

**Village of Cold Spring
Zoning Board of Appeals
85 Main Street, Cold Spring, NY 10516**

April 23, 2014

The Zoning Board of Appeals of the Village of Cold Spring held a meeting on Wednesday, April 23, 2014 at 7:00 pm at the Village Hall, 85 Main Street, Cold Spring, NY.

Attending Board members were Chair, Marie Early, Alison Anthoine, Greg Gunder, John Martin and Attorney Nancy Tagliafierro from Hogan & Rossi, Counsel for the Village. Ed Murphy was absent.

Also in attendance were Maria Hardman, owner of 26 Parsonage Street, and Paul Henderson and Beth Sigler, owner and residents of 14 Stone Street, along with Mr. Henderson's and Ms. Sigler's attorney, William Florence.

The topics of tonight's public hearing are an addition of a dormer to 26 Parsonage Street requiring a front yard variance, beginning at 7:00 p.m. and an area variance for a shed at 14 Stone Street beginning at 7:30 p.m.

Chair Early read a statement saying that all speakers will be allowed 10 minutes each and topics are limited to the purpose of the Public Hearing only.

Chair Early read the Legal Notice posted in the April 16th edition of the PCN&R stating the date, time and location of this meeting.

“NOTICE IS HEREBY GIVEN the Zoning Board of Appeals will hold a continued Public Hearing on Wednesday, April 23, 2014 at 7:00 PM at Village Hall, 85 Main Street, Cold Spring, NY for the purpose of hearing public comment on the application of Maria Hardman, 21 Battery Place, Montrose, NY to construct a second floor dormer at 26 Parsonage Street, Cold Spring, NY. The proposal will require a front yard variance from Section 134-7(C)(4) of the Village Code. The property is in the R-1 zone. All interested parties are encouraged to attend and be heard”.

Dated: Apr. 11, 2014 Marie Early, Chair, Village of Cold Spring Zoning Board of Appeals

26 Parsonage Street

Ms. Hardman is adding a dormer to the front of the house to match the existing dormer. A variance is needed as the dormer will protrude into the 25 foot front yard setback.

There was no public comment regarding 26 Parsonage Street. However, a letter received from Tim Greco, Little Church on the Hill, for his full support of the zoning variance was read into the minutes.

Ms. Anthoine made a motion to close the public hearing for 26 Parsonage Street, seconded by Mr. Martin. The motion was approved with a unanimous vote and the public meeting was closed.

Chair Early read the **draft Resolution 02-2014**.

**IN THE MATTER OF THE APPLICATION OF
MARIA HARDMAN
For an Area Variance for a second floor dormer**

WHEREAS, Maria Hardman is the owner of real property located at 26 Parsonage Street, Cold Spring, (R-1 Zoning District), also identified as **Tax Map Parcel #49.5-2-75**; and

WHEREAS, Maria Hardman has made application to the Cold Spring Zoning Board of Appeals for an area variance pursuant to Section 134-7(C)(4) of the Cold Spring Village Code; Schedule of Regulations, in order to create a room on the second floor, and

WHEREAS, Section 134-7(C)(4) of the Cold Spring Village Code requires a 25 foot front yard setback; Applicant will have a 14.3 foot front yard setback; **Variance requested is for a 10.7 foot front yard setback**, and

WHEREAS, the proposed action constitutes a Type II action under 6 NYCRR Part 617, and therefore requires no further review under the State Environmental Quality Review Act (SEQRA), and

WHEREAS, a public hearing was held on the Application at the Butterfield Library, 10 Morris Avenue, Cold Spring, New York on April 9, 2014 and at the Village Hall, 85 Main Street, Cold Spring, New York on April 23, 2014 to consider the application; and

WHEREAS, the Cold Spring Zoning Board of Appeals has given careful consideration to the facts presented in the application and at the public hearings and finds that:

1. The proposed application (~~will or will not~~) produce an undesirable change in the character of the neighborhood **because it is consistent with the neighborhood;**
2. The benefit sought by the applicant (~~can or cannot~~) be achieved by any other feasible means **because the dormer will allow light into the room;**
3. The variance requested (~~is or is not~~) substantial **because the dormer is within the footprint of the house;**
4. The proposed variance (~~will or will not~~) have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district **because it is consistent with the neighborhood and will not increase surface water runoff;** and
5. The alleged difficulty necessitating the variance (~~either was not self-created or was self-created~~), (~~or is or is not sufficient~~) so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Cold Spring Zoning Board of Appeals hereby (~~grants or denies~~) the application of **Maria Hardman** for an **area variance** pursuant to Section 134-7(C)(4) of the Cold Spring Village Code;

Ms. Tagliaferro will prepare a Resolution for the record.

