



TOWN OF  
**BEEKMAN**  
*New York*

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**Town of Beekman Zoning Board of Appeals  
Minutes of August 6, 2024**

The Town of Beekman Zoning Board of Appeals met for their regularly scheduled meeting on Tuesday, August 6, 2024 at the Beekman Town Hall at 7:00 PM.

The following members were present:

Chairman: Cristian Hanganu

Phil Capalbo

Linda Porter

Also present:

Town Attorney – Craig Wallace

Secretary – Aletha Bourke

C. Hanganu – Meeting called to order at 7:03pm

Led the Pledge of Allegiance

**C. Hanganu – Motion to approve meeting minutes from October 2022, November 2022 and June 2024. Seconded by Porter. All in favor. Motion carried.**

**PUBLIC HEARING**

**1. Jett Management – Area Variance**

2561 Route 55

Grid # 6759-00-676251

Zone TC

C. Hanganu – Reads agenda description aloud.

William Besharat, Representative for Applicant James Treanor – Were seeking Special Use Permit from Planning Board a couple weeks ago for permitted multi use zone. Meet all requirements except town code requirement that apartments be 800 sq. ft. which they are not. One of the apartments is existing. The other two were office spaces that are becoming a hardship so working with planning to change to apartments. Meet 5 criteria for zoning just not the 800 sq. ft. requirement.

C. Hanganu – Confirms understanding that one apartment and two commercial spaces currently exist, and applicant is seeking to convert to a total of 3 apartment spaces. Asks applicant to review five balancing criteria.

William – 1. Will an undesirable change be produced to the character of the neighborhood or detriment to nearby property created? Answer is no. Many buildings in the area including the building adjacent right next door to the site has apartments with substandard square footage. 2. Can the desired result be achieved by some other means than granting a variance? Answer is no. The spaces for the apartments already exist and not proposing any construction or additions to the property to modify. 3. Is the variance substantial? Not really because we are not creating anything substandard. 4. Will the variance have an adverse effect or impact on the physical or environmental conditions of the neighborhood? No. Not proposing any construction to take place, therefore no environmental impact to neighborhood. 5. Is the alleged hardship self-created? Answer is no as the square footage of the apartments is existing.

C. Wallace – Points out that the application is before the Planning Board and has been deemed a Type 2 Action under SEQR.

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

No comments

**C. Hanganu – Motion to close public comment. Seconded by L. Porter. All in favor. Motion carried.**

Linda – Questions size of septic tank and well depth.

William – 1250. Is in compliance. Will be working with health department through planning board process to monitor well etc.

P. Capalbo – Layout is this way due to existing. No walls put up?

C. Wallace – Questions aggregate square footage.

William – Almost 1900

C. Wallace – Was indicated as 2010 on number 3.

William – Mechanical and storage added as well.

C. Wallace – Indicates to board 2010 out of 2400 for your consideration.

C. Hanganu – Questions separation of space in terms of current internal layout.

William – Concrete block wall.

P. Capalbo – Asks the applicant if there was ever any consideration of make it two apartments and stay within code.

William – Having two apartments will not cover the expenses of the building and will create a hardship for the owner.

C. Wallace – This is a unique feature of the town center, the minimum square footage. It's not throughout. Confirms there is no minimum outside of town center.

P. Capalbo – Asks if it is already metered for 3 sections of the building.

William – Confirms yes.

P. Capalbo – Confirms Apartment a 486

William – Indicates above requirement for NY state building code.

C. Hanganu – Notes to the applicant for the record that there is not a full board.

P. Capalbo – Indicates the applicant has the right to be heard by a full board. As there are only three members present, the vote would have to be unanimous.

William – Asks for straw vote.

Board members discuss unit sizes.

L. Porter – Inquires about revenue for rental units.

William – 1200-1500 plus utilities.

C. Hanganu – Indicates after discussion it may be better for applicant to represent to full board.

William – Asks for adjournment.

**C. Hanganu – Motion to keep public hearing open and adjourn to September 3, 2024. Seconded by P. Capalbo. All in favor. Motion carried.**

**2. Ponzini/Su New Residence – Area Variance**  
55 Schoolhouse Ln.  
Grid # 6559-00-673206  
Zone R-90

C. Hanganu - Reads agenda description aloud

Jared Ponzini/Jennifer Ponzini, Applicants – In contract to buy lot from current owner. Requesting variance for front setback to be 40 ft. Current code is 75. Want bigger backyard, distance relief from Sylvan Lake Rd and conformance with neighborhood.

