

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, July 16, 2014

Call to Order

Mr. Brady called the July 16, 2014 meeting to order at 7:30 p.m. Approval of the agenda with the exception of BZA-2014-06 being removed from the agenda was made. All were in favor.

Those members present: Prue Dana, John Barnhart, Paul Brady, Mike Schnipper, and Jack Cohen.

Those members excused: None.

Staff members present: Sam Perry, and Amy Blankenship.

Staff members excused: None.

Adjudication Hearing

BZA-2014-05 100 W. Central Avenue, variance to Section 1143.01(c)(2) front yard requirements, as modified by Section 1141.03(c)(1)A corner lots, Scott Webb Applicant, Agent

Mr. Barnhart made motion to enter into Public Hearing BZA-2014-05. Ms. Dana seconded the motion. All were in favor.

Mr. Perry welcomed Jack Cohen, the newest member of the BZA.

Mr. Perry stated that this request from Mr. Webb, the Applicant/Agent, was to allow for the reduction of the front yard setback along Beech Street and W. Central Avenue. Mr. Perry noted that the property sits on the corner. Mr. Perry stated that the owner is requesting to construct a wrap around side and rear deck. Mr. Perry stated that the owner had already removed the existing side stoop. Mr. Perry noted that because the structure is located on a corner lot, the Beech Street side is also considered the front yard, thus has to meet the front yard setback. Mr. Perry stated that the South Beech façade and stoop already sits in the right-of-way, reducing the setback to 10 feet, so it is already nonconformity. The proposed deck addition to the rear deck is an expansion of the nonconformity. Mr. Perry stated that S. Beech Street was fairly narrow, and that as far as zoning code is considered a public street. Mr. Perry shared photos of the house. Mr. Perry stated that decks were fairly common in the neighborhood. Mr. Perry referred to the Decision Criteria. This property has existed as a residential home, it doesn't appear to be a substantial change to the neighborhood, and it won't negatively alter the neighborhood as decks are common. Mr. Perry suggested the BZA may need to discuss the spirit and intent and ask what needs to be accomplished here, Mr. Perry recommended having the elevation drawings before moving forward.

Mr. Brady inquired if the porch would still have the same setback. Mr. Perry stated yes, that a stoop has to be under 50 square feet without a variance. Mr. Perry estimated the design was 120 square feet.

Mr. Brady swore in Mr. Scott Webb.

Mr. Webb noted that the owner of the property was present at the meeting. Mr. Webb stated that the owner was surprised to discover that the driveway wasn't theirs, as the aerial survey showed it in the street right-of-way. Mr. Webb stated that the owner approached Mike Dreisbach, Service Director, to consider vacating the right-of-way or narrowing the street. Mr. Webb stated his client wished to bring the property into full compliance. Mr. Webb stated the owner was installing a new driveway. Mr. Webb stated they

were now dealing with the setback issue. Mr. Webb asked the BZA to please treat as a side yard.

Mr. Webb stated the owner would not be installing a roof above the deck.

Ms. Dana inquired about a normal side yard setback. Response 7-1/2 feet.

Mr. Brady swore in Mr. Roy Curtis, who lives across the street. Mr. Curtis inquired that he had heard the City was opening up the street. Mr. Brady commented that at one time it was discussed, but the idea was abandoned.

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

Ms. Dana inquired if it was up to the BZA to question the City's plans. Mr. Brady stated that the City declined to give up the right-of-way. Mr. Perry stated he had correspondence that agreed to what Mr. Webb had said.

Mr. Brady stated that it's always hard to know what the future may bring. Mr. Brady stated that his only issue was where was the practical difficulty as he felt persons could get in and out of the door with just a stoop, and without a variance.

The BZA reviewed the Decision Standards. Mr. Brady referred to Decision Standard F predicament can be obviated through some other method. Mr. Barnhart noted that the connecting to a deck is totally legal in the back; there is possibly only 70 additional square feet of surface and doesn't see as a problem. Mr. Cohen inquired a practical difficulty to whom. Mr. Brady stated the land. Ms. Dana referenced Decision Standard A, not a benefit to stay within the code. The variance would increase the beneficial use, simply because of size, and would be an enjoyment. Mr. Brady stated he had an issue with Decision Standard F; whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.

Decision Standards were reviewed one by one: Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; no; whether the variance is substantial, no; whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance, no; whether the variance would adversely affect the delivery of government services, no; whether the property owner purchased the property with knowledge of the zoning restriction, no; whether the property owner's predicament feasibly can be obviated through some method other than a variance, Mr. Brady had an issue; whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance, NA.

Mike Schnipper moved to approve BZA-2014-05 100 W. Central Avenue, variance to Section 1143.01(c)(2) front yard requirements, as modified by Section 1141.03(c)(1)A corner lots.. Prue Dana seconded. The motion passed with the following roll call:

AYE: Prue Dana, John Barnhart, Mike Schnipper, Jack Cohen (4)

NAY: Paul Brady (1)

ABS: None (0)

Approval of Minutes of the May 14, 2014 Regular Meeting

Ms. Dana made motion to approve the minutes as written. Mr. Barnhart seconded the motion with one change if he should have been documented as abstained from the April 16, 2014 meeting. Ms. Lynn Taylor to check to make sure of Mr. Barnhart's attendance. (Ms. Taylor reviewed the tape, and Mr. Barnhart was absent). Minutes were approved 4-0-1 (Mr. Cohen abstained).

Old Business

There was none.

New Business

BZA-2014-06 20-24 E. High Street and 48-56 E. Park Place Appeal of HAPC's Decision to deny a Certificate of Appropriateness for an application for an addition and demolition, HAPC-2014-08, Jay C. Bennett, Applicant, Agent

Adjournment

Mr. Barnhart made motion to adjourn the meeting. Ms. Dana seconded the motion. All were in favor. The meeting was adjourned at 8:02 p.m.