



COURTROOM
1 MUNICIPAL PLAZA
BEACON, NY 12508

**March 19, 2024
7:00 PM
Zoning Board of Appeals Agenda**

The Zoning Board of Appeals will meet on Tuesday, March 19, 2024, at 7:00 PM, in the Municipal Center courtroom, located at One Municipal Plaza, Beacon, New York.

Regular Meeting

1. [Approval of the January 17, 2024, minutes](#)

Miscellaneous Business

1. [Consider a request for an extension of a variance approval previously granted for property at 152-158 Fishkill Avenue \(Tax Grid Nos. 6054-29-042814 & 6054-29-041801\), submitted by 152-158 Fishkill Avenue, LLC.](#)
2. [Consider a notification from the City of Beacon Planning Board on its intent to serve as the Lead Agency for Site Plan and Subdivision Approval for the construction of two \(2\) 4-story mixed-use buildings that will be comprised of commercial \(retail/office\) and tenant amenity spaces on the first floors, together with multi-family residences on the upper floors, for properties located at 45 Beekman Street \(Tax Grid No. 5955-19-706012\), High Street \(Tax Grid No. 5954-26-689990\), and High Street \(Tax Grid No. 5954-26-781983\).](#)

City of Beacon Zoning Board of Appeals Agenda
03/19/2024

Title:

Approval of the January 17, 2024, minutes

ATTACHMENTS

City of Beacon Zoning Board of Appeals Agenda
03/19/2024

Title:

Consider a request for an extension of a variance approval previously granted for property at 152-158 Fishkill Avenue (Tax Grid Nos. 6054-29-042814 & 6054-29-041801), submitted by 152-158 Fishkill Avenue, LLC.

ATTACHMENTS

[152-158 Fishkill ZBA 3.19.24 Ext Request Exhibits A-C Attached\(5976110.1\).pdf](#)



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Taylor M. Palmer
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February 27, 2024

VIA E-MAIL AND HAND DELIVERY

Chairman Jordan Haug
and Members of the Zoning Board of Appeals
City of Beacon
One Municipal Plaza
Beacon, New York 12508

Re: Request for Extension of Variance Approval
Premises: 152-158 Fishkill Avenue, Beacon, New York
Tax Parcel IDs: 6054-29-042814 & 6054-29-041801

Dear Chairperson Haug and Members of the Zoning Board of Appeals:

On behalf of 152-158 Fishkill Avenue LLC ("Applicant"), we are writing to request placement on the next Zoning Board of Appeals ("ZBA") meeting Agenda to request clarification that the variances issued by the ZBA on July 18, 2023 (the "ZBA Resolution") remain valid and to obtain an extension of such approval, or in the alternative to obtain a retroactive extension of the ZBA approval.¹

THE APPLICANT RESPECTFULLY REQUESTS AN EXTENSION OF THE ZBA RESOLUTION CONSISTENT WITH THE FINAL APPROVAL FOR THE PROJECT:

Practical application of the ZBA Resolution, consideration of attendant Project approvals, and established law in New York, support our understanding that the ZBA Resolution remains valid, and the six (6)-month period will not begin to run until the date of the last approval for the Project.

The Applicant was granted Final Subdivision and Site Plan Approvals by the Planning Board on September 12, 2023 (the "Planning Board Resolution"), two (2) months after the issuance of the ZBA Resolution. As this Board is aware, in past instances where a project also has approvals pending before the Planning Board, the six (6)-month "clock" for the issuance of a Building Permit tends to run from date of the *last* approval – rather than from the date of the ZBA's approval.² This approach is consistent with caselaw that has held that even where a zoning board imposes

¹ A copy of the ZBA Resolution is enclosed as **Exhibit A**.

² See **Exhibits B & C**, at pages 12 and 8, respectively, which are the ZBA approval resolutions for the former DPW and Edgewater projects. For ease of reference, the DPW ZBA approval resolution provides in relevant part that "... [t]hese variances shall be void if the Applicant fails to (i) obtain a building permit within six months from the date of the Planning Board's Site Plan Approval..." and the Edgewater approval resolution provides in relevant part that: "[t]he Applicant shall obtain a building permit within twelve [12] months from the date of obtaining the last land use approval."

an expiration period that is clearly stated to run as of the date of its approval, that time period will be considered tolled until such time as the applicant receives final site plan approval.³

In this instance, it appears the language was from the date of the ZBA's approval, although it was not the final approval for the Project and the Applicant could not pursue a Building Permit without first obtaining Planning Board approval, and subsequently satisfying the conditions of the Planning Board's Resolution (including obtaining the Planning Board Chair's endorsement on the final site plans). If this Board, consistent with its prior precedent and caselaw, intended to condition the ZBA Resolution expiration upon the last approval⁴ — i.e., the Planning Board Resolution—then the ZBA Resolution is valid until March 10, 2024.⁵ Under these circumstances, the Applicant respectfully requests a six (6)-month extension of the Approval, thus extending until September 10, 2024, the date by which the Applicant must obtain a Building Permit.

It is worth noting that the Applicant continues to diligently pursue resolving the extensive conditions of the Planning Board Resolution; however, as a practical matter and in accordance with the Applicant's prior work in the City, it is not until the Chair signs the plans and conditions are satisfied that the Applicant can apply for a Building Permit to begin construction.

Construing the ZBA Resolution to require an applicant to obtain a Building Permit within six (6) months from the date of that approval would lead to an objectionable result when the Applicant could not actually obtain the building permit within that timeframe because they did not have final site plan approval until two (2) months after the ZBA Resolution. This is particularly apparent when the Planning Board Resolution provides an applicant with one year to *submit* a Building Permit, and the Project is subject to numerous conditions of approval, which could not reasonably be satisfied within six (6) months from the ZBA Resolution. Such a construction would certainly be unjust.

IN THE ALTERNATIVE, THE APPLICANT RESPECTFULLY REQUESTS A RETROACTIVE EXTENSION OF THE ZBA RESOLUTION:

Alternatively, the Applicant respectfully requests a six (6)-month retroactive extension of the ZBA Resolution, thus extending until July 18, 2024, the date by which the Applicant must obtain a Building Permit. This request is being made in light of New York case law which states that variance approvals run with the land and the fact that no conditions have changed to the proposal

³ *Aldendell Company v. DiLorenzo*, 144 A.D.2d 608 (2d Dep't 1988).

⁴ *Note*: It is also possible that the six (6)-month timeframe language running from the date of the ZBA's Resolution, rather than from the final approval, was merely a scrivener's error carried over from another ZBA Resolution that concerned an application for relief that *did not* also require Planning Board approval (for example, a building permit application for a single-family residence that required a variance for encroaching into a side yard setback). Indeed, as is noted in the Applicant's concurrent request to the Planning Board for an extension of its approval for the Project, the Planning Board Approval Resolution had a scrivener's error identifying the Applicant/Owner as: "152-158 Fishkill LLC" — whereas the Applicant Owner is 152-158 Fishkill Avenue LLC.

