



TOWN OF  
**BEEKMAN**  
*New York*

4 Main Street  
Poughquag, NY 12570  
[www.townofbeekman.com](http://www.townofbeekman.com)  
(845) 724-5300

**Town of Beekman Zoning Board of Appeals  
Minutes of April 4, 2024**

The Town of Beekman Zoning Board of Appeals met for their regularly scheduled meeting on Thursday, April 4, 2024 at the Beekman Town Hall at 7:00 PM.

The following members were present:

Acting Chairman: Phil Capalbo  
Cristian Hanganu  
Stella Slattery  
Maria Rodrigues

Also present:

Town Attorney – Craig Wallace  
Secretary – Aletha Bourke

P. Capalbo – Meeting called to order at 7:07pm  
Led the Pledge of Allegiance  
Indicated emergency exits and restrooms

P. Capalbo – Two items on agenda. Smith accessory building 45 Baker Rd and Scharteau expansion 426 Old Route 55. The first applicant is seeking an area variance for existing structure.

**PUBLIC HEARING**

- 1. Smith Accessory Building – Area Variance**  
45 Baker Rd.  
Grid # 6658-00-870966  
Zone R-90

Town Code §155-26A(1)(c) requires that the accessory structure shall be no closer to the street than the front of the principal structure and the existing structure is currently located in front of the principal structure. Applicant seeking variance relief from the requirement.

Michael Bitzko, Applicant's Representative – Representing Patricia Smith for the structure in front of the house.

P. Capalbo – Asks how long the structure has been there.

Michael – Mr. Smith bought the house 27 years ago. It was there prior to that.

P. Capalbo – Looking for area variance for §155-26A(1)(c). Asks town attorney if this is just for garage being in front of the principal structure or if there were other variance issues.

Board members review measurements and bulk table.

P. Capalbo – There are actually 2 variances you are looking for. One you have noted for §155-26A(1)(c) for the existing shed in front of the principal structure. The one that is not on the application, which we are willing to adjust so we can hear the whole application, is the front yard. R-90 requires a 75-foot front yard setback and you have 32 so you would be looking for a variance of 43 feet to the front yard also. If ok, will adopt into application and we know there are two variances. Asks applicant to read 5 balancing questions into record. Suggests the applicant answer for the principal structure and then repeat for area variance.

Michael – Review of 5 balancing questions. Response 1.) No. There's no changes, the building already exists over 27 years. 2.) No. It has a poured slab on the bottom of it. 3.) No. Asking to leave the building in front of the house that has been there for over 27 years. 4.) No. The building has been there prior to purchasing the house by the existing owner over 27 years. 5.) No. The building was there prior to their purchase.

P. Capalbo. We will consider that as the 5 questions for the principal structure. If you could read the questions for the road frontage variance.

Michael - Review of 5 balancing questions. Response 1.) No. No changes. The building's been there existing for over 27 years. 2.) No. It is on a slab and can't be moved. 3.) No. Asking to leave the building in front of the house that has been there for over 27 years. 4.) No. The building has been there prior to purchasing the house by the existing owner over 27 years. 5.) No. The building was there prior to purchase.

C. Wallace – Asks if applicant is he is trying to legalize a prior structure or if it is new.

P. Capalbo – Confirms it is existing.

**P. Capalbo – Motion to open public hearing. Seconded by S. Slattery. All in favor. Motion carried.**

No comments

**P. Capalbo – Motion to close public hearing. Seconded by M. Rodrigues. All in favor. Motion carried.**

S. Slattery – Asks if the structure was built at the same time as the house.

Michael – Believe the original owner took out a permit.

P. Capalbo – Zoning Administrator had said it was originally a carport and then closed in.

C. Wallace – Last sale 1974 so pre-existing non-conforming.

P. Capalbo – Comments that there appeared to have been a tree or planting at one time and questions if applicant would be willing to add plantings between barn and road.

Mike – Don't see a problem.

C. Wallace – Adds that cannot be a condition for consideration of this board. As a result of it being unclear when the structure was built, there is not enough information to determine legal non-conforming use so for your consideration, you may legalize it based on the area variances that are before you just in case there is a question by the owner. By doing that, you'll address the non-conforming use issue that we don't know was not considered by the zoning administrator.

M. Rodrigues – Can you add that if something happens with that structure, the setbacks will have to go back to conforming.

C. Wallace – That would be a separate application if that occurred.

C. Hanganu – If we are legalizing it then he can restore it.

C. Wallace – Only if within the footprint if it is non-conforming. You can consider the 2 area variances before you or get more clarification from the Zoning Administrator as to possible non-conforming use, which she may determine doesn't require a determination by you.

Board members discuss options.

C. Wallace – You have to make a motion to consider the variances and if it doesn't pass, then you can make a further motion.

**P. Capalbo – Motion to grant variances as stated in the application and amended for the principal structure §155-26A(1)(c) and front yard setback for R-90 for relief of 43 feet. Seconded by C. Hanganu.**

**M. Rodrigues – Nay**

**S. Slattery – Nay**

**2-2 Motion failed.**

C. Wallace – If determined by Zoning Administrator to be pre-existing non-conforming, a letter can be issued and the applicant will not need to return.

