

VILLAGE OF NEW PALTZ PLANNING BOARD
REGULAR MEETING
APPROVED MINUTES
April 1, 2014

Present: Maurice Weitman, Chairman
Richard Steffens
Elizabeth Harschow
Michael Zierler
John Litton

Also Present: Thomas Rocco, Village Board Liaison
Brenda White, Village Planning Director
George Rodenhausen, Village Planning Board Attorney
Brogan O'Donnell, Village Planning and Zoning Board Secretary

Call to Order:
Chairman Weitman, called the April 1, 2014 Regular Meeting of the Village Planning Board to order at 7:05PM

ZBA Referrals:
The Planning Board reviewed and made recommendations on applications that were referred from the ZBA.

ZBA 14-02: Proposed 25' Setback Variance– 5 Taylor Street
ZBA 14-03: Proposed 15' Setback Variance –7 Taylor Street
ZBA 14-05: Proposed 25' Setback Variance –20 Cooper Street
ZBA 14-06: Proposed 25' Setback Variance –9 Taylor Street
Area Variance Application
Applicant: David Todder, RA of BOLDER Architecture, PLLC
Zoning District: R-1, residential
00:02:45-00:17:00

The Planning Director, Ms. Bren White, provided a memo regarding these applications which reads:

- ❖ **ZBA 14-02 & 14-03:** I have no problem with the requested front yard setback variances in order to build the houses further from the existing stream and thus closer to the street than is legally allowed in this, an R-1 zone.
- ❖ **ZBA 14-05 & 14-06:** Both of these Area Variance applications request to build homes closer to the road than is allowed by zoning in this R-1 district. Based on other homes in the area, the basic principles of New Urbanism design, and the idea of clustering development toward the road to allow for green space, I have no issue with granting the requested Variances. I should also point out, however, that this is likely the time for the Village to consider if the current setbacks are appropriate in this or any zoning district in the Village.

The Planning Board Attorney, Mr. George Rodenhausen, provided a memo regarding these application as well, which reads:

The agenda items for this meeting are all responses to ZBA referrals for residential setback area variances. Under 212-59A(4), the ZBA must transmit a copy of the variance application to the PB at least 30 days before the public hearing so that the PB may review and submit a report of its opinion prior to the hearing. Planning Board failure to submit a report is considered an approving opinion. The ZBA may approve the variance, notwithstanding a negative recommendation from the PB. No supermajority Vote or explanation is required.

Neither the Code nor state law provides a legal standard for the PB review. In contrast, under NYS Village Law 7-712-b(3)(b), the ZBA must explicitly considers factors: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

The role of the PB in this context is not necessarily to duplicate the ZBA's task, nor is it to interpret any particular section of the Code. It is rather to apply its broad understanding of planning principles and its understanding of the Comprehensive Plan and Zoning Law in determining whether this is the type of area variance the Village should be granting. I realize this is a fine distinction, but there is no clearer guidance.

The PB should adopt a resolution by voice vote for each application. In each case the RAPPORT MEYERS LLP Meeting Memo to Maurice Weitman and Members of the Village Planning Board April 1, 2014 person who moves the recommendation should state the reason for the recommendation. Brogan can then transmit a copy of the minutes to the ZBA as the report.

1. ZBA 14-02: Proposed 25' Setback Variance—5 Taylor Street
2. ZBA 14-03: Proposed 15' Setback Variance —7 Taylor Street
3. ZBA 14-06: Proposed 25' Setback Variance —9 Taylor Street
4. ZBA 14-05: Proposed 25' Setback Variance —20 Cooper Street

I have grouped these 4 area variance requests, as they are all from the same builder and relate to the same neighborhood. With the three properties on Taylor Street, the requested front yard setback variances are, in the applicant's opinion, justified by the need to stay clear of the stream in the rear yard. The zero net energy concept appears to be similar to LEEDS design, in which conflicts with natural resources are discouraged. The question for the PB is whether it will support this principle as a planning matter, and whether this applicant has made a sufficiently strong case. The single-family residences appear to be compatible with the other homes, even if the variances are granted.

The application for 20 Cooper Street is different in that this property does not have a stream in the rear yard. The only justification offered is the desire to build the house as close to the road as possible. This could be left to ZBA discretion to determine whether the 25' variance would be compatible with existing homes. However, if 5, 7 and 9 Taylor get their variances, this home would be compatible with those setbacks. The fact that the 2001 rezoning pushed back the setbacks is a relevant question. Was the increased setback intentional or an unintended consequence of a rezoning enacted for other purposes? The PB may want to consider the background of the zoning change.

Mr. Steffens moved to positively recommend ZBA14-02, ZBA14-03, ZBA14-05 and ZBA14-06 to the Zoning Board of Appeals. Mr. Zierler seconded. 5 Ayes. 0 Nays. 0 Absent. Motion Carried.

The Applicant, Mr. David Todder, spoke about his upcoming proposal to the Village Board of Trustees regarding a zoning change request from R-1 to R-2 for the Green Acres subdivision.

ZBA 14-04: Proposed Conversion of Attic to 1 Bedroom Apartment –11 Lincoln Place

Area Variance Application

Applicant: Prospect Estates, LLC

Zoning District: R-2, residential

00:17:02-00:27:30

The Planning Director, Ms. Bren White, provided a memo regarding these applications which reads:

The parcel in question, parcel # 86.42-3-7, is not large enough to allow two dwelling units without an Area Variance for lot size (Village Code §212-13(4)). While this is an R-2 zone which allows for medium density residential, the parcel and house in question do not lend themselves to being a two-family home. A cape cod style house is typically built as a one-family home and what the applicant calls an “attic” is typically second floor living space. While I certainly understand the need for additional housing options in the Village, I’m not sure that the solution is to transform obviously single-family homes on small lots into apartment buildings.

The Planning Board Attorney, Mr. George Rodenhausen, provided a memo regarding this application as well, which reads:

If this were an owner occupied single-family residence, then the addition of an accessory apartment would require a special permit from the PB under 212-41H. That section provides that “a special use permit may be granted to allow a single-family detached dwelling to be converted by adding one additional apartment unit” provided, among other things, that “The dwelling unit is the legal residence of the owner” and “The lot size shall contain at least 7,260 square feet.” If the home is not owner occupied, then this must be considered a request to create a two-family house on an undersized lot. To my mind, the existence of 212-41 H implies to me that an accessory apartment on a lot too small for a two-family home should be permitted only if the owner lives in the residence, and then only by a special permit. Since the owner does not live in the residence and does not qualify for the special permit, the PB could reasonably recommend this application be denied. It would be appropriate for the PB to consider what type of density it wants to see in this neighborhood and whether this precedent is the proper direction.

Mr. Steffens moved to recommend denial of ZBA14-04 to the Zoning Board of Appeals. Ms. Harschow seconded. . 5 Ayes. 0 Nays. 0 Absent. Motion Carried.

Adoption of Draft Planning Board Minutes from March 18, 2014

00:27:30-00:27:50

Mr. Steffens motioned to adopt the Draft Planning Board Minutes from March 18, 2014. Mr. Zierler seconded. 4 Ayes. 0 Nays. 1 Abstain – Mr. Litton. 0 Absent. Motion Carried.

Adjournment

Mr. Steffens moved to adjourn the Planning Board Meeting. Ms. Harschow seconded 5 Ayes. 0 Nays. 0 Absent. Motion Carried.

The Tuesday, April 1 2014 meeting of the Planning Board was adjourned at 7:32pm.

Respectfully submitted by,

Brogan O’Donnell
Planning and Zoning Secretary for the Village of New Paltz