



COURTROOM
1 MUNICIPAL PLAZA
BEACON, NY 12508

September 16, 2025
7:00 PM
Zoning Board of Appeals Agenda

The Zoning Board of Appeals will meet at 7:00 p.m., in the Municipal Center courtroom, located at One Municipal Plaza, Beacon, New York.

Approval of the August 19, 2025, minutes

Regular Meeting

1. Review and public hearing on application submitted by Dean Vandemark, 4 Fowler Street, Tax Grid No. 30-5954-44-951663-00, in the R1-5, to allow for the construction of a rear deck, which requires relief from the following: a) Section 223-17.D. to allow for a 3 ft 7 in side yard setback (10 ft required)

Miscellaneous Business

1. Consider a request for a six (6) month 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 request for a two (2) year extension of a variance approval previously granted for property at 18-30 Edgewater Place (formerly 22 Edgewater Place) (Tax Grid No. 30-5955-19-590022), submitted by Scenic Beacon Developments, LLC.

City of Beacon Zoning Board of Appeals Agenda
09/16/2025

Title:

Review and public hearing on application submitted by Dean Vandemark, 4 Fowler Street, Tax Grid No. 30-5954-44-951663-00, in the R1-5, to allow for the construction of a rear deck, which requires relief from the following: a) Section 223-17.D. to allow for a 3 ft 7 in side yard setback (10 ft required)

ATTACHMENTS

[4 Fowler ZBA 9.16.25 submission.pdf](#)

[4 Fowler St Denial Letter 9.3.2025.pdf](#)