**P. Capalbo – Motion to adjourn public hearing to May 2, 2024. Seconded by C. Hanganu. All in favor. Motion carried.**

**1. Scharteau Expansion – Area Variance**

426 Old Route 55

Grid # 6858-00-128494

Zone R-135

P. Capalbo – Reads aloud details from agenda as written.

**P. Capalbo – Motion to introduce project and hear applicant. Seconded by C. Hanganu. All in favor. Motion carried.**

Michael Gillespie, Project Engineer – Gives description of property located in R-135. Buildings were up prior to zoning. Intent of applicant is to install porch in front increasing footprint. Distributes photos of existing to board members. Removing and replacing garage.

P. Capalbo – Asks applicant to review 5 balancing questions.

Mike – Responses apply to both variances. 1.) The buildings on the property do not currently meet existing setback requirements for the zone and it would be an enhancement. 2.) No. Building already exists. 3.) Not when you take into account what the existing setbacks are compared to what we're proposing. 4.) No. The non-conforming setbacks largely exist and there are other properties along that strip that are less than the R-135 zoning district as compared to the area and also setbacks. 5.) No. The home existed prior to the R-135 zone change for the area. The house and garage were constructed in 1950. He bought the property more recently so the board can decide if that is self-created. He did not intend to do all this work.

**P. Capalbo – Motion to open public hearing. Seconded by C. Hanganu. All in favor. Motion carried.**

No comments

P. Capalbo – The first variance was for total square footage. Is the proposed garage continuation of existing use as a garage.

C. Wallace – Asks how large the enlargement will be.

Mike – 800 square feet. The use is permitted.

Paul Scharteau – Provides description of garage layout.

C. Wallace – I don't even think you can consider enlargement of the structure. It has to stay within its existing nonconforming footprint. You're barred by even considering it under §155-58 F(2)(b). You're going to have to make a motion to go back to the Zoning Administrator for a determination on the enlargement of that structure.

Mike – Comments that the ZA is the one that sent them to the ZBA and that she was given a full set of plans as well as the map.

C. Hanganu – Asks if the applicant has dimensions of the current garage and what is being proposed in terms of the enlargement. Does not see dimensions, just setbacks.

Mike – Don't have a copy of the cover letter. It was mentioned in the cover letter.

P. Capalbo – Size was going from 240 sq ft. to 855 sq ft.

Paul – States that measurement is inaccurate. Its 30 ft wide maybe 20 ft deep. Want to add to back to make deeper and fit a car.

M. Rodrigues – Questions height and if property slopes down in the back.

Paul – Confirms garage will be higher than the house a little slope but pretty flat.

P. Capalbo – The agenda and denial have 240 sq ft as the size of the existing structure which is already 25% of the principal structure.

Paul – Confirms the current garage is bigger than that.

Mike – We thought we were coming for a setback variance. If there is something else relative to the size, that's new.

C. Wallace – Confirms code section §155-58. It's mandatory language in there. (Provides copy to applicant)

C. Hanganu – Section F covers non-conforming structures. Part 2 talks about altering those structures so if altering, would be covered under that section.

Mike – Both are legal non-conforming structures.

C. Hanganu – We can't consider you enlarging that structure as part of what we're considering here. What we had were setbacks but what you're asking is to enlarge the structure and under this section, we can't consider that.

Mike – Read exceptions under number 2 aloud and suggests the barn may not be in safe condition.

P. Capalbo – What about alterations to bigger than footprint?

Mike – Rereads code section with exceptions.

C. Hanganu – Asks applicant if he is representing to the board that the structure must be enlarged to be safe.

Mike – Not necessarily.

C. Hanganu – The enlargement is to make it more functional. The question is whether we can consider the enlargement.

Mike – Asks if that code section was indicated in the referral from the building department or just setback variances.

C. Wallace – Not sure what the building inspector considered. Need to get clarification as to whether §155-58 even allows the referral.

C. Hanganu – That is why we need the dimensions to establish current and proposed.

Mike – This was not brought up by the ZA so we were not prepared.

Paul – Confirms he met with building inspector and gave all needed documentation.

Mike – Expresses concern with code.

C. Wallace – For the Town Board to decide. You can only stay within the laws you're given. Think public hearing should stay open in case of denial. Should be clarified. You might be able to consider the porch.

M. Rodrigues – Confirms applicant is looking to keep the structure in same spot and enlarge towards the back. The structures will look like separate buildings. Looks like a double size garage. Questions need for variance if within footprint.

P. Capalbo – Back is now the corner has to be to code and would be too close to side yard.

C. Wallace – The code says it shall not be enlarged. It's mandatory language of this board has no discretion. That is where the ZA comes in.

Brief discussion regarding structure size.

P. Capalbo – The relief is for §155-26A(1)(d)[1] for garage exceeding 25% of the principal structure.

Mike and Paul confirm they did not receive the denials.

P. Capalbo – Provides copy of denial to applicant. Explains to applicant that the denials from the building inspector have the garage being almost 90% of the principal structure and the zoning only allows for 25%.

Paul – Comments that the structure is 25% currently. It's 30 ft. We're leaving the same width footprint and pretty sure it's 20 so 600 sq ft.

Mike – Will prepare a letter to the ZA indicating the existing sizes of each of the structures. Suggests zoning change.

C. Wallace – In all fairness to applicant, should adjourn to next month.

**P. Capalbo – Motion to adjourn to May 2, 2024 to allow for clarification by ZA. Seconded by C. Hanganu. All in favor. Motion carried.**

**P. Capalbo – Motion to close meeting. Seconded by M. Rodrigues. All in favor. Motion carried.**

Meeting adjourned 8:06 pm.

Respectfully submitted

Aletha Bourke  
Planning/Zoning Secretary