⁵ *Note*: The Applicant is simultaneously submitting its request for a six (6) month extension to the Planning Board requesting an extension of the time period to file a subdivision (lot merger) plat, which period is not set to expire until March 10, 2024.



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that would require further consideration by this Board.⁶ Indeed, there are no changes proposed to the parameters of the Project, nor have there been any material changes to the facts and circumstances that existed when the ZBA Resolution was adopted.

We look forward to discussing these requests at the Board's next available meeting Agenda. Should the ZBA or City Staff have any questions or comments with regard to the foregoing, please do not hesitate to contact me. Thank you in advance for your time and consideration of this extension request.

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. Palmer', with a long, sweeping horizontal line extending to the right.

Taylor M. Palmer

Enclosures

cc: George Alissandratos, Esq., ZBA Attorney

⁶ See St. Onge v. Donovan, 71 N.Y.2d 507 (N.Y. 1988) (holding that variances run with the land); Dill-Hill Realty Corp v. Schultz, 53 A.D.2d 263 (3d Dep't 1976) ("The purpose for imposing a time limitation in the grant of a special permit or variance, it would seem, is to insure that in the event conditions have changed at the expiration of the period prescribed the board will have the opportunity to reappraise the proposal by the applicant in the light of the then existing facts and circumstances if the latter still desires to proceed. However, such a time limitation imposed for its own sake unrelated to the purposes of zoning has no apparent rationale and its strict application as the sole basis for a denial of an extension effects an unreasonable restriction upon the permission previously found to be warranted.") (internal citations omitted).

Exhibit A

**CITY OF BEACON
ZONING BOARD OF APPEALS**

RESOLUTION

**152-158 Fishkill Avenue
Parcel ID #s 6054-29-041801 and 6054-29-042814**

WHEREAS, an application has been made to the City of Beacon Zoning Board of Appeals by 152-158 Fishkill Avenue LLC (the “Applicant”) for a variance from Beacon City Code § 223-13.G(1) to allow for a proposed retaining wall with a maximum height ranging from seven-and-a-half feet (7.5’) to fifteen and four-tenths feet (15.4’). The variance is sought in furtherance of the Applicant’s pending applications for Site Plan and Subdivision (Lot Merger) approval (the “proposed action”), which are presently before the City of Beacon Planning Board, and specifically to permit the construction of portions of retaining walls over six feet (6’) in height in the area of a parking lot located north of the newly proposed building and two (2) segments to the east of the proposed structure on property located at 152-158 Fishkill Avenue in the T Zoning District, said premises being known and designated on the tax map of the City of Beacon as **Parcel ID #s 6054-29-041801 and 6054-29-042814** (the “Property”); and

WHEREAS, the proposed action is subject to a coordinated review under the New York State Environmental Quality Review Act (“SEQRA”), with the City of Beacon Planning Board serving as SEQRA Lead Agency; and

WHEREAS, the proposed action is classified as an Unlisted action under SEQRA and the City of Beacon Planning Board has adopted a SEQRA Negative Declaration, thus dispensing with further environmental review; and

WHEREAS, a duly advertised public hearing on this variance application was held on July 18, 2023, at which time all those wishing to be heard on the application were given such opportunity; and

WHEREAS, the Board duly closed the public hearing on July 18, 2023; and

WHEREAS, the Board considered the benefit to the Applicant if the requested area variance relief is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

NOW, THEREFORE, BE IT RESOLVED, that the Board, having considered each of the factors set forth at Section 81-b(4)(b) of the General City Law, finds as follows:

- 1) As to 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, the Board finds that no undesirable change will occur, as confirmed by the SEQRA Negative Declaration issued by the City of Beacon Planning Board and the Board's evaluation of the conditions necessitating the retaining wall and its proposed height, including topography and site alterations facilitating construction of the newly proposed building.
- 2) As to whether the benefit the Applicant seeks can be achieved through another method, feasible for the Applicant to pursue, that does not require the area variance, the Board finds that such alternatives are not available. In this regard, the Board notes that the design and height of the retaining wall is the product of thorough review and evaluation by the City of Beacon Planning Board to minimize impacts associated with the proposed action. As stated, the design and height of the retaining wall is driven by existing site conditions and the necessity for a retaining structure.
- 3) As to whether the requested variance is substantial, the Board finds that, while numerically substantial, the practical impact of the variance is not substantial in effect. In making this finding, the Board is considering the context in which the requested variance relief is sought, including the specific site conditions involved and the absence of actual impact of the variance upon neighboring properties.
- 4) As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, the Board finds that it will not, as confirmed by the SEQRA Negative Declaration issued by the City of Beacon Planning Board.
- 5) As to whether the alleged difficulty is self-created, the Board finds that while self-created, the retaining wall has been designed to minimize impact and achieves an overall benefit for the proposed action.

BE IT FURTHER RESOLVED, that the Board finds that the requested variance is the minimum variance necessary and adequate to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

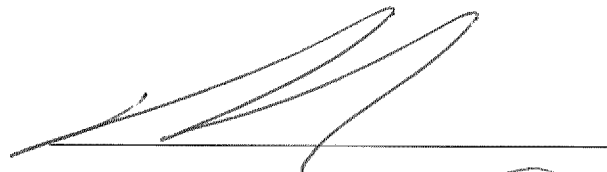
BE IT FURTHER RESOLVED, that said application for a variance from City Code § 223-13.G(1) to allow for a retaining wall with a maximum height ranging from seven-and-a-half feet (7.5') to fifteen and four-tenths feet (15.4'), which variance is sought to permit the construction of portions of walls over six feet (6') in height in the area of the parking lot located north of the newly proposed building and two (2) segments to the east of the proposed structure on property located at 152-158 Fishkill Avenue in the T Zoning District, is hereby granted subject to the following conditions:

1. No permit or certificate of occupancy shall be issued until the Applicant has paid in full all application and consultant fees incurred by the City in connection with the review of this application.
2. The variances shall be void if the Applicant fails to (i) obtain a building permit within six months from the date of this Resolution; (ii) commence construction within six months following the date of issuance of the building permit; or (iii) complete construction and obtain a certificate of occupancy within 24 months after the date of issuance of said building permit.

BE IT FURTHER RESOLVED, that the above variance is being granted solely for the purpose of constructing portions of retaining walls over six feet (6') in height in the area of the parking lot located north of the newly proposed building and two (2) segments to the east of the proposed structure, as set forth in the application submitted and presented to the Board, and it does not apply to any other work that may fall within the scope of the variance being granted, whether now or at any point in the future.

BE IT FURTHER RESOLVED, that the Board may grant a six month extension of the variance, provided that a written request for an extension is submitted before the variance expires. Such extension shall only be granted upon a demonstration by the Applicant that the circumstances and conditions upon which the variance was originally granted have not substantially changed.