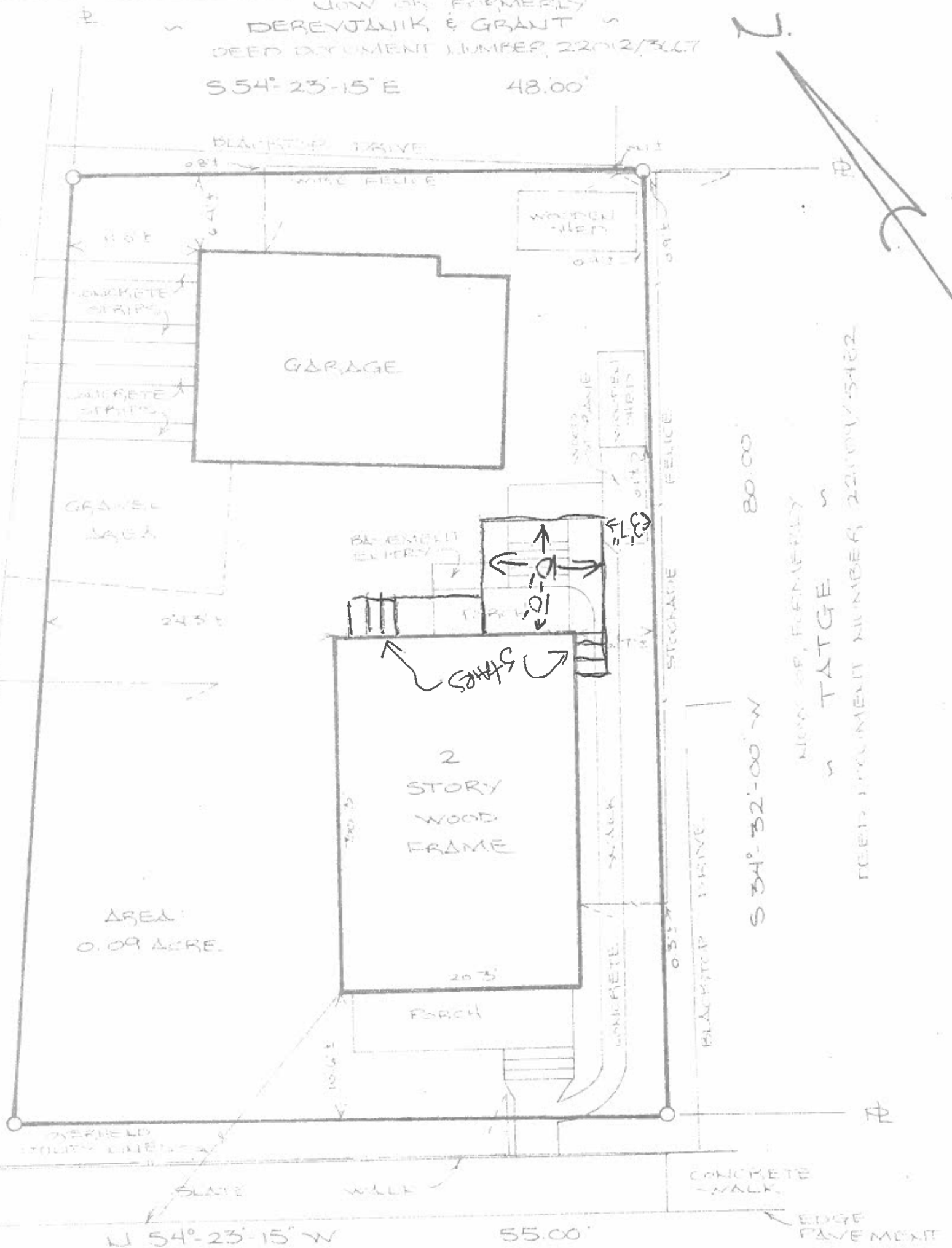
TELLER AVENUE

N 34° 32' 30" E

80.17'

CURB LINK FENCE

EDGE PAVEMENT



AREA:
0.09 ACRE

FOWLER STREET

MAP OF SURVEY
PREPARED FOR
VAN DE MARK

CITY OF SEAFORD
SCALE: 1"=10'

DUTCHESS COUNTY, NEW YORK
SEPTEMBER, 2, 2015

BEFORE ME, FIELD UNIT THIS SURVEY

WAS PREPARED AND ACCEPTED

FOR THE PURPOSE OF TITLE SURVEYS

BY: J. William Komisar

PREPARED BY:

J. William Komisar, L.L.S.

304 HIGHT AVENUE

TELGHERPOLE, NEW YORK, 12622

(845) 435-2626

J.W. Komisar

80715

THIS MAP WAS PREPARED BY J. William Komisar, L.L.S.
AND IS BEING RECORDED.



**City of Beacon
Building Department
One Municipal Plaza, Suite 4
Beacon, NY 12508
Phone: 845-838-5020 Fax: 845-838-5026**

*Bryan Murphy, Building Inspector
Email: bmurphy@beaconny.gov*

September 3, 2025

Dean Vandemark
4 Fowler Street
Beacon, NY 12508

Re: 4 Fowler Street (SBL #5954-44-951663)

To Whom It May Concern:

Reference is made to your submission for a building permit to construct a deck on the structure located at 4 Fowler Street, Beacon, NY 12508. The property is located in the R1-5 Zoning District (One-Family 5,000 sq ft/dwelling).

Please be advised that at this time, I must deny your application for the following reasons:

- Per §223-17, Attachment 1. The minimum required side yard setback is 10'. The proposed deck would be 3'7" from the property line. This would require a variance of 6'5".

You have the right to appeal this decision to the Zoning Board of Appeals. Forms for filing an appeal are available on the City of Beacon website or in the Building Department. Please contact the Zoning Board of Appeals Secretary regarding the application and instructions.

Bryan Murphy

Bryan Murphy
Building Inspector/Zoning Administrator
NYS Certification #0312-0024

BM/mp

City of Beacon Zoning Board of Appeals Agenda
09/16/2025

Title:

Consider a request for a six (6) month 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 9.16.25 Extension Request.pdf](#)



300 Westage Business Center, Suite 380
Fishkill, New York 12524
T 845 896 2229
F 845 896 3672
cuddyfeder.com

Taylor M. Palmer
tpalmer@cuddyfeder.com

August 26, 2025

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") Regular Meeting Agenda in order to request an extension of the Area Variance Approval Resolution that was issued by this Board on July 18, 2023 for the proposed retaining wall height for the above-referenced project (the "ZBA Resolution")¹. Said approval was last extended by this Board on March 18, 2025, for an additional six (6) months, ending September 12, 2025.²

