

BOARD OF ZONING APPEALS

Meeting Minutes

Wednesday, June 20, 2012

Call to Order

The June 20, 2012 BZA meeting was called to order at 7:31 p.m.

Those members present: Todd Hollenbaugh, Gary Meyer, Prue Dana, George Prentice, and John Barnhart.

Those members excused: None.

Staff members present: Jung-Han Chen, Scott Lieberman.

Staff members excused: None.

Executive Session

Mr. Barnhart made motion to approve the agenda with the deletion of the Executive Session. Mr. Meyer seconded the motion. The motion passed 5-0-0.

Adjudication Hearing(s)*

BZA-06-2012 [Vine Street, Parcel # #H4100006000035 variance to Sections 1141.03\(b\) principal entrance upon an alley and 1143.03\(c\)\(3\)\(D\)\(3\) front yard lot coverage, Dave & Pamela Kellems, Applicants](#)

Ms. Dana made motion to adjourn to BZA-06-2012. Mr. Meyer seconded the motion. All were in favor.

Mr. Chen provided a staff report regarding this variance request. Mr. Chen stated that the parcel is currently was vacant and located behind 220 E. Vine Street between University Avenue and N. Campus Avenue. The parcel measures 56' x 85.98'. Mr. Chen stated that the lot did not meet the underlying zoning district dimensional requirements. Mr. Chen referred to Zoning Code Section 1137.05, Nonconforming Lots, which allows a single-family dwelling to be erected provided that the lot has a minimum of 3,000 square feet and a minimum lot width of 33 feet. This section of the Code will apply even though the lot fails to meet the requirements for lot area, lot depth, lot width, or any combination thereof that are generally applicable and provided that the new single-family conforms to the height, lot coverage, vehicular access and yard or setback requirements of the district where the property is located. Mr. Chen referred to the Butler County Auditor's Office who stated that this parcel was created prior to 1973, even possibly sometime in the 1930's-1940. Mr. Chen noted that the creation of this parcel was prior to the Zoning Code and that the parcel was legally established by the City of Oxford. Mr. Chen added, this is a Lot of Record. Mr. Chen stated that given that the parcel was established prior to the current Zoning Code being put in place, it would be legally problematic for the City to enforce the current regulations when originally the City approved the lot creation. Mr. Chen added that this was why the Nonconforming Lot Section of the Code was written because of this kind of lot. Mr. Chen then reviewed the two variances the Applicant was requesting. The first being that the lot does not have frontage upon the street; and the lot does not meet the minimum front yard lot coverage. Mr. Chen noted that the lot is considered a buildable lot but cannot become a buildable lot without these variances. Therefore, there are no other alternatives to become a buildable lot. Mr. Chen added that this neighborhood were mostly single-family; therefore, the characteristics of the neighborhood would stay the same. Mr. Chen stated that should the Board approve this request, the work shall be constructed as submitted by the Applicant and that any changes cannot be made without the consent of the BZA.

Mr Meyer inquired if there were any pictures showing the proposed house on the lot. Yes

Ms. Dana referenced page 16 of the agenda packet where the picture showed the proposed house on the lot and reviewed

with the Board, the side, front setbacks and lot coverage. Ms. Dana felt like the house on Vine Street was into the Lot in question. Ms. Dana inquired about fire trucks going down the alley. Mr. Meyer noted that the Fire Chief returned his comments with no comment.

Mr. Hollenbaugh inquired when the property was purchased. Mr. Chen responded December 2011. Mr. Hollenbaugh inquired about when and if the street lot was purchased at the same time? Mr. Chen referred to the Applicant.

Mr. Dave Kellems, Applicant, was sworn in.

Mr. Kellems stated he purchased the property December, 2011 as a short sale. The street lot was purchased at the same time. Mr. Kellems felt he didn't need any variances.

Mr. Hollenbaugh reviewed the history with Mr. Kellems and the BZA. Mr. Hollenbaugh stated that Mr. Kellems purchased Lot 345 and the lot on the street, Lot 346 at the same time. Mr. Hollenbaugh inquired if it was fair to say that Lot 345 was being used as a back yard for the house in front. Mr. Kellems stated it was actually used as illegal parking. Mr. Hollenbaugh referred to Mr. Kellems' narrative, specifically his response regarding Decision Standard E where he argued that he did have knowledge of the zoning regulations but had yet to find a section that pertained to this parcel. Mr. Kellems read aloud the frontage-width definition and the public right-of-way definition.

Mr. Scott Lieberman, City Legal Counsel, responded. Mr. Lieberman stated that Mr. Kellems was referencing two different parts of the Code; 1141.03b specifically states that an alley is not considered a street. Mr. Kellems referenced 1143.03(c)(3)D3 which states lots with vehicular access from a rear or side alley, and no access from a public street must meet the 5% front yard coverage. Therefore, is a different variance request.

Mr. Hollenbaugh inquired if Mr. Kellems owned parcels at 21 and 23 E. Collins and inquired if he had argued in front of the BZA regarding 210 S. Poplar's variance request. Mr. Kellems stated that he argued that it was an addition and had nothing to do with where the door was facing.

Ms. Dana stated she was contemplating the entrance on the alley, that even though the Zoning Code says not permitted (which would seem like an open/shut case); however, the entire block is made up of properties that look like this one. All of the houses are on long lots. Mr. Kellems responded that no the other properties can be split off, as they are not Lots of Record.

Mr. Barnhart inquired about the driveway design.

Mr. Meyer inquired if there was any other way to position the house for the front lot coverage. No.

Mr. Chen reminded everyone frontage and lot coverage were the only two issues before them.

Mr. Kellems announced it would be a single family with four occupants.

Mr. Kellems stated that for a fact he knew the lot was a Lot of Record.

Mr. Prentice agreed the property could only be buildable with a variance.

Mr. Meyer made motion to reconvene to regular meeting. Mr. Barnhart seconded the motion. All were in favor.

Mr. Meyer inquired about the deck and steps encroaching upon the Lot.

Discussion took place regarding the Plot Plan on page 16 of the agenda packet and the large rendering included in the Board member packets. It was discovered that there seemed to be two different drawings distributed of Lot 346 and more specifically that the structure on Lot 346 encroached upon the lot in question, Lot 345.

Discussion followed.

It was determined and agreed upon that BZA-06-2012 be tabled until the Applicant could provide the Board an accurate

Plot Plan for Lot #345.

Mr. Barnhart moved to Table BZA-06-2012 and George Prentice seconded the motion. All were in favor.

Approval of Minutes of the April 18, 2012 Regular Meeting

Mr. Prentice asked for a correction to the minutes regarding BZA-04-2012 and wished it to state that he felt some of the Decision Standards were not met and that he felt therefore the BZA should not approve.

Mr. Meyer made motion to approve the April 18, 2012 minutes with the correction. Ms. Dana seconded the motion. All were in favor.

Old Business

There was no old business.

New Business

The BZA reviewed upcoming cases for July including BZA-06-2012.

Adjournment

Mr. Hollenbaugh noted that this meeting was Mr. Prentice's last meeting.

Mr. Prentice expressed his enjoyment for having served on this Board and hoped that the BZA would continue to show no bias toward local developers or architects when coming before the BZA.

Mr. Hollenbaugh thanked Mr. Prentice for serving Oxford.

Mr. Meyer made motion to adjourn the BZA meeting. Mr. Barnhart seconded the motion. All were in favor. The meeting was adjourned at 8:13 p.m.