Dated: July 18, 2023



Jordan Haug, Chairman

Chairman Haug called the roll:

<u>Motion</u>	<u>Second</u>	<u>Zoning Board Member</u>	<u>Aye</u>	<u>Nay</u>
		Stowe Boyd	X	
		Judy Smith	X	
		Jordan Haug	X	
		Montos Vakirtzis	X	
		Elaine Ciaccio	X	
		Motion Carried:	X	

Exhibit B

CITY OF BEACON
ZONING BOARD OF APPEALS

RESOLUTION

WHEREAS, an application has been made to the City of Beacon Zoning Board of Appeals (“Board of Appeals” or “Zoning Board”) by **23-28 Creek Drive, LLC** (the “Applicant”) for (1) a variance of 20 parking spaces, where 113 parking spaces are required for a mixed-used building consisting of 20,000 square feet of commercial space and eight (8) residential units pursuant to City Code § 223-26.F and 93 parking spaces are proposed; (2) a 750 square foot variance for two apartment units, where the maximum permitted dwelling unit size is 2,000 square feet pursuant to City Code § 223-41.14.C and two apartment units are proposed to be 2,750 square feet; (3) a one story height variance, where the maximum permitted building height is three stories pursuant to City Code § 223-41.14.F and the proposed building height is four stories; and (4) a 13 foot 4 inch building height variance where the maximum permitted building height is 40 feet pursuant to City Code § 41.14.F and the proposed building height is 53 feet-4 inches, in connection with the Applicant’s proposal to construct a mixed use development with eight (8) apartments and 20,000 square feet of commercial space (the “Proposed Action” or “Project”), on property located at 23-28 Creek Drive in the Fishkill Creek Development (“FCD”) Zoning District, said premises being known and designated on the tax map of the City of Beacon as **Parcel ID# 6054-37-037625** (the “Property”); and

WHEREAS, the Project is located on the former City of Beacon Department of Public Works (“DPW”) property which consists of approximately 2.582 acres of land and a 0.228 acre portion of land owned by Weber Projects III, LLC located at 7-15 Creek Drive, as designated on the City tax map as Parcel ID# 6054-37-066670, which said 0.228 acres is the subject of a resubdivision application before the Planning Board and which is not part of this variance application; and

WHEREAS, the Applicant submitted its application to the Zoning Board of Appeals in conjunction with its application to the City Council for Concept Plan approval and its application to the City Planning Board for Site Plan and Subdivision (lot line adjustment) approval; and

WHEREAS, the Proposed Action is an Unlisted Action pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, on December 3, 2019, the City Council referred the application for Concept Plan approval to the City Planning Board for report and recommendation and asked the Planning Board to be lead agency for the coordinated environmental review of the Project; and

WHEREAS, the City Planning Board considered the Proposed Action at its March 12, 2019, April 9, 2019, May 14, 2019, June 11, 2019 and July 9, 2019 meetings; and

WHEREAS, the City Planning Board held a duly advertised SEQRA public hearing on April 9, 2019 and continued the SEQRA public to May 14, 2019 and June 11, 2019, at which time all those wishing to raise SEQRA concerns were given such opportunity; and

WHEREAS, the City Planning Board closed the SEQRA public hearing on June 11, 2019; and

WHEREAS, on July 9, 2019 after taking a “hard look” at each of the relevant areas of environmental concern through review of the Environmental Assessment Form and all associated materials prepared in connection with the Proposed Action, the City Planning Board, as part of a coordinated review, hereby adopted a Negative Declaration; and

WHEREAS, a duly advertised public hearing on the application for area variances was held on July 16, 2019, and continued to August 20, 2019, at which time all those wishing to be heard on the application were given such opportunity; and

WHEREAS, the Board closed the public hearing on August 20, 2019; and

WHEREAS, pursuant to New York State General City Law Section 81-b(4) and City Code Section 223.55.C(2)(b), when deciding the request for an area variance:

The Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such a determination, the Board shall also consider:

- [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; and

WHEREAS, the Board of Appeals, in granting variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the Applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community; and

NOW, THEREFORE, BE IT RESOLVED, based upon the Record before it and after viewing the premises and neighborhood concerned and upon considering each of the factors set forth in Section 223.55(C)(2)(b)[1]-[5] of the City Code, the Zoning Board hereby finds with respect to the requested area variances as follows:

1. Overview of the Project

The Property which is the subject of this variance application was previously used for decades as the City's Highway Garage. The Proposed Project involves demolition of the existing buildings on the site and construction of a new four story mixed use building containing 20,000 square feet for commercial use and eight (8) residential dwelling units. The Applicant has an ownership interest in the adjacent property at 7-15 Creek Drive (owned by Weber Projects III, LLC), which has been redeveloped from a junk yard into a multi-family residential development with a new building, and includes expansion of the Fishkill Creek Greenway & Heritage Trail. The Applicant submitted the Proposed Project for 23-28 Creek Drive in response to the City's Request for Qualifications and Proposals to renovate and develop the Property. The City Council selected the Applicant's proposal and on May 11, 2018, the Applicant entered into a Contract of Sale with the City of Beacon. The Applicant's Contract with the City requires the Applicant to construct a park

and expand the Fishkill Creek Greenway & Heritage Trail, to connect with the Trail at 7-15 Creek Drive.

On March 17, 2015, the Applicant's related entity at 7-15 Creek Drive (Weber Projects III, LLC) received area variances from the Zoning Board of Appeals to allow construction of two new four-story multi-family residential buildings on 9-11 Creek Drive. One of those buildings was constructed. As part of the Proposed Project at 23-28 Creek Drive the height variance for the second building will not be used and the second approved four story building at 9-11 Creek Drive will not be constructed. Instead such building is being proposed to be constructed on this Property.

2. The variances will not produce an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties created by the granting of the area variances.

A. *Minimum Number of Parking Spaces*

The Applicant requests a variance of twenty (20) parking spaces. The total number of parking spaces required is 113 as thirteen (13) spaces are required for the residential dwelling units and 100 spaces are required for the commercial space. The Project will provide a total of 93 parking spaces located in several lots on the site, as well as beneath the building. The parking will be screened by landscaping to mitigate views from the street and neighboring properties. The Applicant's parking and traffic consultant prepared a Traffic Impact Study that stated in relevant part that: "... in connection to the nearby CMS District and Linkage District[s] the City Code would only require 48 and 58 spaces respectively, which is a reasonable comparison due to the Project's proximity to Main Street and these districts."

The Applicant will install a combination of fencing and plant material to create a visual buffer between the street and parking areas. In addition, the residential use and commercial use on the site allows for shared parking such that the thirteen (13) residential spaces can be used for commercial space parking.

