues have been resolved.

Mr. Austin stated that the parking has been inspected and is in compliance. He further stated this tourist accommodation is in full compliance and when in operation its use is almost unnoticeable.

Mr. Leo asked if there is a fee associated with the renewal.

Mr. Austin stated that there is a \$100.00 fee per room if the renewal is granted.

Mr. Leo asked if the fee is an annual fee.

Mr. Austin stated that the fee is annual. He further reviewed the proposed changes to the laws regarding tourist accommodations and indicated that the way the proposed law is worded the renewal fee is not due for the 2015 season until February. He further explained that Mr. Newell is selling this property and as part of the sale needs to insure that the tourist accommodation is legally in compliance.

Mr. Leo made a motion to grant the renewal of the tourist accommodation at 16 Susquehanna Avenue with the provision that the required fee be paid on or before the February deadline. Ms. Ayres seconded the motion and a vote had the following results:

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

The board and Mr. Newell discussed the required renewal fee.

Mr. Austin stated that the tourist accommodation is legal and is associated with the property not the applicant; therefore, if the property sells the new owner will be legal to operate the tourist accommodation as long as they continue to follow the law as Mr. Newell has. He further stated that he would ensure that regardless of whether or not the proposed law changes regarding tourist accommodations passes he will follow up on the required fee so that the property remains in good legal standing.

8 Elk Street (Patrick Broe) – Preliminary review for an area variance for a porch

Mr. Austin reviewed the application to reinstall a porch that was on the residence in photos located from the 1950s. He explained that the porch would come within 42" of the existing sidewalk, requiring variances in the front and side yard setbacks. He further stated that the application will be reviewed by HPARB next week and that, in his opinion, the porch is in keeping with the neighborhood.

Ms. Snell asked if the steps would be inset into the porch.

Mr. Broe stated that the steps on the side of the porch would be inset but the ones towards the sidewalk would not. He further explained that there is currently a concrete pad which ends at the sidewalk which will be the location of the front steps.

Ms. Schwartzman asked if there are any other photos of the residence with the porch.

Mr. Broe stated that he has been unable to find any other photos of the porch. He stated that the photo provided for the file was received from a neighbor. He continued to state that the three residences on the corners were constructed at the same time by three brothers.

Ms. Snell stated that acquiescence has been provided by one neighbor.

Mr. Broe stated that he has spoken with the other neighbors and will provide written acquiescence from them.

Mr. Austin asked the board if they have any issues, at this time, with the proposed variance. He explained that should the board feel that the 7 foot porch encroaches too much on the sidewalk than Mr. Broe will consider a 6 foot porch. He further explained that he would like to be able to inform HPARB of the intentions of the ZBA.

Ms. Snell stated that she does not feel that the foot will make any difference in her decision to grant a variance.

Mr. Schwartzman asked if there would be an issue with snow removal.

Mr. Austin stated that although the steps will end at the sidewalk, there is 42" between the sidewalk and porch that will allow for snow accumulation.

Ms. Snell stated that given that the steps are not inset into the porch a variance will be necessary for the handrails.

Ms. Snell set a public hearing for Tuesday, December 2, 2014 at 5 PM or as soon thereafter as possible.

Mr. Broe asked if he would be overstepping his rights to begin construction should HPARB grant approval at their November 10th meeting.

Ms. Snell stated that no structures over four feet in height maybe installed prior to a variance approval. She further stated that should a variance not be granted the board is not responsible for any expense he has incurred.

The board concurred with Ms. Snell.

Review of proposed zoning changes in the R-2 & R-3 setbacks

Ms. Schwartzman read the proposed changes for the board.

The board discussed how this proposed change would affect variance requests and properties in those districts.

Ms. Snell stated that if a 5 foot side yard setback is appropriate she does not see the logic in a 10 foot rear yard setback. She questioned the difference in a side and rear yard setback in relation to placement of an accessory structure.

The board discussed the definition of an accessory structure and typical locations of these structures on properties throughout the village.

Mr. Austin stated that it is fairly easy to understand how the law will apply to an accessory structure such as a detached garage but it becomes unclear when the accessory structure is attached through

a breezeway or some other means. He stated that the law is not clear on what pushes a structure over the threshold of an accessory use into a principal use.

The board discussed ways other municipalities regulate setbacks, green space and lot coverage. The board concurred that these items need to continue to be reviewed especially the definition of accessory structure and will refer them to the Economic Development Committee and the Planning Board.

Review of proposed zoning changes Institutional Zoning changes minus the institutional zone

Ms. Snell stated that in addition to the development of an institutional zone there are a lot of related zoning items which affect the entire village such as parking and screening. The two issues have been separated and are being considered separately as changes to the zoning law.

The board reviewed the proposed changes.

Mr. Leo asked why the parking changes were created and what effect they have on residents and businesses.

Mr. Austin stated that the proposed changes include providing more clarity to the existing laws regarding parking.

The board further discussed parking regulations in the village.

Review of proposed zoning changes for Tourist Accommodations

Mr. Austin reviewed the proposed law and the separate sunset clause for existing non-conforming properties.

The board discussed enforcement of the Tourist Accommodation law as well as other zoning laws.

Minutes

Ms. Schwartzman made a motion to approve the minutes from August 5, 2014 as submitted. Mr. Leo seconded the motion and a vote had the following results:

AYES: Leo, Schwartzman, Snell

ABSTAIN: Ayres

Motion carried.

Ms. Schwartzman made a motion to approve the minutes from September 9, 2014 as submitted. Ms. Snell seconded the motion and a vote had the following results:

AYES: Leo, Schwartzman, Snell

ABSTAIN: Ayres

Motion carried.

Meeting adjourned at 6:36 PM

Respectfully Submitted,

Jennifer Truax
Deputy Village Clerk