

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, April 19, 2017

Call to Order

Those members present: Paul Brady, Roger Ames, Jack Cohen, and Michael Schnipper.

Those members excused: Prue Dana.

Staff members present: Sam Perry.

Staff members excused: Jung-Han Chen, and Stephen McHugh.

Approval of Minutes of the March 15, 2017 Regular Meeting

Mr. Ames made motion to approve the March 15, 2017 minutes as written. Mr. Schnipper seconded the motion. All were in favor.

Adjudication Hearings

BZA-2017-05 - 114 W. Walnut Street, variance to Section 1141.03(b) principal entrance upon a street, Scott Webb, Applicant, Agent

Mr. Schnipper made motion to enter into public hearing BZA-2017-05. Mr. Cohen seconded the motion. All were in favor.

Mr. Brady swore in Mr. Perry. Mr. Perry stated this was a request from Mr. Scott Webb for a variance from the requirement for a principal entrance to be upon the street. Currently there is a two story building, slated to be replaced with a 4-story multi- use structure. Mr. Perry reported that the residential entrance would not face the street; however, the commercial portion would. In regards to the Decision Criteria the property could yield a reasonable return without the variance. Mr. Perry referred to drawings on page 7 of the agenda packet that had been presented to the Historic and Architectural Preservation Commission (HAPC). Mr. Perry reviewed the elevations. Mr. Perry noted that 4 stories were permitted; that the 48 foot height limit has been met; and that the only thing not meeting code was the residential entrance not facing the street. Mr. Perry noted that the property was actively permitted as it stands. Mr. Perry asked is the request substantial? City departments did not comment; therefore, they must be determined to not be substantial. The essential character of the neighborhood, Mr. Perry asked the BZA refer to the HAPC discussion about this. Mr. Perry provided excerpted sections of the HAPC code and stated that because of HAPC approval, the BZA can determine it does not negatively impact the neighborhood, but said the BZA could make their own determination. Government services would have no negative impact. A building permit review is in process. Predicament of the owner needs looked at as well. Mr. Perry referred to the width of the lot and a restriction of no residential occupancy on the ground floor. Mr. Perry continued that to have the residential entrance upon the street, you would have to carve out a section of the first floor for a residential hallway. Mr. Perry noted that there may be other ways to construct the building, but the BZA is not here to design it. Mr. Perry discussed emergency services being able to find and being able to reach if needed. Mr. Perry referred to Mr. Webb's comments about others having been approved; however, our code states we cannot base our decision upon other cases. Mr. Perry discussed ADA access not sure having been resolved yet, but because of grade from residential access to public sidewalk does need addressed. Mr. Perry suggested that there be a condition for approval.

Mr. Cohen inquired since the BZA cannot consider previous variances, does it say anywhere to referring of something that has not received a variance. is there any way that allows people to have a side door

without a variance. Do we have a definition for a non-principal entrance?

Mr. Scott Webb was sworn in by Mr. Brady.

Mr. Webb stated that he felt they have met the spirit and intent of the zoning code, since this is a secondary entrance and does not meet the definition of a principal entrance. The practical difficulty would interrupt the front facade with regards to ADA compliance but it meets ADA and complies. Mr. Webb noted that this would be a privately keyed entrance on the side of the building. Mr. Webb noted that the structure was approved by the HAPC and came back without comments from City staff. Mr. Webb stated that he didn't feel the variance was substantial and that the spirit and intent was met with providing a courtyard in the design.

Mr. Cohen made motion to reconvene to regular meeting. Mr. Schnipper seconded the motion. Mr. Cohen made motion to approve BZA-2017-05, 1141.03b based upon the variance was not substantial, the essential character is not negatively altered, government services are not negatively impacted, the spirit and intent is not altered, and the HAPC approved the structure. Mr. Ames seconded the motion. Mr. Perry inquired one clarification in regards to the spirit and intent you meant to say spirit and intent would be observed. Mr. Cohen stated yes.

AYE: Mr. Schnipper, Mr. Ames, Mr. Cohen, Mr. Brady (4)

NAY: None (0)

ABS: None (0)

Old Business*

[BZA-2015-15 - 115 Bishop Street, extension request of approval, variance to minimum lot width, 1143.05\(c\)\(1\)\(B\) Scott Webb, Applicant, Agent, Approved 11/18/2015 22](#)

Mr. Perry was sworn in by Mr. Brady. Mr. Perry reported that the structure had recently burned down, but was before BZA for an extension before the fire had occurred. Mr. Perry suggested that the BZA may want a deadline for construction from Mr. Webb.

Mr. Scott Webb was sworn in.

Mr. Webb reported that BZA approvals are good for 6 months; building permits good for one year. This difference causes much trouble. Mr. Webb stated that they are looking at ready to move forward with the project and wish to start construction now.

Mr. Cohen made motion to BZA-2015-15 and move that the BZA extend for 6 months from this date. Mr. Schnipper seconded the motion. All were in agreement.

New Business

Mr. Cohen inquired about recent BZA denials of applications and enforcement of, more specific 5996 Fairfield Road and 311 W. Church Street. Mr. Perry did not have an update, but stated that Mr. Chen would address at the May meeting.

Mr. Schnipper inquired if additional code enforcement staff would help. Mr. Perry responded yes and that additional staff has been discussed. Mr. Schnipper inquired if NIC could provide enforcement? Mr. Perry responded that he was not sure of their range of services, and maybe that would be an avenue. The BZA agreed they need to get involved in this discussion.

Adjournment

Mr. Ames made motion to adjourn meeting. Mr. Shnipper seconded the motion. The meeting adjourned at 8:00 p.m.