It should also be noted that the Planning Board discussed the variance for parking and considered the following factors. The Planning Board found that the Fishkill Creek Development zone relies on general parking standards, while similar mixed uses in the adjacent Linkage and CMS Zoning

Districts would require far fewer parking spaces. In addition, a shared parking situation will exist on the Property because some of the employees will live and work on site, and the commercial operation will not be operating when some residents are at home. Lastly fewer parking spaces would cut down the amount of impervious surfaces and add more accessible green space. After careful consideration, the members of the Planning Board unanimously supported a positive recommendation with regard to the parking variance.

Based on the traffic study, trip analysis, review of the City's parking requirements in adjacent zoning districts that mirror the proposed use, shared parking and availability of parking in the vicinity of the site, the variance of 20 parking spaces for this Project, where 113 parking spaces are required for a mixed-used building consisting of 20,000 square feet of commercial space and eight (8) residential units, and will not produce an undesirable change in the character of the neighborhood and will not create a detriment to nearby properties.

B. Maximum Dwelling Unit Size

The Applicant requests a variance to permit two (2) 2,750 square foot residential dwelling units, where the maximum permitted dwelling unit size is 2,000 square feet. The Project includes eight total apartment units comprising 13,515 square feet, which includes three 1,380 square foot two-bedroom units, two 1,325 square foot two-bedroom units, one 1,225 square foot two-bedroom units and two 2,750 square foot three-bedroom units located on the third and fourth floors of the building. The average size of the eight units in the proposed building, including the two 2,750 square foot units, is approximately 1,689 square feet, which is 311 square feet below the maximum permitted unit size. The makeup of the units creates a diversity of unit sizes in the building, without changing the exterior look of the building. In addition the variance requested applies to only two dwelling units.

In 2010 the City Council of the City of Beacon adopted the FCD Zoning District, which established the maximum dwelling unit size restriction of 2,000 square feet of gross floor area. After reviewing the available legislative history and available minutes, memorandums and correspondence pertaining to the adoption of the FCD Zoning District, the Zoning Board is unable to determine the City Council's original intent and justification for this bulk regulation.

At the Planning Board's June 11, 2019 meeting, the Planning Board discussed what "basis" there is for the maximum dwelling unit size restriction in the FCD Zoning District. The City Planner, John Clarke, explained that such a provision was adopted before he was the Planner for the City of Beacon, therefore he did not participate in the drafting of the 2010 legislation. At the Planning Board meeting John Clarke was unable to supply the Planning Board with a reason as to why the 2,000 square foot restriction was adopted. Mr. Clarke explained to the Planning Board that such a provision is not typically found in zoning laws; sometimes a minimum unit size is adopted to prevent developers from constructing dwelling units that are too small, however, in his experience he has not seen a maximum dwelling unit size restriction.

Therefore, the 750 square foot variance per unit for two units, where the maximum permitted dwelling unit size is 2,000 square feet will not result in any adverse impacts to the neighborhood character or nearby properties.

C. Maximum Building Height and Number of Stories

The Applicant requests a one story height and a thirteen foot four inches (13'4") variance to construct a four story building, 53 feet 4 inches in height, where the maximum permitted building height in the FCD Zoning District is three stories and 40 feet. The four story building is set at a low elevation relative to the street. The elevation of the property helps mitigate any potential visual impacts of the building from Tioronda Avenue. Plantings will also be designed to soften the building and enhance views of Fishkill Creek and Mount Beacon. In addition, the height of building will not produce an undesirable change to the character of the neighborhood because the building sits at a lower elevation than the street. The existing topography of the site minimizes the impact of the fourth story from Tioronda Avenue. Furthermore, the proposed landscaping, in conjunction with the existing elevation, will limit views of the roof and mechanical equipment on the roof of the building from the street. The building will be visible from Fishkill Creek; however, the aesthetics of the site will be enhanced when compared to the existing conditions of the DPW facility.

As noted above, the Applicant will not be building the originally approved four-story building, for which the Applicant received a height variance, located on the Applicant's adjacent 7-15 Creek

Drive property. As a result, a significant viewshed towards Mount Beacon from Tioronda Avenue will be maintained. Therefore, this variance will not produce an undesirable change in the character of the neighborhood and will not be a detriment to nearby properties.

3. The benefit sought by the Applicant cannot be achieved by some method feasible for the Applicant to pursue, other than the requested area variances.

A. Minimum Number of Parking Spaces

The Project uses a garage underneath the building to house 34 parking spaces. The development is situated and designed to allow for meaningful development that conforms with the 2017 Comprehensive Plan Update, which encourages mixed use developments, and is consistent with recent zoning changes which rezoned the property from the LI- Light Industrial Zoning District to the FCD Zoning District. The Project is also consistent with surrounding uses and structures in the neighborhood. By utilizing a parking garage under the building, the Applicant minimizes the surface parking footprint and amount of impervious coverage while maintaining the proposed amount of commercial and residential space. The requested variance allows the Applicant to enhance the layout and functionality of the site and preserves a significant amount of open space. The Applicant cannot achieve these benefits by any feasible alternatives. While the additional 20 parking spaces could be constructed on site, such construction would intrude into open spaces and as detailed herein such additional spaces are not necessary, and could necessitate additional area variances.

B. Maximum Dwelling Unit Size

The Applicant's goal is to develop a mixed use commercial and residential development building with a diversity of unit sizes in the building. While the Applicant can achieve its goal and stay within the 2,000 square foot requirement, the variance only applies to two units and the rest of the building contains residential units under 2,000 square feet. As a result the average size of all eight units combined (when factoring in the assumption of granting the requested area variance for the two units) is well below the maximum dwelling unit requirement in the FCD Zoning District.

C. Maximum Building Height and Number of Stories

The building consists of 20,000 square feet of commercial space and eight residential rental apartment units. The Project was designed to limit the building footprint. To construct the buildings as permitted on the Property by the City's Zoning Code, without a variance, would result in more impervious surface, encroachment into green space and increase massing of the building. The amount of commercial space, the number of residential units, the preserved open space, the design and flow of the site are all benefits the Applicant can only achieve by developing a fourth story.

4. The requested variances are mathematically substantial; however, this does not outweigh the other factors meriting the granting of the variances.

The Applicant's requested area variances for this Project (1) a variance of 20 parking spaces, where 113 parking spaces are required for a mixed-used building consisting of 20,000 square feet of commercial space and eight (8) residential units pursuant to City Code § 223-26.F and 93 parking spaces are proposed; (2) a 750 square foot variance for two apartment units, where the maximum permitted dwelling unit size is 2,000 square feet pursuant to City Code § 223-41.14.C and two apartment units are proposed to be 2,750 square feet; (3) a one story height variance, where the maximum permitted building height is three stories pursuant to City Code § 223-41.14.F and the proposed building height is four stories; and (4) a 13 foot 4 inch building height variance where the maximum permitted building height is 40 feet pursuant to City Code § 41.14 are mathematically substantial. However, in considering whether a variance is substantial, the Board must examine the totality of the circumstances within the application and the overall effect of granting the requested relief. Here, the requested variances are not substantial in their effect.

