

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, May 17, 2017

Call to Order

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

Those members excused: None.

Staff members present: Sam Perry, Jung-Han Chen, and Jessica Brockman.

Staff members excused: Stephen McHugh.

Approval of Minutes of the April 19, 2017 Regular Meeting

Mr. Cohen made motion to approve the minutes as written. Mr. Schnipper seconded the motion. All were in favor. Ms. Dana abstained as she was absent from the meeting.

Adjudication Hearings

BZA-2017-06 [423 W. Chestnut Street, variance to Section 1149.03\(a\) off-street parking areas shall be hard surfaced, Sally Mayer-Swift, Applicant](#)

Mr. Schnipper made motion to enter into public hearing BZA-2017-06. Ms. Dana seconded the motion. All were in favor.

Mr. Sam Perry was sworn in.

Mr. Ames arrived at 7:32 p.m.

Mr. Perry reported that this came about after a zoning violation notice. Mr. Perry reported that the Applicant decided to apply for variance of the hard surface parking. Mr. Perry reviewed the site and noted that the zoning code prohibited gravel parking off street. Mr. Perry stated that no public comments were received. Mr. Perry reported that the gravel drive was 10' from the property line; and there were no other issues with setbacks, etc.

Mr. Perry reviewed the Decision Criteria: a reasonable return could yield without a variance; the variance was not substantial; the essential character would be altered by approving the variance; gravel drives are the exception not the standard; government services would not be impacted; the owner was not aware of the code. Mr. Perry stated that regarding the owner's predicament, it appears to avoid on street parking and blocking the garage door. Mr. Perry stated that he didn't believe there was substantial evidence to support the variance.

Mr. Schnipper inquired about other neighborhood gravel driveways. Mr. Ames inquired about grandfathered gravel driveways.

Mr. Brady swore in the applicant, Ms. Sally Mayer-Swift. Ms. Mayer-Swift referred to the existing drives/pulloffs on the street and stated that there were 7 within that block that have either/or, and that she installed hers because of what she saw around her. Ms. Mayer-Swift thought it wasn't common for her to think of gravel driveways, that she wasn't deliberately going against the code, as gravel driveways was something familiar to her. Ms. Mayer-Swift also stated that concrete was not part of her values since impervious. This is one of those streets that doesn't have regular parking on it. Ms. Mayer-Swift stated that she was not sure what Mr. Perry meant by substantial in his presentation. Mr. Perry explained that she had based part of her decision making on what she saw in the neighborhood. Ms. Mayer-Swift identified which homes had gravel drives/pulloffs and that her predicament was in her budget and that she didn't have any more money to put into this project; by redoing it was her predicament financially. She

wasn't aware of the zoning and thought it was better for everyone to be off the road. Ms. Mayer-Swift stated that the spirit she understands the code and keeping the quality as good as it can be, she is respectful but didn't see how a substantial deviance to the neighborhood and community was. Ms. Mayer-Swift noted that dust and debris she understood wanting to minimize but didn't see that happening here.

Ms. Dana inquired when Ms. Mayer-Swift completed the project. Ms. Mayer-Swift stated before the first of 2017.

Ms. Dana made motion to reconvene to regular meeting. Mr. Cohen seconded the motion. All were in favor.

Ms. Dana stated she was sympathetic to the situation.

Mr. Schnipper referred to there being four poured pulloffs in the neighborhood and inquired how many were grandfathered.

Discussion followed.

Mr. Cohen made motion to deny BZA-2017-06 based upon reasoning not adequate, the spirit and intent would not be observed and substantial justice would not be done. Ms. Dana seconded the motion.

Mr. Schnipper offered a condition that the gravel will be removed and grass type lawn or an approved hard surface will be installed.