Specifically, the Applicant respectfully requests a six (6)-month extension of the ZBA Resolution, thus extending until March 12, 2026 the date by which the Applicant must obtain a Building Permit.³ The Applicant continues to work diligently towards obtaining a Building Permit, which efforts include, but are not limited to, a pending submission of all project-related documents to the City's Engineer for their review, which will enable the Subdivision Plat to be signed by the Planning Board Chairman and subsequently filed in the Office of the Dutchess County Clerk.

We look forward to discussing this extension request at the Board's next available Regular Meeting Agenda. In the meantime, should the ZBA or City Staff have any questions or comments

¹ On July 18, 2023, the Zoning Board of Appeals granted a variance permitting retaining wall heights up to 15.4 feet. The ZBA granted a 6-month extension through March 12, 2025, a copy of which is enclosed as **Exhibit A**.

² See March 18, 2025, Zoning Board of Appeals Meeting Minutes, **Exhibit B**.

³ **Note:** 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. See St. Onge v. Donovan, 71 N.Y.2d 507 (N.Y. 1988) (holding that variances run with the land); see also Dill-Hill Realty Corp v. Schultz, 53 A.D.2d 263 (3d Dep't 1976).



August 26, 2025

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regarding 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 horizontal flourish extending to the right.

Taylor M. Palmer

Enclosures

cc: George Alissandratos, Esq., ZBA Attorney

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.

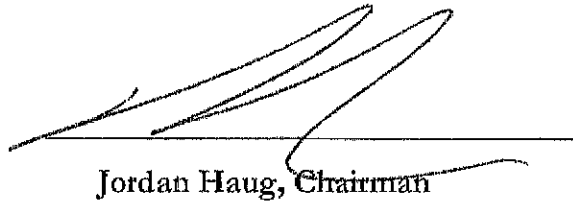
BE IT FURTHER RESOLVED, that said application for a variance from City Code § 223-13.G(1) to allow for a retaining wall with a maximum height ranging from seven-and-a-half feet (7.5') to fifteen and four-tenths feet (15.4'), which variance is sought to permit the construction of portions of walls over 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
ONE MUNICIPAL PLAZA - SUITE 1
BEACON, NEW YORK 12508

Phone (845) 838-5002 Fax (845) 838-5026

MINUTES OF THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals met on **Tuesday, March 18, 2025**, at 7:00 p.m., in the Municipal Center courtroom, located at One Municipal Plaza, Beacon, New York.

A video of this meeting is available in its entirety through the City of Beacon website:
<https://beaconny.gov/index.php/government/boards-committees/zoning-board/>

The video can also be found on YouTube:
https://www.youtube.com/playlist?list=PLhEUshaB9yYrILGgtwpLmv_m8rY0KP9oW

Present: Jordan Haug – Chair, Montos Vakirtzis, Elaine Ciaccio, Stowe Boyd, Geroge Alissandratos (Attorney), Bryan Murphy (Building Inspector), Mercedes Perez (Secretary)

Absent: Judith Smith

The Zoning Board meeting was called to order at 7:01 p.m.

The Chair explained the rules and procedures of the Zoning Board of Appeals, including the five (5) factors that will be evaluated for an area variance. He also noted that there are only four (4) members present for tonight's meeting.

Motion to approve the January 22, 2025, minutes:

Motion: Montos Vakirtzis
Second: Elaine Ciaccio
All in favor – none opposed

Motion to approve the February 19, 2025, minutes:

Motion: Stowe Boyd
Second: Montos Vakirtzis
All in favor – none opposed

MISCELLANEOUS BUSINESS

Consider a request for a six (6) month 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.

- George Alissandratos, Attorney, reminded the board that the applicant was granted their original variance in July 2023, and came back to the Zoning Board in March 2024, and again in September 2024, to request extensions, which were granted. The applicant is back before the board requesting another six (6) extension. He noted that the applicant is working to get things done and needs more time.