The landscaping of the project site and the large creek-side park will form a cohesive extension to the recent landscaping planted at 7-15 Creek Drive. The Applicant will demolish the existing three (3) bay garages with attached office, main garage, tire shed, tool shed, salt shed and carpenter's shed. The Applicant will construct a new building that is compatible with the neighborhood. The new building will provide a desired mixed used development with substantial commercial space while preserving open space. Additionally, the granting of the requested variances will result in

the second building proposed at 9-11 Creek Drive in not being constructed which will maintain views of Fishkill Creek and Mount Beacon.

5. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The proposed variances will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district. There will be no adverse effects of noise, vibrations, odor, traffic, or impact on public services caused by the development associated with the granting of this variance. As part of the Coordinated SEQRA review conducted by the Planning Board as Lead Agency, the Planning Board determined that the Proposed Action will have no potential significant adverse environmental impacts. The Proposed Project includes a one-acre public park and extension of the Greenway Trail along the Creek. Therefore, the Zoning Board finds that the proposed variances will not have a significant adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

A. Minimum Number of Parking Spaces

As discussed above, a variance from the City's minimum required number of parking spaces in the FCD Zoning District will not result in any adverse effects or impacts on the physical or environmental conditions in the neighborhood or district. The Property is located one block from Main Street, and is adjacent to residential properties and a brewery. Such uses will not be impacted by approval of the requested parking variance.

The construction of additional parking would not only create more impervious surface, but it would eliminate a significant stormwater management area, which would then need to be relocated underground or pushed to the south of the site. In addition, developing the required 20 parking spaces would result in increased impervious surface area development, which would require further stormwater management.

B. Maximum Dwelling Unit Size

This variance addresses the size of the residential dwelling units; such a variance concerns the inside of the building and will not impact the physical or environmental conditions in the

surrounding neighborhood or district. The outside of the building will look the same whether the units are 2,000 square feet or 2,750 square feet. Therefore, the requested variance to permit two residential dwelling units at 2,750 square feet out of the total eight units, where the maximum dwelling unit size in the FCD Zoning District is 2,000 square feet will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

C. Maximum Building Height and Number of Stories

The Project is designed to reduce the footprint of the building and facilitate an efficient design and flow of the site. The Proposed Action will not result in the obstruction, elimination or significant screening of one or more officially designated scenic views. Further, public viewing of Fishkill Creek from the Site will be enhanced by providing a Greenway Trail segment and a public park at the south end of the site.

The applicable zoning specifically permits higher residential density on the Property. However, the Applicant is not proposing to construct any additional density. Furthermore, the Applicant will not be building the second approved four-story building located on the Applicant's property (9-11 Creek Drive) north of the subject Property, thereby maintaining the significant viewshed towards Mount Beacon from Tioronda Avenue.

Therefore, the proposed building height variance will not have an adverse effect on the physical or environmental conditions in the neighborhood or district.

6. The alleged difficulty is self-created.

The need for the variances is self-created since it is presumed the Applicant selected the Property as the location for its proposed development knowing the zoning requirements pertaining to the required number of parking spaces, maximum dwelling unit size and maximum building height permitted.

7. The variances requested are the minimum necessary and adequate to address the unnecessary hardship proven by the Applicant and at the same time shall preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

BE IT FURTHER RESOLVED, that for the reasons set forth above, the application of 23-28 Creek Drive, LLC for a variance of 20 parking spaces, where 113 parking spaces are required for a mixed-used building consisting of 20,000 square feet of commercial space and eight (8) residential units are required pursuant to City Code § 223-26.F and 93 parking spaces are proposed, is hereby GRANTED based on the Board's specific findings herein regarding the Project as proposed with 20,000 square feet commercial space and eight (8) residential units, subject to the following conditions:

1. The Applicant shall provide bicycle parking on the site for residents and office workers.
2. The Applicant is encouraged to consider allowing shared weekend parking to the general public on at least a portion of the Property, as a majority of the sites off-street parking spaces are not otherwise anticipated to be used during the weekend.

BE IT FURTHER RESOLVED, that for the reasons set forth above, the application of 23-28 Creek Drive, LLC for a 750 square foot variance for two apartment units; where the maximum permitted dwelling unit size is 2,000 square feet pursuant to City Code § 223-41.14, is hereby GRANTED.

BE IT FURTHER RESOLVED, that for the reasons set forth above, the application 23-28 Creek Drive, LLC for a one story height variance, where the maximum permitted building height is three stories pursuant to City Code § 223-41.14.F and the proposed building height is four stories, is hereby GRANTED.

BE IT FURTHER RESOLVED, that for the reasons set forth above, the application of 23-28 Creek Drive, LLC for a 13 foot 4 inch building height variance where the maximum permitted building height is 40 feet pursuant to City Code § 41.14.F and the proposed building height is 53 feet-4 inches, is hereby GRANTED, subject to the following conditions:

1. All variances issued by the Zoning Board of Appeals on March 17, 2015 to Weber Projects III, LLC pertaining to a second four story building approved on property located at 9-11 Creek Drive and not yet constructed, are rescinded and deemed null and void and a statement to that affect by the Applicant's related entity, Weber Projects III, LLC shall be

filed within thirty (30) days after the Planning Board's Site Plan approval and made a part of the records for both this Property and the 7-15 Creek Drive property files.

BE IT FURTHER RESOLVED, that all the variances granted herein are subject to the following conditions:

1. No permit or Certificate of Occupancy shall be issued until the Applicant has paid in full all application and consultant fees incurred by the City of Beacon in connection with the review of this application.
2. These variances shall be void if the Applicant fails to (i) obtain a building permit within six months from the date of the Planning Board's Site Plan approval; (ii) commence construction within six months following the date of issuance of the building permit; and (iii) fails to complete construction and obtain a certificate of occupancy within 24 months after the date of issuance of said building permit..
3. The Zoning Board of Appeals may grant six month extensions of this variance approval provided that a written request for an extension is submitted before the variance expires. Such extensions shall only be granted upon a showing by the Applicant that the circumstances and conditions upon which the variances were originally granted have not substantially change

Dated: September 17, 2019



Mr. Robert Lanier, Chairman

A VARIANCE OF 20 PARKING SPACES

Chairman Lanier called the roll:

Motion	Second	Zoning Board Member	Aye	Nay	Abstain	Excused	Absent
		Robert Lanier	X				
X		Garrett Duquesne	X				
	X	Jordan Haug	X				
		Judy Smith	X				
		David Jensen	X				
Motion Carried			5	0			

A 750 SQUARE FOOT VARIANCE FOR TWO APARTMENT UNITS

Chairman Lanier called the roll:

Motion	Second	Zoning Board Member	Aye	Nay	Abstain	Excused	Absent
		Robert Lanier	X				
		Garrett Duquesne	X				
X		Jordan Haug	X				
	X	Judy Smith	X				
		David Jensen	X				
Motion Carried			5	0			

