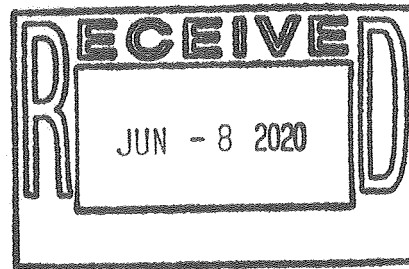


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March 4, 2020

Mr. Darrin J. Scalzo, Chairman
Town of Newburgh, NY
Zoning Board of Appeals
Old Town Hall
308 Gardnertown Road,
Newburgh, NY 12550



March 5, 2020

**Re: PROPOSED AREA VARIANCE for 15 Brooker Drive Garage Reconstruction Project
SBL 22-10-5 1110 – 72 nd Street LLC.**

Dear Mr. Scalzo:

I am writing this letter after our May 28, 2020 Zoom Meeting and review of the meeting minutes, available on the Town website.

I regret that I was not able to introduce and present the project as we normally may have in an actual town hall meeting. It seemed as though the Board Members were fixed on the condition of the dilapidated porch at the left side of the home, rather than the town zoning requirement 185-19-C (1) which addresses the individual side yard distances and combined side yard totals for homes constructed on lots that predate the town code and the building code.

In this connection, that passage in the town code deals with rectifying the disconnect between the past and the present and the homes relationship to their lot lines. The condition of the porch should not be considered in this matter. The owner has a young family that is waiting for your approval and will move forward on the purchase of the home and make necessary repairs to the porch at a later date.

As a point of information, I did speak with Mr. Canfield on the telephone after the meeting, asking him to offer more guidance as to the application of the town code to many similar projects of this nature in the town ZBA history. I have copied Mr. Donovan as well.

Explanation:

The home was constructed in 1956 before the adoption of the Building Code and Zoning Laws. The garage attached to the home that was shown on the Town property card, was repaired in 2007 following notice to make repairs by the Building Inspector, Gerry Canfield, in 2006. The property card shows the original dimensions as 20'x23' (460 SF). The tax bill reflects these dimensions. For the record, I am asserting the garage is 16'x22' (352 SF) because I measured it recently. It is not larger than its original footprint.

In 2007, Joe Mattina performed a follow up inspection of the garage. The former owner did not obtain a building permit for the work associated with repairs prior to the adoption of the property maintenance code. Mr. Mattinas' inspection resulted in the note on the property card concerning the *non-permitted* garage reconstruction that set these events into motion.

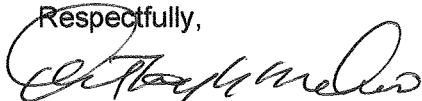
A FOIL request of outstanding property liabilities, initiated by the current owner, was completed by the town building department and it was not an issue prior to the sale of the home.

Many of the homes constructed during that time period have variances with the setback requirements of the bulk table. This home is located in district R-3 and is covered under Bulk Table 5. A drawing was submitted for review that identifies the issue of having less than 30 foot combined left and right side yards. There is an exception in the zoning law for homes that are located in R-3 district under 185-18-A(1), and 185-19-C(1) that recognizes these historical variances from the current code. Under these provisions, the home can not be expanded, or made more non-conforming on that lot.

The project included only the reconstruction of the garage that is reported to have occurred in 2007. The 22'x16', (352) SF wood framed structure appears to have been re-constructed atop the existing foundation wall. A building permit to complete the garage is a logical next step, following the ZBA's approval of the variance request.

As always, thank you for your assistance in this matter. Please distribute internally to ZBA members.

Respectfully,



Anthony Meluso, PE
Gardiner Engineering

Cc: David Donovan, Esq.