Motion to grant a six (6) month extension:

Motion: Montos Vakirtzis

Second: Elaine Ciaccio

All in favor – none opposed

CONTINUED PUBLIC HEARING

Continue review and public hearing on application submitted by Lendita Mavraj, 6 Cliff Street, Tax Grid No. 30-5954-27-799935-00, in the T Zoning District, to allow the primary building on the property to be converted from a one-family residence to a two-family residence, which requires relief from the following:

- a) **Section 223-17.D. to allow for a minimum lot area per dwelling unit of 1,631 sq ft (2,500 sq ft required)**

And, to allow the construction of an addition and deck to the primary building, which requires relief from the following:

- b) **Section 223-17.D. to allow for a 6 ft rear yard setback (20 ft required)**

Motion to continue the public hearing:

Motion: Montos Vakirtzis

Second: Stowe Boyd

All in favor – none opposed

- David Freeman, architect for the applicant, noted that the 8 Cliff Street neighbor was unable to attend this meeting, but that they had come to an agreement with the applicant regarding the lot line and replacing the fence. He explained that the applicant will help relocate the neighbor's existing shed back onto the neighbor's property, as well as replace the neighbor's fence by coming in a foot from the applicant's side of the fence and installing a solid six (6) ft tall fence up to the front of the houses, and continuing the rest with a chain link fence up to meet the neighbor's corner. The fence will basically be on the 6 Cliff Street property, but encloses the neighbor's property. He also noted that the owner of 6 Cliff Street is agreeable to a patio instead of a deck.
- Nothing in writing was provided regarding the agreement with the neighbor.
- George Alissandratos, Attorney, noted that the fence and moving the shed are not related to the variance.
- David Freeman, architect for the applicant, expects that the property owner will reside in the upper unit, and rent out the lower floor.
- The Chair opened the floor to the public for comments: none.

Motion to close public hearing:

Motion: Stowe Boyd

Second: Elaine Ciaccio

All in favor – none opposed

- George Alissandratos, Attorney, encouraged the board to deliberate each variance separately and to vote on them separately.
- The board discussed each of the five (5) factors evaluated for area variance one (1): relief from Section 223-17.D. to allow for a minimum lot area per dwelling unit of 1,631 sq ft, where 2,500 sq ft is required.
- The board discussed each of the five (5) factors evaluated for area variance two (2): Section 223-17.D. to allow for a 6 ft rear yard setback, where 20 ft is required.
- David Freeman, architect for the applicant, stated that the applicant would agree to a patio, instead of a deck, which would change the second variance request, to allow an 8 ft rear yard setback, where 20 ft is required.
- The applicant agreed to the normal restrictions of a variance, which consist of 1.) paying all fees pertaining to this application, and 2.) obtaining a building permit within six (6) months, commencing construction within six (6) months of issuance of the building permit, and completing all construction on this project and receiving a CO (certificate of occupancy) within 24 months, with the additional condition that the deck is removed and the 12 ft setback is for the addition only.

Motion to grant variance one (1), regarding minimum lot area per dwelling unit, with conditions:

Motion: Stowe Boyd

Second: none

Motion not carried.

Motion to authorize the attorney's office to prepare a denial resolution to be voted on at the April 15, 2025, meeting:

Motion: Montos Vakirtzis

Second: Elaine Ciaccio

3 in favor – 1 opposed

Roll Call Vote: Elaine Ciaccio -Aye

Montos Vakirtzis - Aye

Jordan Haug - Aye

Stowe Boyd - Nay

- George Alissandratos, Attorney, clarified that this is not a denial. The document will be drafted in preparation for the next meeting on April 15, 2025.
- The board decided to address variance two (2) at the next meeting.

PUBLIC HEARING

Review and hold public hearing on application submitted by Mark Torre, 30 Riding Ridge Trail, Tax Grid No. 30-5954-20-946077-00, in the R1-80 Zoning District, to allow for the construction of a 20 ft x 20 ft carport to be located forward of the front line of the primary building, which requires relief from the following:

Section 223-14 Landscaping, lighting, and miscellaneous regulations.

