

**Village of Sleepy Hollow
Zoning Board Meeting - APPROVED
June 19, 2013**

Peter Koffler, Chairman, called the meeting to order at 8:07pm. The Chair noted that a quorum was present.

Present: Peter Koffler, Chairman
Timothy Judge
Michael Wernick
Vishal Brown
Timothy Church

Absent: Maria Gorete-Crowe
Sherry Bishko

Also Present: Sean McCarthy (Village of Sleepy Hollow/Building Department)
Janet Gandolfo (Village Attorney)
Mary Gerlanc (Recording Secretary)

Agenda:

1) James and Dana McGovern	203 Harwood Avenue	Continued
2) Beekman Realty	185 Cortlandt Street	Public Hearing
3) Anna Komorowski	9 Hemlock Drive	Public Hearing
4) Peter Oppenheim	121 Hunter Avenue	Public Hearing
5) Approval of Minutes		May 15, 2013

Announcements - The Chair announced that item No. 4 would not be on the agenda for this meeting.

1) James and Dana McGovern **203 Harwood Avenue** **Continued**

The Chair stated the Board had given the applicant the option to postpone their application until this month since there were only four voting members present at last month's meeting and the vote would have to be unanimous. The Chair recused himself from this matter since he was in the notice area. He suggested the applicant proceed with the application for the benefit of the two new members who have not heard it before and then the applicant would again have the decision to postpone the decision until next month when there would be more voting members present.

Sid Schlomann, architect represented this application. Mr. Schlomann handed out additional materials to the Board.

Timothy Judge stated he would be the acting chair for this application since the Chairman has recused himself from this matter.

The Acting Chair stated the Board had received the following documents:

- Variances requested and the applicant's opinions regarding those variances.
- Google Earth image showing the path of the sun.
- Additional images of the applicant's property and some neighboring properties.
- Letter from Beck Liebman Petrone, P.C. to the Board dated May 7, 2013.
- Email received by the Village on June 19, 2013 from Kathy Yeager, residing at 215 Harwood Ave.

Sid Schlomann stated the proposed project is to construct an addition to an existing home in an R2 zoning district. They would construct an entry portico and a rear addition that aligns with the existing home, except in the rear of the house. Mr. Schlomann showed the Board the front; side and rear yard existing setbacks. He pointed out the area they are requesting a variance of approximately 13 inches. All other aspects of zoning are fully compliant with the zoning codes.

Mr. Schlomann indicated the proposed interior alterations, which include making the kitchen into an open floor plan with the family room and dining area. The second story aligns with the existing structure, however the configuration of the rooms would change slightly. They applicant is proposing an exterior brick façade which ties in with the existing brick on the house.

The Acting Chair asked if the left side elevation has two additional windows. Mr. Schlomann stated that the neighbor had objected to facing a brick wall so there was the option to add the two windows to the plans.

The Acting Chair stated the Boards copy of the plan is dated March 6, 2013. He asked Sean McCarthy if these plans were available to the public for viewing at Village hall. Mr. McCarthy stated they were available.

Mr. Schlomann stated he felt the proposed addition, either built to align with the existing house or 13 inches back would only have a good effect on the neighborhood. He asked the Board to look at the Google Earth map of the house. He referred to the neighbor's concerns regarding the shadows the new structure would create on their property. Mr. Schlomann indicated that the morning sun would be minimal and there is full vegetation between the neighboring properties. He stated the additional photos show the house and the existing vegetation at various times of the year. Mr. Schlomann stated that recently there was a fence installed between the two properties by the neighbor and he asked that the Building Department or Code Enforcer review the materials used for the fence.

Frank Tancredi, architect and John Manuele, property owner of 110 Beekman Ave. and 185 Cortlandt Ave. represented this application.

Mr. Tancredi stated the current building is comprised of a four-story structure, which has residential space on three stories and commercial space on the bottom floor. It is attached to a two-story portion of the building, which has access from 110 Beekman Avenue, which is currently vacant. The bottom floor had been warehouse space and the second floor had been a social club. Since the bottom floor was vacant for a period of time, the non-permitted use had lapsed.