A ONE STORY VARIANCE

Chairman Lanier called the roll:

Motion	Second	Zoning Board Member	Aye	Nay	Abstain	Excused	Absent
		Robert Lanier	X				
	X	Garrett Duquesne	X				
		Jordan Haug		X			
X		Judy Smith	X				
		David Jensen		X			
Motion Carried			3	2			

A 13 FOOT 3 INCH BUILDING HEIGHT VARIANCE

Chairman Lanier called the roll:

Motion	Second	Zoning Board Member	Aye	Nay	Abstain	Excused	Absent
		Robert Lanier	X				
X		Garrett Duquesne	X				
		Jordan Haug		X			
	X	Judy Smith	X				
		David Jensen		X			
Motion Carried			3	2			

*Received in the Office of the
City Clerk
September 25, 2019*

Exhibit C

2018-01

City of Beacon Zoning Board of Appeals

RESOLUTION

WHEREAS, an application has been made to the City of Beacon Zoning Board of Appeals by **Scenic Beacon Developments, LLC** (the “Applicant”) to (1) allow three proposed buildings to have 5 stories where the maximum building height is 4.5 stories pursuant to City § 223-17.C/223 Attachment 1:6; (2) allow four proposed buildings to exceed 36 units where the maximum number of dwelling units per building is 36 units pursuant to the City Code § 223-17.C/223 Attachment 1:6; and (3) allow less than 30 feet between buildings where the minimum distance between buildings on the same lot is 30 feet pursuant to City Code § 223-17.C/223 Attachment 1:6, in connection with the construction of seven apartment buildings containing a total of 307 units (413 bedrooms) on property located and collectively known as 22 Edgewater Place, located in the RD-1.7 Zoning District. Said premise being known and designated on the City Tax Map as Pace IDs **5954-25-581985, 5955-19-590022, 5954-25-566983 and 5954-25-574979**; and

WHEREAS, the Applicant is proposing to demolish two existing buildings, construct seven (7) apartment buildings containing 307 units on 12.009 acres in the RD-1.7 Zoning District (the “Proposed Project”); and

WHEREAS, the Proposed Project requires variance approvals from the Zoning Board of Appeals, Special Permit approval from the City Council and Site Plan approval from the Planning Board; and

WHEREAS, the Proposed Action is a Type I action pursuant to the New York State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the Planning Board, as Lead Agency, opened a public hearing to consider comments regarding any environmental impacts of the Proposed Action on May 9, 2017 and continued the hearing to July 11, 2017, August 8, 2017, September 12, 2017, October 12, 2017, November 14, 2017 and December 12, 2017, at which time the (SEQRA) public hearing was closed; and

WHEREAS, after taking a “hard look” at each of the relevant areas of environmental concern through review of the Environmental Assessment Form and all associated materials prepared in connection with the Proposed Action, the Planning Board adopted a Negative Declaration on December 12, 2017; and

WHEREAS, the Planning Board determined that the Proposed Project is entirely consistent with the Local Waterfront Revitalization Program (“LWRP”) policies which apply to the Project; and

WHEREAS, the Zoning Board of Appeals held a duly advertised public hearing on

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the application on March 21, 2017 and continued the public hearing to December 19, 2017, at which time all those wishing to be heard on the application were given such opportunity; and

WHEREAS, the Board closed the public hearing on December 19, 2017; and

WHEREAS, pursuant to New York State General City Law § 81-b(4) and Zoning Code Section 223.55(C)(2)(b), when deciding the request for an area variance:

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such a determination, the board shall also consider:

- [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.

WHEREAS, pursuant to Zoning Code Section 223.55(C)(2)(c) “the Board of Appeals, in granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.”

WHEREAS, based upon the Record before it and after viewing the premises and neighborhood concerned and upon considering each of the factors set forth in Section 223.55(C)(2)(b)[1]-[5] of the City of Beacon Code, the Zoning Board finds with respect to each of the requested variances as follows:

1. **The variances will not produce an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties created by the granting of the area variances.**

A. Maximum Building Height- Number of Stories

The City's Zoning Code Section 223-17.C/223 Attachment 1:6 permits a building height to be no greater than fifty-five (55) feet or 4 ½ stories. Each of the seven proposed buildings will comply with the maximum height of 55 feet permitted by the Zoning Code Section 223-17.C. A height variance of half a story is required for three buildings designed with gabled roofs.

The Board find that no undesirable change will be produced in the character of the neighborhood and no detriment to nearby properties will be created by the granting of the area variance of half a story permitting a maximum height of 5 stories for three of the seven buildings where the maximum amount of stories permitted by the code is 4 ½ stories. Under the Zoning Code Section 223-63, the "height of building" is measured as the "vertical distance from the average established grade in front of the lot or from the average natural grade at the building line, whichever is higher, to the level of the highest point of the roof, if the roof is flat, or to the mean level between the eaves and the highest point of the roof, if the roof is of any other type." Under this definition, gabled roofs and angled roofs are measured differently. The gabled roofs are measured with an extra half story because of its design. The three buildings for which variances are required are not as tall at the peak of the angled roofs as the other four buildings that comply with the 4 ½ story height requirement. Furthermore, the roofs of the buildings are all accessible by the Beacon Fire Department apparatuses. As all seven buildings are within the permitted height of 55 feet, the granting of a half story variance for three of the seven buildings does not create a detriment to nearby properties.

B. Maximum Number of Dwelling Units Per Building

No undesirable change will be produced in the character of the neighborhood and no detriment to nearby properties will be created by the granting of an area variance permitting more than 36 dwelling units. The Zoning Code Section 223-17.C states that the maximum number of dwelling units per building shall not exceed 36. The Applicant proposes to construct a total of 307 dwelling units, to be distributed among seven buildings, as permitted on the 12-acre parcel by right. The buildings are proposed to contain the following number of units:

- Building 1- 48 units;
- Building 2- 52 units;

- Building 3- 59 units
- Building 4- 32 units (no variance required)
- Building 5- 32 units (no variance required)
- Buildings 6- 51 units; and
- Building 7- 32 units (no variance required)

Three (3) of the buildings are proposed to contain 32 residential dwelling units, this is four less units than permitted. All the buildings will look similar from the exterior, and the total number of units (307 units) proposed for the 12-acre property is permitted. Under the density regulation in 223 Attachment 1:6, the lot area required per dwelling unit is 1,700 square feet. Therefore, on a 12 acre lot, approximately 522,720 square feet, 307 dwelling units may be constructed. The proposed development will not result in any adverse impacts to the neighborhood character because by permitting the Applicant to have more dwelling units per building, the Applicant is able to preserve more open space and decrease overall lot coverage and impervious surface. Otherwise, the Applicant could construct the same number of units (307), but in more buildings which would have greater impacts.