C. Hanganu – Asks applicant to review 5 balancing criteria.

Jared – 1. Will undesirable change be produced in the character of the neighborhood? Will not cause any undesirable change in the character of the neighborhood as determined no detriment to the nearby properties created. Home will appear on similar setbacks as nearby properties. 2. Can desired result be achieved by means other than granting variance? It cannot be achieved by other means. 3. Is variance substantial? Do not believe it is. 4. Will variance have adverse effect or impact on physical or environmental conditions of the neighborhood or district? The variance will not have an adverse effect on the physical or environmental conditions of the neighborhood? The property has been approved by the Dutchess County Department of Health for well and septic. 5. Is the alleged hardship self-created? The need for the variance was not self-created as the lot was created prior to current zoning. Current owner has variance for 50 ft setback. Don't know if that carries over.

C. Wallace – It's a 35 ft. variance. Current variance has no bearing. There appears to be an approved septic system which defines where the house has to be.

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

Brian Drake, 37 Schoolhouse Ln – Live next door. Just wanting to know what is going on. Don't really have a problem with changing the footage from the road. Not sure if already purchased but always heard there was a water problem there. Any time it rains, always see a foot of water in there so just want to know where the house is going to be and where the septic is going to be for them and for me whether will move toward my house or more towards up the hill.

Jared – Indicates on plans and is pointed out areas of concern by member of public.

P. Capalbo – Asks member of public to sign comment sheet. Asks if there are other comments.

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

C. Wallace – For your consideration, it would be a 35 ft variance, where 75 is required and 40 is proposed.

C. Hanganu – Asks for clarification on the type of home, what is the top level, what is happening below the home? Garage? Basement space?

Jared – Confirms it is a raised ranch with 2-car garage and basement space below.

P. Capalbo – Confirms the need for minimum front yard setback in that zone is 75 ft. and they have 40 ft., looking for 35 ft. for the variance.

Board members discuss distance to road and location of house.

C. Hanganu – Inquires about direction of slope.

Jared – Goes up in the back. Lot is below Sylvan Lake. Sharp hill behind.

P. Capalbo – Because of where the septic was preapproved for, the house has to be built right where it's set at. When the contractors come in and grade, all that will be taken care of with drainage behind the

house, drainage in the front of the house, everything to the road. That is our big concern besides the Planning Board having approved plans is the septic being approved and the variance.

**C. Hanganu – Motion to grant 35 ft. setback variance as requested for Ponzini/Su, 55 Schoolhouse Ln, Grid# 6559-00-673206. Seconded by P. Capalbo. All in favor. Motion carried.**

**3. Heckmann Addition – Area Variance**  
9 Maple Rd.  
Grid # 6657-08-786977  
Zone R-45

C. Hanganu – Reads agenda description aloud.

Steve Whalen, Whalen Architecture representing the applicant/property owner Michael Heckmann. Proposing two additions on the house; one on the east side, one on the west side. East side is to extend existing family room and same with the garage on the west side. Where the house currently exists is outside of the building area, outside of all four setbacks and can't go any direction without requiring a variance.

C. Hanganu – Asks applicant to review five balancing criteria.

Steve – 1. Will undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by granting the variance? We say no because the new additions, the style of the new additions, is going to match existing residents. 2. Can the desired result be achieved by some other means than granting a variance? We're saying no again since the existing house is outside of the buildable area and would need a variance for any direction that we go. 3. Is the variance substantial? Said no because if it were within the buildable area, it would only be a few feet left side and right side but because it's within the front yard setback, it could be argued substantial but any direction we go will need a variance. 4. Will the variance have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district? Kind of same answer as number one. It's not going to have an adverse effect. It's going to match the design of the existing house. 5. Is the hardship self-created? Yes, because we're looking to expand the existing house but you can't fit a standard size vehicle in the garage and the family room on the east side is pretty tight.

**C. Hanganu – Motion to open public comment. Seconded by L. Porter. All in favor. Motion carried.**

No comments

**C. Hanganu – Motion to close public comment. Seconded by L. Porter. All in favor. Motion carried.**

P. Capalbo – States he would like counsel to advise on a concern. Asks what year house was built.

Michael Heckman, Owner – 1935

P. Capalbo – House was built in 1935, so before zoning laws existed. This has come up a lot considering §155-58 of Town Code considering non-conforming buildings, lots and uses or anything built before zoning laws, there's language that tells us that if there's already a pre-existing non-conforming home you

can build up but you can't expand the footprint front, back, sideways. Run into this before. Like to defer to counsel.