E. Accessory buildings on residential lots.

(3) Detached garages and other accessory buildings. Detached garages and other accessory buildings are permitted, provided that they comply with the accompanying Schedules of Regulations and meet the following additional requirements:

(a) The building shall be located behind the front line of the primary building.

Motion to open public hearing:

Motion: Montos Vakirtzis

Second: Elaine Ciaccio

All in favor -- none opposed

- Marcia Lopez, of S & L Contracting and Service, Inc, contractor for the applicant, discussed the proposed carport and explained why it was being placed in front of the main structure on the property. She confirmed that the cul de sac is the only entrance to the property and that the carport would not obstruct the main structure from the cul de sac.
- The board discussed the shape and slope of the lot.
- Jamie Mechada, architect for the applicant, explained that the lot is trapezoidal, as well as a story higher than the street. He also noted that they are proposing to place the carport on the only flat area available.
- There were no members of the public in the audience during this public hearing.

Motion to close the public hearing:

Motion: Elaine Ciaccio

Second: Stowe Boyd

All in favor -- none opposed

- The board discussed each of the (5) factors evaluated for the area variance.
- The applicant agreed to the normal restrictions of a variance, which consist of 1.) paying all fees pertaining to this application, and 2.) obtaining a building permit within six (6) months, commencing construction within six (6) months of issuance of the building permit, and completing all construction on this project and receiving a CO (certificate of occupancy) within 24 months.
- The board agreed to include the condition that the carport must not be enclosed.

Motion to grant the variance with conditions, along with the additional condition that the carport must not be enclosed:

Motion: Montos Vakirtzis

Second: Elaine Ciaccio

All in favor – none opposed

Roll Call Vote: Elaine Ciaccio – Yes

Montos Vakirtzis – Yes

Stowe Boyd – Yes

Jordan Haug – Yes

Motion to adjourn the meeting:

Motion: Stowe Boyd

Second: Elaine Ciaccio

All in favor – none opposed

The meeting was adjourned at 8:06 p.m.

City of Beacon Zoning Board of Appeals Agenda
09/16/2025

Title:

Consider a request for a two (2) year extension of a variance approval previously granted for property at 18-30 Edgewater Place (formerly 22 Edgewater Place) (Tax Grid No. 30-5955-19-590022), submitted by Scenic Beacon Developments, LLC.

ATTACHMENTS

[18-30 Edgewater determination request Ltr re Substantial Construction and Ex A\(6550248.1\).pdf](#)

[18-30 Edgewater ZBA 9.16.25 Interpretation - Extension Request and Ex A\(6550234.1\).pdf](#)



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Taylor M. Palmer
tpalmer@cuddyfeder.com

August 26, 2025

VIA E-MAIL

Mr. Bryan Murphy
Building Inspector
City of Beacon Building Department
City of Beacon
One Municipal Plaza
Beacon, New York 12508

Re: Edgewater – Request for Substantial Completion Determination – Prior ZBA Approval
Scenic Beacon Developments, LLC
Premises: 22 Edgewater Place, Beacon, New York 12508
Tax Parcel ID: 5955-19-590022

Dear Inspector Murphy:

We are writing on behalf Scenic Beacon Developments, LLC (the “Applicant”), the owner of the above-referenced Premises, to request a formal determination from your office regarding the Applicant’s substantial completion of the Edgewater project. This request is submitted in connection with the Applicant’s 2018 Zoning Board of Appeals (“ZBA”) approval for the Edgewater project, which is currently set to expire on September 11, 2025.¹

THE STATUS OF THE EDGEWATER PROJECT DEMONSTRATES THAT SUBSTANTIAL CONSTRUCTION HAS BEEN COMPLETED AND SATISFIES THE INTENT OF THE CONDITION IN THE ZBA’S APPROVAL:

As you are aware, the Edgewater project has been under construction for over three (3) years during which time Phase I of the two (2)-phase project has been completed and Phase II is now well underway. In the past three (3) years, the Applicant has spent considerable time and money in furtherance of the development of the project, which work includes an internal lot subdivision; the demolition of the-then existing buildings on the Premises; expansive site work to fully plant and stabilize the Premises; installation of major sewer and water lines and retention basins throughout the Premises and the construction and occupation of four (4) of the eight (8) buildings on the site, which four (4) buildings comprised Phase I of the project.