The Planning Board had asked the applicant to develop the lower floor as retail space and the upper floors as two residential apartments. The applicant is asking the Zoning Board for area variances for the retail space. The parking requirement for the proposed structure would be 10.3 parking spaces. They are proposing a loading area in the back of the building. Mr. Tancredi showed plans for the two apartments on the second floor. He stated they would omit the current garage door on the lower level and install storefront windows.

Michael Wernick asked what variances the applicant was requesting. Discussion ensued regarding the variances for the retail space and two apartments. The Chair asked if the ground floor retail use was a permitted use. Mr. Tancredi stated it was a permitted use. Janet Gandolfo stated the retail space required an area variance, not a use variance because the applicant does not have the parking and certain setback requirements.

The Chair asked how many parking spaces are needed for the commercial portion of the building. Mr. Tancredi stated that zoning required 7.8 spaces for the retail space and the residential space requires 2.5 parking spaces.

The Chair asked what other uses are permitted in the ground floor space. Mr. Tancredi stated it could be used for retail business or office usage. The Chair asked Sean McCarthy if office use has different parking requirements than retail use. Mr. McCarthy stated that office use requires one parking space for every 300 square feet and retail use requires one parking space for every 250 square feet.

The Chair asked about the permitted use for the residential portion of the property. Sean McCarthy stated it was permitted for residential however the question was how many dwelling units could be constructed in that space. The more dwelling units in the building, the more bedrooms and the need for more parking spaces. John Manuele stated it currently is a big open space and they are proposing to divide it into two apartments.

Sean McCarthy stated the retail portion could be sales of goods or a food service establishment and the parking requirements for food service are based on the number of seats as opposed to square footage.

The Chair asked the size of the residential units. Mr. Tancredi stated they are proposing 810 and 781 square foot units. The Chair asked if the parking requirement would change if

there were one residential unit instead of two. Mr. McCarthy stated it might change by only one space.

The Chair asked the size of the retail space. Mr. Tancredi stated the plan showed it was approximately 913 square feet with some space for storage in the rear. Mr. McCarthy asked if the storage space was factored into the calculation for the parking. Mr. Tancredi stated that number was factored into the calculation.

The Chair asked if the variance was for retail use or food establishment. Mr. McCarthy stated the applicant would have to return for an additional variance unless they proposed a seating arrangement for the food establishment that didn't exceed the current request for the parking variance.

Motion to open the public hearing:

Moved: Koffler

Seconded: Judge

Vote: 5-0

Absent: Gorete-Crowe, Bishko

There were no comments from the public.

Motion to close the public hearing:

Moved: Koffler

Seconded: Wernick

Vote: 5-0

Absent: Gorete-Crowe, Bishko

Mr. Wernick asked how long the building was vacant. John Manuele stated the last ground floor tenant vacated the premises in 2010. Mr. McCarthy stated the second floor had been vacant since a fire in 1998.

John Manuele stated he was happy to own the property, however financially he could use income from the property since he was spending money to make it nicer for the Village.

The Chair asked if the Planning Board's observation, that they prefer this property to be retail space instead of warehouse, was part of the minutes. Janet Gandolfo stated it was in the minutes but not an official referral to the Zoning Board.

The Chair asked if there were any questions. Michael Wernick asked if the residential portion would be constructed first. Mr. Tancredi stated it would.

Ms. Gandolfo reminded the Board the village does have monthly rental parking across the street or on Elm Street so there is permit parking available for tenants.

The Chair stated this is a ground floor space that is sitting empty and located on a main street. He stated it is hard to tell someone they need to keep their building empty when it is on a thoroughfare and even though they could apply for a use variance, the parking requirement for warehouse use is not that different from the requirement for retail use. As far as the residential portion, two units area being created where none had existed before, although the parking offset for one unit as opposed to two units is not that different

He showed the location of the deck and stated that current landscaping screening would be removed to construct the deck, although there is additional screening landscaping between the property and the neighbor to the rear.