AYE: Mr. Schnipper, Ms. Dana, Mr. Cohen, Mr. Ames, Mr. Brady (5)

NAY: None (0)

ABS: None (0)

BZA-2017-07 [214 E. Withrow Street, variance to Section 1137.04\(B\)5 occupancy reduction and Section 1149.03\(C\)1, reduction of parking spaces, Kathy Albrecht, Derek Cook, Applicants](#)

Mr. Ames made motion to enter into public hearing BZA-2017-07. Mr. Schnipper seconded the motion. All were in favor.

Mr. Perry was sworn in. Mr. Perry stated that the property was currently an existing nonconforming lodging house and that the proposal was to remodel the interior and maintain the existing occupancy of six with no off-street parking. Mr. Perry stated the request is considered a reconfiguration and that per the Oxford Zoning Code Section 1137.04(b)(5) requires that permitted occupancy of a non-conforming use be reduced by 30% when a reconfiguration is done to a building and must also comply with the parking requirements. Therefore, the occupancy of 6 would be reduced to 4 and that 2 parking spaces would need provided. The owner requested variances from both requirements.

Mr. Perry stated that he understood there were no steps leading downstairs to the basement and that the existing garage would be converted to bedrooms and a bath. Mr. Perry reviewed the decision criteria: the property could yield a reasonable return without the variance; the variances were not substantial; there is no impact on the neighborhood since they are asking for interior alterations.

Mr. Perry reviewed the nonconforming chapter of the zoning code and reviewed the parking chapter.

Mr. Brady inquired about the alley. Mr. Perry reported there was no driveway for the house. Mr. Cohen inquired if the garage was in use. Mr. Perry reported he wasn't sure.

Ms. Dana inquired if they could vote separately on the variances. Mr. Perry responded yes.

Mr. Schnipper inquired since this property was part of the housing lawsuit settlement, would there be any issues for City Council. Mr. Perry stated that he didn't believe the Housing Agreement would be impacted.

Discussion took place regarding property records calling this a three bedroom, but the applicant considers it a 4 bedroom, and what about locating a bedroom in the basement. Mr. Perry stated that as long as it meets building code and added that ingress and egress cannot be grandfathered. There is no bedroom in the basement at this time. Mr. Cohen inquired if there was a policy requirement in putting six people in a certain number of feet. Mr. Perry responded yes.

Ms. Kathy Albrecht, Student Housing Management, was sworn in.

Ms. Albrecht reported that they didn't go forward until they knew what they were getting into. Ms. Albrecht stated that there have always been six people living at the residence. Ms. Albrecht reported that there was no way the garage would fit a vehicle. Ms. Albrecht stated that at some point the existing stairs on the first floor had been cut off to the basement. Ms. Albrecht stated that they would open up the stairs and finish with two bedrooms and bath. Ms. Albrecht stated they wanted to improve the environment, safety as far as egress, and that students with any weather issue would have a basement to get to.

Mr. Ames inquired about the stairwell. Ms. Albrecht stated they would have to widen the stairs to meet building code. Ms. Dana inquired about years of ownership and if they were part of the housing lawsuit agreement. Ms. Albrecht responded that when they purchased it was already a lodging house.

Mr. Brady inquired what the basis was for the variance application and what made this one any different from others falling under this. Ms. Albrecht responded that the market had moved away from the property because of space restrictions. Mr. Brady stated he was trying to get to the practical difficulty; what makes this property different to allow for this property to maintain their occupancy. Ms. Albrecht responded that some of the permits of maximum occupancy didn't meet criteria.

Ms. Dana inquired if they would only rent to four people could they do as they like to the inside. Mr. Brady responded yes.

Ms. Devonna Miller, 215 E. Withrow, stated she lived directly across the street since 1976. Ms. Miller stated that the house was a small house, beautiful, but the idea of reducing occupancy was a good idea for four unrelated people in one house. Ms. Miller stated she felt reduction was a good thing. Ms. Dana inquired if Ms. Miller knew of approximately when the subject house went from a regular house to a student rental. Ms. Miller responded shortly after moving in.