A motion was made by Ms. Anthoine to adopt Resolution 02-2014 to approve the zoning variance as requested by the applicant, Maria Hardman, for the front yard setback in order to construct a dormer on 26 Parrott Street, Tax Map **Parcel #49.5-2-75** seconded by Mr. Gunder.

Board Member Anthoine - Yes
Board Member Gunder - Yes
Board Member Martin - Yes
Board Member Murphy - Absent

Chair Early – Yes

The above Resolution 02-2014 was approved with a 4-0-0-1 vote this Wednesday, April 23, 2014.

Ms. Anthoine made a motion to approve the **minutes** of April 9, 2014 as written, seconded by Mr. Martin. The motion was carried with a unanimous vote.

At 7:30 p.m., Chair Early repeated the statement saying that all speakers will be allowed 10 minutes each and the topic is limited to the purpose of the Public Hearing only.

Ms. Early read the Legal Notice posted in the April 16th edition of the PCN&R stating the date, time and location of this meeting.

“NOTICE IS HEREBY GIVEN the Zoning Board of Appeals will hold a Public Hearing on Wednesday, April 23, 2014 at Village Hall, 85 Main Street, Cold Spring, NY beginning at 7:30 PM for the purpose of hearing public comment on the application of Paul Henderson and Beth Sigler for variances for a shed at 14 Stone Street, Cold Spring, NY. The application will require side yard variances from Section 134-7(C)(5) and a rear yard variance from 134-7(C)(6). The property is in the R-1 zone. All interested parties are encouraged to attend and be heard”.

Dated April 11, 2014 Marie Early, Chair, Village of Cold Spring Zoning Board of Appeals

14 Stone Street

Mr. Henderson started by thanking the public and the Board for all the time spent over the 14 Stone Street shed. He then proceeded with Ms. Sigler and Attorney Bill Florence to present facts regarding their request for a side yard and rear yard variance. Within their presentation, a photograph book was entered as Exhibit 1, a remodeling scope and budget for the new shed as Exhibit 2, and photographs of the columns from the old construction depicting how the measurements could have been made in the old survey, done in 2001, compared to the new survey, done in 2014, as Exhibit 3. They stated that there will be no plumbing, electrical or running water in the reconstructed shed.

Mr. Gunder requested a written statement from Glenn Watson of Badey and Watson, the firm that did both surveys showing a discrepancy in the measurements of the shed, explaining the differences and how the measurements were obtained. Mr. Florence said they had also requested such statement but Mr. Watson had declined.

After the presentation, the floor was opened to the public. The following persons spoke in favor of granting the requested variances to Mr. Henderson and Ms. Sigler:

Timothy Hynes, -15 Fair Street; David Birn - 13 Church Street; Barbara Galazzo - 66 Main Street; Joe Patrick - 18 Orchard Street; Jennifer Zwarich - 192 Main Street; Frank DeWald - 15 Stone Street; Travis Fyfe - 16 Stone Street; Dr. Peter Medonis - 176 Main Street; Mark Daisley - 18 Stone Street; Kathleen Foley - 2 Locust Ridge; Carina Frantz - 21 Kemble Avenue; John and Andrea Maask - 2792 Route 9; Douglas Price - 117 Main Street; Melissa Angier - 8 Fishkill Avenue; Karen Shea - 523 East Mountain Road N.; James O’Barr - 42 Paulding Avenue; Jack Myers - 11 Fair Street; Julia Famularo - 59 Esselborne Road; Samuel Seward - 120 Lane Gate Road; Seth Gallagher - 10 Garden Street; and Steve Warren - 22 Market Street.

The comments ranged from ‘it’s been going on far too long’, ‘the shed fits in with the neighborhood’, ‘please grant them the variance’, to personal comments saying that ‘Ms. Sigler would never do anything outside the law’ and ‘they have followed the law as it was explained to them’.

Following are excerpts from letters Ms. Early read into the minutes received by the Board:

Steven and Wei Gazzola residing at 6 Stone Street wrote "... Although the shed is visible from our backyard; we both feel that this structure in no way detracts from the charming, pleasant, and relaxed environment which exists on Stone Street. In addition, the shed does not impose any burden upon our public facilities, nor does it pose any additional parking and traffic control problems on Stone Street...."