The Chair asked for a motion to open the Public Hearing:

Moved: Koffler

Seconded: Judge

Vote: 5-0

Absent: Gorete-Crowe, Bishko

PUBLIC HEARING

ARTHUR MCKINLEY, 18 Kingsland Road stated that he was the writer of the letter to the Board regarding this application. He clarified where the neighbors who co-signed the letter, live in relation to the property requesting the variance. He stated all the vegetation seen in the photos is on his property. He is the nearest neighbor.

Mr. McKinley stated he is opposed to variances because they are damaging to the neighborhood and he feels the Zoning Board is here to enforce the zoning code. He believes the house is fairly large for the lot and they could construct a deck which doesn't encroach on the setback line. He feels this is major construction that is turning an existing non-conforming lot into a much larger non-conforming lot.

DAVID IMPASTATO, 9 Hemlock Drive, stated he is the husband of the applicant. They have an extended family including elderly parents that spend time with them and could use an extra bedroom to accommodate them. He stated the house was built in 1958 and never renovated. They are redoing the kitchen and since the patio is not close to the kitchen, it would be easier for their parents not to have to go up and down stairs to the patio area. They can supplement vegetation so the deck would not be seen by the neighbors. He stated they have a legal non-conforming house and would need a variance even if they built a much smaller deck. He stated they already have a patio that is approximately the same distance from Mr. McKinley's house as the proposed deck.

The Chair made a motion to close the public hearing.

Moved: Koffler

Seconded: Church

Vote: 5-0

Absent: Gorete-Crowe, Bishko

The Chair asked Mr. Schlomann decided on a 14-foot deck. Mr. Schlomann stated there were several factors including the size of the table, the bbq grill, and the number of people who would be on the deck.

Timothy Church asked if it was possible to gain the same amount of space by making the space closer to the house but wider. David Impastato stated they are willing to consider a compromise.

The Chair asked what possible mitigation they could come up with to lessen the extent of the variance request. Mr. Schlomann stated they did not want to make the deck wider. Timothy Judge suggested extending the deck two-feet to the east and aligning the stairs

with the existing patio. Mr. Schlomann asked the owners if they would consider that. They nodded. Discussion ensued regarding the placement of the deck and the stairs to the patio below.

Sean McCarthy asked the height of the deck off the ground. He asked if there was a step down from the house or if it was flush with the house. Mr. Schlomann stated the deck was 32-inches from the ground and there was one step out of the house and then another four risers down. Mr. McCarthy asked if they had considered lowering the deck from the house and removing the guardrails. Mr. Schlomann stated they had considered it but felt they needed it for small children and privacy reasons.

Michael Wernick asked how many surrounding properties could view the deck if there were no landscaping. Mr. Impastato stated there was a variety of landscaping and shrubbery with some spaces in between the shrubs so it might be seen. Mr. Schlomann stated the owner would supplement that landscaping. He stated it was fairly well screened from the street.

Timothy Church asked where the vegetation would be supplements. Mr. Schlomann showed along the rear property line. Mr. Impastato stated they would be moving the gate that currently faces west towards the south and covering the corner with higher vegetation.

The Chair stated he was comfortable granting the variance with the following condition:

- The deck should be scaled back southward by 2-feet in depth.

He stated this variance wouldn't have a detrimental affect on the neighborhood or the environment based on the overall lot size. He stated the Board evaluates every variance and since the overall size would be scaled back two feet, this is not a substantial variance. He doesn't want to mandate landscaping since it is difficult to monitor and very subjective. The Chair stated the applicant would most likely be concerned with their privacy and would want to install privacy shrubbery.

The Chair made a motion to grant the variance based on the condition that the deck is scaled back southward by two feet, although it could be built more westward but not eastward.

Motion: Koffler
Vote: 5-0

Seconded: Church
Absent: Gorete-Crowe, Bishko

3) Approval of Minutes

May 15, 2013

The Chair made a motion to approve the minutes of May 15, 2013.

Moved: Koffler
Vote: 3-0

Seconded: Wernick
Abstained: Brown, Church

Absent: Gorete-Crowe, Bishko

The Chair made a motion to adjourn the meeting.

Moved: Koffler

Seconded: Judge

Vote: 5-0

Absent: Gorete-Crowe, Bishko

The meeting was adjourned at 9:37pm.