¹ Copies of the January 17, 2018 ZBA Approval and the August 16, 2023 ZBA extension are enclosed as **Exhibit A**. In the event the Edgewater project is not deemed substantially completed, an additional extension may be granted by the ZBA.



August 26, 2025

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This work and subsequent occupation of the Phase I buildings have been authorized and overseen by your Department, via the following permits and certificates and various inspections:

- Building No. 5 (Residential Units) – Construction work authorized pursuant to Building Permit No. 2022-0189. Certificate of Occupancy (“CO”) issued July 5, 2024 as Certificate No. 2022-0189.
- Building No. 6 (Residential Units) – Construction work authorized pursuant to Building Permit No. 2022-0038 issued on January 14, 2022. CO issued May 1, 2024 as Certificate No. 2022-0038.
- Building No. 7 (Residential Units) – Construction work authorized pursuant to Building Permit No. 2022-0197 issued July 27, 2022. CO issued December 23, 2024 as Certificate No. 2022-0197.
- Building No. 8 (Tenant Amenity Space) – Construction work authorized pursuant to Building Permit No. 2023-0069 issued March 7, 2023. TCO issued February 13, 2025, and CO we understand is forthcoming from your Department.

In speaking with the Applicant, we understand that the Phase II work has also begun with Building 4’s foundation recently completed and Building 3’s foundation near completion.²

CONCLUSION:

It is respectfully submitted that, given the progress made on the Edgewater project and the current status of the development work to date, the substantial completion milestone has been achieved, and that further time extensions of the ZBA’s approval are no longer necessary. The Applicant further submits that the intent of the condition of the ZBA’s approval has been satisfied,³ and the Applicant continues to diligently construct and complete the Phase II work on the Edgewater project.

For all of the reasons set forth herein, it is respectfully submitted that this interpretation request should be granted in its entirety. Should you or City Staff have any questions or comments with regard to the foregoing, please do not hesitate to contact me.

² Note: We also understand from the Applicant that certain permits have already been issued related to the construction of the remaining buildings on the Premises, and that additional permit applications are forthcoming in short order regarding same.

³ Note: This is a unique condition, and this project involves a multi-phase, multiple building development – and any such determination does not create precedent elsewhere.



August 26, 2025
Page 3

Thank you in advance for your consideration of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "TP", with a long, sweeping horizontal line extending to the right.

Taylor M. Palmer

Enclosure

cc: George Alissandratos, Esq., City ZBA Attorney

Exhibit A

CITY OF BEACON
ZONING BOARD OF APPEALS

RESOLUTION
22 Edgewater Place
Parcel ID# 5955-19-590022

WHEREAS, an application has been made to the City of Beacon Zoning Board of Appeals by Scenic Beacon Developments, LLC (the "Applicant") for a two (2)-year extension of the approval resolution previously granted by the Zoning Board of Appeals dated January 17, 2018 (Resolution 2018-01) (the "2018 Approval Resolution"), a copy of which is annexed hereto as Exhibit "A"; and

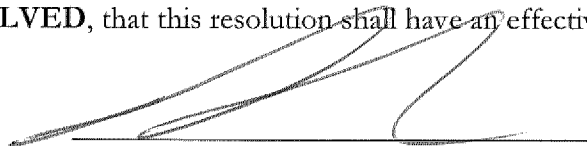
WHEREAS, the 2018 Approval Resolution is set to expire on September 11, 2023; and

WHEREAS, the Applicant appeared before the Board at its August 15, 2023 meeting and explained its request for a two (2)-year extension to the 2018 Approval Resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals hereby grants a two (2)-year extension of the 2018 Approval Resolution.