C. Wallace – They can build up and they can build anywhere that's conforming. As long as it's conforming to the present zoning dimensions.

P. Capalbo – As far as needing a variance, taking the non-conforming and continuing that non-conforming, they could or couldn't?

C. Wallace – They can't make it more non-conforming which is what is happening with this addition. The side setbacks are becoming more non-conforming but it appears you can go into the rear. The rear is 35 yards.

Michael – The rear is the porch area.

L. Porter – The garage is small.

P. Capalbo – The problem we're having is the zoning law affects already non-conforming make it even more non-conforming.

C. Hanganu – Asks counsel to confirm understanding that we actually can't vote to give a variance to enlarge a pre-existing non-conforming beyond the size of its current footprint. We wouldn't have the authority to do that.

C. Wallace – You don't for side setbacks in this example, but you do for the rear because the rear yard setback is 35 ft. and it appears there's plenty of room.

C. Hanganu – If we were just considering this one piece of the proposed enlargement that was just the part that would take the house backwards, we could.

C. Wallace – As long as the area is shaded.

C. Hanganu – Only the shaded area that is behind the existing footprint.

C. Wallace – Correct. Could square off. Appears on both sides.

C. Hanganu - The board is bound by what the Town Code allows us to consider and right now the code specifies that for existing non-conforming (structures built prior to zoning), what we can consider is any modification that either brings it more into compliance with zoning or that does not extend it out more into outside of what is currently zoned. Looking at what you have laid out here, if you took the footprint of the house, you could take those two corners on the back and go out toward the back of the property consistent with what you have there and we could consider that. We couldn't consider enlarging the variance on the sides based on the Town Code because you're taking a home that's already outside of the existing variances and you want to go even further outside of those variances. The board doesn't have the authority.

P. Capalbo – Asks how far off the house is the septic tank. Trying to see if they went square back and not out at all, where they would be before infringing on septic tank. That would be a board of health issue.

Steve Whalen – With this being a non-conforming lot, is there another board to present to that could override the decision?

C. Hanganu – Understand there is no issue with going vertically. You could build up if you wanted.

C. Wallace – That is correct. Stay within the current footprint under the current zoning law. You could go to the Town Board and ask them to change the law.

L. Porter – He doesn't want to go up. He wants to take a room and make it bigger.

Steve – It was my understanding that is what the variances were in place for. Understand law regarding pre-existing but applicant has no control. Is really unfair. He didn't move the house forward.

P. Capalbo – Doesn't happen often but it is the code until it is changed. Even if we get past that consideration, we know how tight the houses are on that road going side to side and that would make it even tighter. Working with parameters of law that hamstrings us. Questions where to go with this.

C. Wallace – Can only go to the legislature. If you look at the left side yard of your present home, it actually meets the setback of 20 ft. It's 21.6 ft.

Steve – We could come out another 18 in. but that is not going to help.

C. Wallace – This is something where the ZBA is handcuffed.

Board members discuss lack of wiggle room in conforming with the regulation.

C. Wallace – Indicates the left side is legal at the moment.

Steve – Very small garage. Not even standard size for a car. Defeats the purpose.

P. Capalbo – It's not something we can vote on because of that law.

Board members briefly discuss alternate configuration options.

Steve – Asks if there's anyone that can be recommended to talk to further about this such as Planning Board.

C. Wallace – Barring legislative change, no. Encourage you to look at §155-58G. On the right-hand side, you already have a non-conforming side setback of 17'8". You're proposing 13'7". You need 20' and it says the non-conforming use of a structure may be continued subject to the following restrictions: enlarging or extending structures; such structure shall not be enlarged or extended beyond the present structure. The word shall is mandatory.

C. Hanganu – As a board, the fact that our hands are tied on this is very unhelpful because the idea of the board is that we are here to consider things and to be able to grant these variances. From my point of view, the way the code is currently written doesn't allow us to do our job. Sorry that is the case. If there is a way of going back to rethink the way the space is used in light of the fact that you could go backwards on the footprint for those corners and if you switch with the other side, not what you were proposing but may achieve a similar objective you're trying to accomplish.

Michael – Don't see that being possible.

P. Capalbo – Asks if there is any way to get a detached garage behind the house.

Michael – Don't think to put another structure on a small piece of property like that would be fair to the neighbors.