Mr. Cohen inquired if Ms. Miller knew if the subject house had cars parked on the street. Ms. Miller stated she was not sure of the specific house, but there were cars all over the street.

Mr. Derek Cook, Co-applicant, was sworn in. Mr. Cook stated that he was the property manager and that he wanted to address the practical difficulty. Mr. Cook discussed the layout including the narrow halls and no access into the basement. Mr. Cook stated that he worried about occupants going outside to get into the basement. Mr. Cook stated that if they dropped occupancy to 4 and based upon their purchase price, they would lose money and therefore the house would become not a good investment. Mr. Cook stated they wanted to provide comfortable living conditions and that reducing to 4 the property would lose

money. Mr. Cook referred to the rental market becoming tougher and tougher. They are trying to compete but trying to improve property and safety of the occupants. Mr. Cook referred to having one bathroom for 6 occupants. Mr. Brady inquired what was different about this one from rentals down the street. Mr. Cook stated that he didn't know anything about the other properties and their condition. Mr. Cook stated that in order to complete the renovations the cost would be hard economically feasible.

Ms. Dana inquired if they have had rented to 6 people since owned. Mr. Cook responded usually 5-6. Mr. Cohen inquired if the renovation would end up with 6 bedrooms and 2 bathrooms. Mr. Cook stated yes. Mr. Cohen inquired if there was room for off-street parking. Mr. Cook responded no, that the garage was too small.

Mr. Cohen made motion to reconvene to regular meeting. Ms. Dana seconded the motion. All were in favor.

Mr. Schnipper made motion to approve Section 1149.03(C)(i) off-street parking requirement based upon granting the variance was not substantial or would not deter the essential character of the neighborhood. Ms. Dana seconded the motion.

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

NAY: Ms. Dana (1)

ABS: None (0)

Ms. Dana made motion to deny Section 1137.04(b)(5), based upon the City encouraging reduction in lodging houses, spirit and intent would be observed, and would still yield a reasonable return. Mr. Ames seconded the motion.

Ms. Dana stated that she felt reducing occupancy to four reduced parking and density. Ms. Dana noted that while she commends property ownership, the code was in place to drop the density and we must take this into consideration.

YEAH: Mr. Cohen, Mr. Schnipper, Mr. Ames, Ms. Dana, Mr. Brady (5)

NAY: None (0)

ABS: None (0)

The owner can move forward with the remodel without off-street parking, but would have to reduce the occupancy to 4.

Old Business

Zoning enforcement issues were discussed. Mr. Perry referred to two letters given to the BZA Chair at this meeting regarding notices of two properties that had been denied their variance requests. Discussion followed. The BZA inquired about the status from these letters. Mr. Perry responded that he received a response from a person acting as a consultant for 5996 Fairfield Road, who was attempting to resolve the lean to addition, and were waiting to hear from 311 W. Church Street for the removal of the deck.

Inquiries regarding status's of other gravel off-street parking in the neighborhood of 423 W. Chestnut Street took place. Mr. Perry responded that they were being worked on.

Mr. Perry referred to the success of non-compliant sign removals.

Mr. Chen noted that staff tries to respond to complaints in a timely manner. Mr. Ames inquired about hiring of more staff.

Mr. Schnipper stated that he spoke to the City Manager about reinstating the code enforcement position and discussed National Inspection Corporation and their potential to help. Mr. Schnipper stated that the City Manager was not aware of zoning problems staff were running into. Mr. Schnipper responded that this Board is mute if they can't enforce decisions.

Discussion took place of how to fund positions.

Mr. Chen explained how Staff prioritizes complaints.

Mr. Chen asked if this Board wanted to approach City Council All agreed yes. Mr. Chen stated he would try and set up meeting.

New Business

There was none.

Adjournment

Ms. Dana made motion to adjourn the meeting. Mr. Cohen seconded the motion. All were in favor. The meeting was adjourned at 8:46 p.m.