BE IT FURTHER RESOLVED, that this resolution shall have an effective date of September 11, 2023.

Dated: August 16, 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>
	X	Stowe Boyd	X	
		Judy Smith	X	
		Jordan Haug	X	
X		Montos Vakirtzis	X	
		Elaine Ciaccio	X	
Motion Carried:			5	0

EXHIBIT A

**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

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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.

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:

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

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*			

**Mr. Jensen was in favor of granting the variance for Buildings 3 and 6 to have 5 stories but was not in favor of granting the variance for Building 4.*

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			

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			



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Taylor M. Palmer
tpalmer@cuddyfeder.com

August 26, 2025

VIA E-MAIL
AND HAND DELIVERY

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

Re: Edgewater – Request for Interpretation/Extension of ZBA Approval Resolution
Scenic Beacon Developments, LLC
Premises: 22 Edgewater Place, Beacon, New York 12508
Tax Parcel ID: 5955-19-590022

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

We are writing on behalf Scenic Beacon Developments, LLC (the “Applicant”), the owner of the above-referenced Premises, to request confirmation from the Zoning Board of Appeals (“ZBA”) that the Applicant has “substantially completed” the Edgewater project in satisfaction of the final outstanding condition of the ZBA’s Approval Resolution dated January 17, 2018 or, in the alternative, an extension of the ZBA Approval Resolution.¹

Concurrently with this submission, the Applicant has submitted a Determination Request to the City Building Inspector regarding the substantial completion of the Edgewater project. Should the Building Inspector issue the requested Determination, we will withdraw this submission. Should the Building Inspector determine that the Edgewater project is not substantially complete, we respectfully request placement on the ZBA’s next available meeting agenda for consideration of the foregoing extension request.

THE STATUS OF THE EDGEWATER PROJECT DEMONSTRATES THAT SUBSTANTIAL CONSTRUCTION HAS BEEN COMPLETED AND SATISFIES THE INTENT OF THE CONDITION IN THE ZBA’S APPROVAL:

As you are aware, the Edgewater project has been under construction for over three (3) years during which time Phase I of the two (2)-phase project has been completed and Phase II is now well underway. In the past three (3) years, the Applicant has spent considerable time and money

¹ Copies of the January 17, 2018 ZBA Approval and the August 16, 2023 ZBA extension are enclosed as **Exhibit A**.



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in furtherance of the development of the project, which work includes an internal lot subdivision; the demolition of the-then existing buildings on the Premises; expansive site work to fully plant and stabilize the Premises; installation of major sewer and water lines and retention basins throughout the Premises and the construction and occupation of four (4) of the eight (8) buildings on the site, which four (4) buildings comprised Phase I of the project.

This work and subsequent occupation of the Phase I buildings have been authorized and overseen by your Department, via the following permits and certificates and various inspections:

- Building No. 5 (Residential Units) – Construction work authorized pursuant to Building Permit No. 2022-0189. Certificate of Occupancy (“CO”) issued July 5, 2024 as Certificate No. 2022-0189.
- Building No. 6 (Residential Units) – Construction work authorized pursuant to Building Permit No. 2022-0038 issued on January 14, 2022. CO issued May 1, 2024 as Certificate No. 2022-0038.
- Building No. 7 (Residential Units) – Construction work authorized pursuant to Building Permit No. 2022-0197 issued July 27, 2022. CO issued December 23, 2024 as Certificate No. 2022-0197.
- Building No. 8 (Tenant Amenity Space) – Construction work authorized pursuant to Building Permit No. 2023-0069 issued March 7, 2023. TCO issued February 13, 2025, and CO we understand is forthcoming from your Department.

In speaking with the Applicant, we understand that the Phase II work has also begun with Building 4’s foundation recently completed and Building 3’s foundation near completion.²

Accordingly, we respectfully request the ZBA recognize the substantial completeness of the Edgewater project at this time, and in doing so confirm that all conditions of the ZBA Approval Resolution have been satisfied, and that no further extensions are required.