Steve – Does that law speak to accessory structures?

C. Wallace – Still need conformance.

C. Hanganu – Could we consider variances on a new structure?

C. Wallace – As long as it meets the bulk area restrictions.

C. Hanganu – Unfortunately our hands are really tied on the existing structure because it's nonconforming as it sits now. If you wanted to build a new structure say behind the house, a garage, then that we could consider if there was a need for variances. We couldn't consider an enlargement to the left and right side to the existing structure.

Steve – Asks about taking the garage off the house reducing the footprint, and replace with detached garage in that footprint.

C. Wallace – Provides code section to applicant.

P. Capalbo – At this point we can't really do anything to help the cause or even give you a good direction. It's not even something we can vote on the application.

Steve – Asks when the zoning code comes up for renewal. Applicant had no idea about this. Sounds like the law is backwards and should be grandfathered considering pre-existing non-conforming situation.

C. Wallace – That code revision would be subject to public comment as well so public comment from professionals like yourself is appreciated.

P. Capalbo – We've been talking about going through that for a while now. Going to make another note that at some point we have to go through this language and clean some of it up, see what applies anymore and what doesn't.

**C. Hanganu – Motion to close public hearing. Seconded by L. Porter. All in favor. Motion carried.**

C. Wallace – Clarifies no action taken.

**4. Farino Garage – Area Variance**  
137 Andrews Rd.  
Grid # 6559-02-983761  
Zone R-90



C. Hanganu – Reads agenda description aloud.

C. Hanganu – It is understood that you are still preparing the filing.

Deborah Farino, Applicant – Have original survey but was told a more recent one was needed with the structures on it. Found an engineer to help with site plan and is working on that.

C. Hanganu – Confirms applicant working on putting together site plan.

C. Wallace – Questions realistic time frame for submission of site plan.

C. Hanganu – Indicates submittal deadline is 9 days away.

Deborah – Site plan is the only thing left.

C. Hanganu – Questions 5 criteria.

Deborah – Indicates 2-page narrative provided for 5 balancing questions. Neighbors were notified and do not have an issue. Engineer just got back from vacation and helping us his best to get site plan by next meeting. Just need to know how many copies.

Secretary – Confirms four full size (24x30) and four half size (11x17).

L. Porter – Confirms she visited the site. Saw two sheds so couldn't understand.

Frank – Having a lot of space issues right now. Were told we could put up sheds as long as they were behind the house. Hopefully will be temporary. Garage will be off all the setbacks. Won't be seen from the street. Provides explanation of how structure is laid out and how storage areas will be used.

Deborah – Provides explanation of how the structure will be transported to its location on the property.

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

No public comment.

**C. Hanganu – Motion to keep public comment open and adjourn until next meeting September 3, 2024. Seconded by L. Porter. All in favor. Motion carried.**

C. Hanganu – That will give you the opportunity to get the site plan prepared.

Deborah – Asks if anything else needs to be submitted.

C. Wallace – It's got to conform to the application. They need number 3 short for EAF, 5 and 6.

Deborah – Number three I was just given today. Number six doesn't apply. It's a detached shed. No remodeling anything. This is pre-fab. What was submitted is what they gave us until the building is purchased in full. Not going to purchase a \$50,000 building if you're going to tell us no because it is nonrefundable.

C. Wallace – It's a structure. You have to show the dimensions of that structure on the site plan and the setbacks. Next meeting is September 3 so you would need to have the full application in by August 15.

Deborah – You have everything but the site plan and short environmental form. If I need help with SEAF, who helps me with that?

P. Capalbo – Jessica Peterson or Aletha Bourke in the building department.

C. Wallace – Correction. Usually the engineer or site plan person.

**C. Hanganu – Motion to close this item on the agenda. Seconded by L. Porter. All in favor. Motion carried.**

C. Hanganu – Final item on agenda is the revision to the meeting date for November. Meeting dates were for the first Tuesday of the month and the chosen date for November 2024 falls on election day.

**C. Hanganu – Motion to propose change to the meeting date from November 5 to November 6, meeting on the Wednesday instead of the Tuesday that week. Seconded by L. Porter. All in favor. Motion carried.**

**C. Hanganu – Motion to close the meeting. Seconded by L. Porter. All in favor. Motion carried.**

Meeting adjourned 8:12 pm.

Respectfully submitted

Aletha Bourke  
Planning/Zoning Secretary