C. Minimum Separation Between Buildings

No undesirable change will be produced in the character of the neighborhood and no detriment to nearby properties will be created by the granting of a variance to permit a minimum distance of less than 36 feet between buildings. There are a total of five openings between the proposed seven buildings on the premises. The closest minimum distance between the buildings is 12 feet. By reducing the distance between buildings the Applicant is able to cluster the buildings to preserve a maximum amount of open space. In addition, the buildings include additional fire suppression systems and will utilize fire suppression materials to ensure fire safety and further preserve the welfare of the neighborhood and ensure the safety of all residents. The Fire Department received the plans and had no objection to the reduced separation distance between buildings. Overall, the proposed project enhances the character of the neighborhood, and will not have a detrimental impact to either the neighborhood or adjacent properties.

2. The benefit sought by the Applicant cannot be achieved by some method feasible for the Applicant to pursue, other than the requested area variances.

A. Maximum Building Height- Number of Stories

The benefit sought by the Applicant cannot be achieved by some other method feasible for the Applicant to pursue. The Applicant may construct 307 dwelling units on the premises by right. The Applicant has presented two other alternatives. Such alternatives require the Applicant to construct eight buildings (providing 288 dwelling units) or nine buildings (providing 307 units). Both alternatives create higher development impacts. The Applicant wants to pursue a sustainable development to maximize open space. Under the

proposed project there is 35% impervious coverage. Both alternatives require at least 40% impervious coverage.

The premises is located in the Coastal Management Zone as defined by the City's Local Water Front Revitalization Program (LWRP). The proposed project condenses and clusters the footprint of the buildings and decreases impervious surfaces to achieve the clustered effect recommended by the LWRP. Specifically the LWRP provides that "the scenic qualities of Beacon results from the combination of clustered buildings (many historic) and wooded hillsides against the backdrop of the Hudson Highlands." On December 12, 2017, the Planning Board issued a Local Waterfront Revitalization (LWRP) Consistency Determination, which provides in part that the proposed Project is consistent with the policies in the LWRP because it condenses and clusters the footprint of the buildings and impervious surfaces to achieve the clustered effected by the LWRP. The proposed alternatives do not achieve the same effect.

B. Maximum Number of Dwelling Units Per Building

The Applicant is proposing 31 dwelling units as below-market rate units, in accordance with the City's Affordable-Workforce Housing Laws. By granting the variance and permitting more than 36 dwelling units in a building, the Applicant can create a better mix of unit types and overall diversity in unit counts to better achieve the goals of the Affordable-Workforce Housing Law.

The Applicant is permitted to build 307 units on the premises pursuant to the density requirements of the RD-1.7 Zoning District on a 12 acre parcel, subject to special use permit approval by the City Council to approve multifamily complexes. Without the variances, the Applicant will need to construct one or two extra buildings, increasing lot coverage and impervious surface. The Applicant's goal to preserve 65% green space, create diversity in buildings and unit types and provide common gathering space for residents cannot be achieved without the requested variance.

If each building contained the same number of units it would necessitate more buildings, and would therefore create a much higher-impact development. Therefore, there is no other feasible means to achieve the required number of units but for the granting of the variance to permit more than 36 dwelling units per building.

C. Minimum Separation Between Buildings

As discussed above, the relative clustering of the buildings contributes to maximizing the amount of open space provided onsite. The proposed layout allows for the preservation of the maximum amount of green space (65%) and will overall enhance the community. Thus, the benefit the Applicant seeks, to develop 307 residential dwelling units and preserve 65% open space, cannot be achieved without the requested variance.

3. The requested variances are mathematically substantial; however, this does not outweigh the other factors meriting the granting of the variance.

The requested variances are mathematically substantial. However, in considering whether a variance is substantial, the Board must examine the totality of the circumstances within the application and the overall effect of granting the requested relief. Here, the variances are not substantial in their effect. The project design provides a variety of units, both market-rate and below-market rate units, while preserving the most amount of open space. Moreover, even though the requested variances are mathematically substantial, this factor alone does not preclude the granting of the variances.

The Board reviewed the overall effect of the requested variances to permit the clustering of units on this 12 acre parcel requiring (1) a half story height variance for three buildings, (2) a variance to permit more than 36 residential dwelling units per building and (3) a variance to allow less than 30 feet between the proposed buildings. While the requested variance is mathematically substantial, the variance will result in minimal impacts to the surrounding neighborhood and environment. Therefore, the Board finds that the requested variance is not substantial.

4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There will be no adverse effects of noise, vibrations, odor, traffic, or impact on public services caused by the requested variances. As part of the Coordinated SEQRA review conducted by the Planning Board as Lead Agency, the Planning Board has determined that the entire action, including the required variances, will have no potential significant adverse environmental impacts. As mentioned above, the Planning Board also granted a LWRP Consistency Determination which provides that the proposed Project is consistent with policies and guidance of the LWRP. The proposed project will preserve 65% open space and utilize green infrastructure practices to reduce runoff, minimize grading and soil disturbance, and minimize impervious surface areas. The proposed project will also incorporate soil conservation and dust control best management practices and utilize native vegetation in all proposed landscaping to enhance wildlife habitat.

5. The alleged difficulty was self-created but this factor does not preclude the granting of the area variances.

The need for the variances is self-created since it is presumed the Applicant selected the Property as the location for its proposed development knowing the zoning requirements pertaining to the maximum height of buildings permitted, the maximum number of residential dwelling units per building and the minimum distance required between buildings. However, this does not preclude the granting of the area variance.

2018-1

NOW THEREFORE, BE IT RESOLVED, that, for the reasons set forth above, the application of Scenic Beacon Developments, LLC (the "Applicant") to allow Building 3, Building 4, and Building 6, as identified on the proposed Site Plan dated January 31, 2017, to have 5 stories where the maximum building height is 4.5 stories pursuant to City § 223-17.C/223 Attachment 1:6, is hereby GRANTED.

BE IT FURTHER RESOLVED, that for the reasons set forth above, the application of Scenic Beacon Developments, LLC, to allow four proposed buildings to exceed 36 units where the maximum number of dwelling units per building is 36 units pursuant to the City Code § 223-17.C/223 Attachment 1:6, is hereby GRANTED subject to the following conditions:

1. If the Applicant builds less than 252 units (7 buildings x 36 dwelling units= 252 units), this variance is void. The Applicant will be required to comply with the Zoning Code requirements restricting the number of units per building and may not exceed 36 residential dwelling units per building.
2. The Applicant is permitted to construct a maximum number of four buildings with more than 36 residential dwelling units. The maximum number of dwelling units for any one building may not exceed 59 residential dwelling units per building.