IN THE ALTERNATIVE, THE APPLICANT RESPECTFULLY REQUESTS A FURTHER EXTENSION OF THE ZBA APPROVAL:

In the alternative, the Applicant respectfully requests a two (2)-year extension of the ZBA Approval Resolution extending the ZBA Approval Resolution from September 11, 2025 through to September 11, 2027.³

² Note: We also understand from the Applicant that certain permits have already been issued related to the construction of the remaining buildings on the Premises, and that additional permit applications are forthcoming in short order regarding same.

³ See **Exhibit A**, Condition #3 at Page 8, which provides for extensions of the ZBA Approval Resolution.



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As this Board is likely aware, the Edgewater project has been under development at the Premises since the issuance of Building Permit No. 2022-0038, issued on January 14, 2022. The Applicant has been diligently working to complete the Edgewater project, as fully detailed herein. Provided the Applicant's assiduous efforts and the ongoing construction at the Premises to fully complete the construction of the Edgewater project, the Applicant respectfully requests a two (2)-year extension of the ZBA Approval Resolution until September 11, 2027.

This request for extension is timely as the Approval Resolution is not set to expire until September 11, 2025. Notably, there are no changes proposed to the parameters of the Edgewater project, nor have there been any material changes to the facts and circumstances that existed when the ZBA Approval Resolution was adopted.

CONCLUSION:

It is respectfully submitted that, given the progress made on the Edgewater project and the current status of the development work to date, the substantial completion milestone has been achieved, and that further time extensions of the ZBA's approval are no longer necessary. The Applicant further submits that the intent of the condition of the ZBA's approval has been satisfied,⁴ and the Applicant continues to diligently construct and complete the Phase II work on the Edgewater project. For all of the reasons set forth herein, it is respectfully submitted that this interpretation request should be granted in its entirety.

Alternatively, should an extension of the ZBA Approval Resolution be required, we respectfully request that you please place this matter on the next available ZBA meeting Agenda for consideration.

We look forward to discussing this request at the Board's next available meeting Agenda. In the meantime, if 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 consideration of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. Palmer', written over a horizontal line.

Taylor M. Palmer
Enclosure

cc: George Alissandratos, Esq., ZBA Attorney

⁴ **Note:** This is a unique condition, and this project involves a multi-phase, multiple building development – and any such interpretation does not create precedent elsewhere.

Exhibit A

CITY OF BEACON
ZONING BOARD OF APPEALS

RESOLUTION
22 Edgewater Place
Parcel ID# 5955-19-590022

WHEREAS, an application has been made to the City of Beacon Zoning Board of Appeals by Scenic Beacon Developments, LLC (the "Applicant") for a two (2)-year extension of the approval resolution previously granted by the Zoning Board of Appeals dated January 17, 2018 (Resolution 2018-01) (the "2018 Approval Resolution"), a copy of which is annexed hereto as Exhibit "A"; and

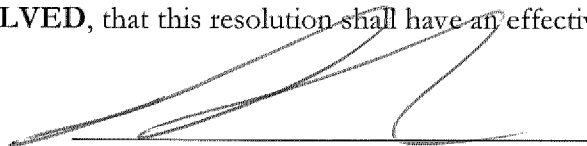
WHEREAS, the 2018 Approval Resolution is set to expire on September 11, 2023; and

WHEREAS, the Applicant appeared before the Board at its August 15, 2023 meeting and explained its request for a two (2)-year extension to the 2018 Approval Resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals hereby grants a two (2)-year extension of the 2018 Approval Resolution.

BE IT FURTHER RESOLVED, that this resolution shall have an effective date of September 11, 2023.

Dated: August 16, 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>
	X	Stowe Boyd	X	
		Judy Smith	X	
		Jordan Haug	X	
X		Montos Vakirtzis	X	
		Elaine Ciaccio	X	
Motion Carried:			5	0

EXHIBIT A

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

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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.

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:

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

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*			

**Mr. Jensen was in favor of granting the variance for Buildings 3 and 6 to have 5 stories but was not in favor of granting the variance for Building 4.*

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			

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			