Jean and Joseph Frisenda of 9 Stone Street wrote "...my husband remembers when deer were hung inside that shed. Is that what you want to go back to? The new shed is much nicer than the old shed and it is not harming the neighborhood in any way. I see no way the neighbors lost their view any more than we have due to tree height....."

There were two other letters received by the Board but the writers of those letters (from Mark and Lauren Daisley, and Travis and Molly Fyfe) were present and verbalized their comments.

David Birn provided a map of 40 residential properties on Stone, Cross, Fair, Garden and Church Streets, and Northern Avenue, identifying 22 auxiliary buildings built on or close to property lines.

Jack Myers provided photographs of views from his back porch in 2007, 2010 and 2014 (prior to and after rebuilding of the shed).

Against the granting of the variance were Susan Peehl - 13 Fair Street; and Andrew Hall - 13 Fair Street.

They feel there was a breach of trust by the code enforcer. They had concerns about future use. There were other concerns but they were not a part of tonight's topic for the variance.

A motion was made by Mr. Martin to close the public hearing for 14 Stone Street seconded by Mr. Gunder. The public hearing was closed with a unanimous vote.

After considerable deliberation by the Board, consulting with the use of the photographic evidence, they made the following conclusions:

With regard to the requested variances for the bump out:

1. the proposed application (~~will or will not~~) produce an undesirable change in the character of the neighborhood **because the replacement shed is consistent with other accessory structures in the neighborhood;**
2. The benefit sought by the applicants (~~can or cannot~~) be achieved by any other feasible means **because the cost of demolition and new construction is enormous and would impose a hardship on the neighbors;**
3. The variance requested (~~is or is not~~) substantial **because the bump out projects 11 inches to the west beyond the pre-existing shed and is relative to the 10 foot by 25 foot size of the original shed;**
4. The proposed variance (~~will or will not~~) have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district **because public comment on the record stated that it is desirable esthetically and improves the property value. It is also consistent with the historical buildings in the neighboring properties; and**
5. The alleged difficulty necessitating the variance (~~either was not self-created or was self-created~~), (~~or is or is not sufficient~~) so as to cause a denial of the requested variance.

Mr. Gunder asked the Board to consider adding the condition to the Resolution that the variance is based on its current condition with no plumbing, electric or running water to preserve any possibility of a change in use in the future. The Board agreed stating that if a change of use is needed, the owner/resident will have to come before the planning and zoning boards.

With regard to the variances to address the dimensional inconsistencies between the 2001 Survey and the 2014 Survey:

1. The proposed application (~~will or will not~~) produce an undesirable change in the character of the neighborhood **because the replacement shed is consistent with other structures in the neighborhood;**
2. The benefit sought by the applicants (~~can or cannot~~) be achieved by any other feasible means **because it is unclear as to the measurements of the distance of the shed from the lot line in the 2001 survey;**
3. The variance requested (~~is or is not~~) substantial **because it is a matter of inches required for the variance;**
4. The proposed variance (~~will or will not~~) have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district **because of photographic evidence received shows proof of same; and**
5. The alleged difficulty necessitating the variance (~~either was not self-created or was self-created~~), (~~or is or is not sufficient~~) so as to cause a denial of the requested variance **because the original shed was not plumb.**

Ms. Taglifierro will prepare a Resolution for the record.

A motion was made by Mr. Martin to approve the zoning variance as requested by the applicants, Paul Henderson and Beth Sigler, for the side and rear yard setbacks at 14 Stone Street, seconded by Ms. Anthoine.

Roll Call Vote:

Board Member Anthoine - Yes
Board Member Gunder - Yes
Board Member Martin - Yes
Board Member Murphy - Absent
Chair Early – Yes

The above motion was approved with specified conditions with a 4-0-0-1 vote this Wednesday, April 23, 2014.

Before closing the meeting, Ms. Peehl complimented the Board's representation on tonight's proceedings.

As in the approval of 26 Parsonage Street, this approval will be sent to the Planning Board for their advisory opinion as stated in the Village Code.

A motion to adjourn the meeting was made by Ms Anthoine, seconded by Mr. Gunder.

Meeting Adjourned at 10:05 p.m.

Respectfully submitted

Sandra L. Falloon

Marie Early, Chair for the Zoning Board of Appeals

Date