BE IT FURTHER RESOLVED, that for the reasons set forth above, the application of Scenic Beacon Developments, LLC, to allow less than 30 feet between buildings where the minimum distance between buildings on the same lot is 30 feet pursuant to City Code § 223-17.C/223 Attachment 1:6, is hereby GRANTED subject to the following conditions:

1. The Applicant shall maintain at least 65% of the 12-acre parcel as open space, but for Planning Board approval of impervious infrastructure including, but not limited to, sidewalks, development of land banked parking, roads, and decks. The total amount of open space land preserved after Planning Board approval of said impervious infrastructure shall not be less than 60% of the 12-acre parcel.
2. Impervious surface shall not exceed 35% of the 12-acre parcel, but for Planning Board approval of impervious infrastructure, including, but not limited to, sidewalks, development of land banked parking, roads, and decks. The total impervious surface area, including any additional approved impervious surfaces, shall not to exceed 40% of the 12-acre parcel.
3. The distance between any of the proposed buildings shall not be less than 12 feet.

BE IT FURTHER RESOLVED, that all the variances granted herein are subject to the following conditions:

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1. No permit or Certificate of Occupancy shall be issued until the Applicants have paid in full all application and consultant fees incurred by the City of Beacon in connection with the review of this application.
2. The Applicant shall obtain a building permit within twelve months from the date of obtaining the last land use approval.
3. The variance shall terminate unless the Proposed Project, as defined herein, has been substantially completed within five years from the date of obtaining the last land use approval or the Applicant appears before the Board for an extension.

Dated: January 17, 2018



Mr. John Dunne, Chairman

2018-01

Height Variance

Mr. Dunne called the roll							
Motion	Second	Zoning Board Member	Aye	Nay	Abstain	Excused	Absent
		John Dunne	X				
		Jordan Haug	X				
	X	Robert Lanier	X				
X		Judy Smith	X				
		David Jensen		X			
		Motion Carried	4	1			

Maximum Number of Dwelling Units Variance

Mr. Dunne called the roll:							
Motion	Second	Zoning Board Members	Aye	Nay	Abstain	Excused	Absent
		John Dunne	X				
X		Jordan Haug	X				
		Robert Lanier	X				
	X	Judy Smith	X				
		David Jensen		X			
		Motion Carried:	4	1			

2018-1

Maximum Distance Between Buildings Variance

Mr. Dunne called the roll:							
Motion	Second	Zoning Board Members	Aye	Nay	Abstain	Excused	Absent
		John Dunne	X				
X		Jordan Haug	X				
	X	Robert Lanier	X				
		Judy Smith	X				
		David Jensen		X			
Motion Carried:			4	1			

City of Beacon Zoning Board of Appeals Agenda
03/19/2024

Title:

Consider a notification from the City of Beacon Planning Board on its intent to serve as the Lead Agency for Site Plan and Subdivision Approval for the construction of two (2) 4-story mixed-use buildings that will be comprised of commercial (retail/office) and tenant amenity spaces on the first floors, together with multi-family residences on the upper floors, for properties located at 45 Beekman Street (Tax Grid No. 5955-19-706012), High Street (Tax Grid No. 5954-26-689990), and High Street (Tax Grid No. 5954-26-781983).

ATTACHMENTS

[45 Beekman-High St COB PB lead agency ltr 2.22.24 ZBA.pdf](#)



City of Beacon
 Planning Board
 One Municipal Plaza, Suite 1
 Beacon, NY 12508
 Phone: 845-838-5002

John Gunn, Chair

February 22, 2024

Via Email: jhaug@beaconny.gov

Zoning Board of Appeals of the City of Beacon
 Attn: Jordan Haug, Chair
 1 Municipal Plaza
 Beacon, NY 12508

Subject: Designation of Lead Agency in Accordance with SEQRA
 45 Beekman Street, Beacon, NY 12508, Tax Grid No. 5955-19-706012
 High Street, Beacon, NY 12508, Tax Grid No. 5954-26-689990
 High Street, Beacon, NY 12508, Tax Grid No. 5954-26-781983

To Whom It May Concern:

The City of Beacon Planning Board is hereby notifying you that it has received an application for Site Plan and Subdivision approval for the construction of two (2) 4-story mixed-use buildings that will be comprised of commercial (retail/office) and tenant amenity spaces on the first floors, together with multi-family residences on the upper floors. The parcels are designated as Parcel ID 5955-19-706012, 5954-26-689990, and 5954-26-781983 and are located in the Linkage (L), Residential (R1-7.5) and Historic District and Landmark Overlay zoning districts. The Planning Board is the approval authority for the Site Plan, Subdivision, LWRP Consistency and Certificate of Appropriateness applications. You are receiving this notice because your agency has been identified as an involved or interested agency.

The City of Beacon Planning Board hereby declares its intent to serve as the Lead Agency for the environmental review of the proposed action, which is classified as Unlisted pursuant to SEQRA. Enclosed for your use, if you choose, is a form for responding to the Planning Board.

In accordance with the requirements of SEQRA, enclosed for your review are Part 1 of the Environmental Assessment Form (EAF) which has been prepared by the project sponsor for the proposed action, and a copy of the applications and site plan. Agenda materials are also available online through the City of Beacon website: <https://beaconny.gov/index.php/agendas-minutes/>

Thank you.

John Gunn, Chair



City of Beacon
Planning Board
One Municipal Plaza, Suite 1
Beacon, NY 12508
Phone: 845-838-5002

John Gunn, Chair

JG/mp
Enclosures

Cc: Bruce Flower, Building Inspector, City of Beacon
Jennifer L. Gray, Keane & Beane P.C.
John Russo, P.E., Lanc & Tully Engineering & Surveying, P.C.
Natalie Quinn, KARC Planning Consultants, Inc.



City of Beacon
 Planning Board
 One Municipal Plaza, Suite 1
 Beacon, NY 12508
 Phone: 845-838-5002

DESIGNATION OF LEAD AGENCY RESPONSE FORM

To: City of Beacon Planning Board

Date: _____

From (agency name): _____

Subject: Designation of Lead Agency in Accordance with SEQRA
 45 Beekman Street, Beacon, NY 12508, Tax Grid No. 5955-19-706012
 High Street, Beacon, NY 12508, Tax Grid No. 5954-26-689990
 High Street, Beacon, NY 12508, Tax Grid No. 5954-26-781983

The City of Beacon Planning Board intends to serve as the Lead Agency for the environmental review of the proposed action consisting of the construction of two (2) 4-story mixed-use buildings that will be comprised of commercial (retail/office) and tenant amenity spaces on the first floors, together with multi-family residences on the upper floors. The parcels are designated as Parcel ID 5955-19-706012, 5954-26-689990, and 5954-26-781983 and are located in the Linkage (L), Residential (R1-7.5) and Historic District and Landmark Overlay zoning districts

The above identified agency: *(please check one below)*

- ☐ Has no objection to the Planning Board serving as Lead Agency.
- ☐ Takes no position with respect to the Planning Board serving as Lead Agency.
- ☐ Objects to the Planning Board serving as Lead Agency.

 Printed Name

 Signature

 Title

Mercedes Perez, Planning Board Secretary: mperez@beaconny.gov