

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, August 21, 2013

Call to Order

Those members present: Gary Meyer, Prue Dana, John Barnhart, Paul Brady, and Michael Schnipper.

Those members excused: None.

Staff members present: Sam Perry, and Steve McHugh.

Staff members excused: Amy Blankenship.

Adjudication Hearing(s)

BZA-10-2013 [212 S. Poplar Street variance to Sections 1143.05\(c\)\(1\)A minimum lot area, 1143.05\(c\)\(1\)B minimum lot width in an R2MS District Webb Applicant, Agent 1](#)

Mr. Barnhart made motion to adjourn to BZA-10-2013. Mr. Meyer seconded the motion. All were in favor.

Mr. Perry provided an overview stating that the Applicant was requesting two variances to minimum lot area and minimum lot width. Mr. Perry described the location of the property. Mr. Perry noted that the property, as well as the surrounding properties were zoned R2MS (Single and Two-Family Mile Square Residential). Mr. Perry stated that the Applicant was proposing to demolish the existing building and construct a new two-family structure. Mr. Perry noted that the existing structure was considered a Lodging House and was an approved rental for eight. Mr. Perry noted that the Applicant, Mr. Scott Webb, was present.

Mr. Perry provided several aerial views of the property and described the variance requests. Mr. Perry stated that the zoning code required at least 75 feet of lot width for a two-family dwelling; however, the property was 33 feet, thus representing a 56% reduction in the lot width requirement. Mr. Perry continued that the zoning code also required that in order to build a two-family structure, 7,500 square feet of lot area was required; the property is 6,071 square feet; therefore, representing a 1,429 square foot variance or a 20% reduction. Thus, the property is 1,429 square feet too small and 42 feet too narrow.

Mr. Perry discussed the site plan which showed the building footprint of the new structure. Mr. Perry stated that the current structure was located on the property line along the alley. Mr. Perry noted that an alley ran alongside the property and that it was a very long and narrow property. Mr. Perry stated there were four proposed parking spaces in the rear and was not a problem. Mr. Perry described the lot calculations outlined on the site plan. Mr. Perry referred to the current zoning code and the zoning code from April, 1979 when the property was purchased that was included in the agenda for the Board's review.

Mr. Perry reviewed the Decision Standards:

Mr. Perry noted that the evidence showed that the lot width variance was substantial. Mr. Perry noted that it was important for the Board to look at the ratio of the size of the building in relation to the character of the area. Mr. Perry continued that based upon the little bit of information Staff received from the Applicant, that the new structure could substantially alter the essential character of the neighborhood based upon the length and width of the structure request.

Mr. Perry stated he had no concerns with government services. Mr. Perry stated that as far as the Applicant's knowledge of the zoning restrictions, Staff didn't have a lot of information on this except that

the name of the zone had changed but not the uses within the zone or the dimensional requirements.

Mr. Perry described the neighborhood as a mix of single and two family residences.

Mr. Perry stated he didn't feel that enough information was provided in the Applicant's narrative in regards to there being any code compliance or safety issue referenced to the current structure.

Mr. Perry referred to the spirit and intent of the code and noted that the R2MS District encouraged a mix of uses; therefore, this would tell us that a 2-family use was not the only allowed use. Mr. Perry stated that Staff therefore couldn't make a recommendation on these two variances and referred to Mr. Webb possibly touching upon further the decision to build a two-family structure.

Mr. Perry noted that Staff received one written comment from Dave Kellems, a neighboring property owner, who was not in support.

Mr. Perry stated that the existing paving, concrete and gravel would be removed, thus helping with the lot coverage.

Ms. Dana inquired if any other surrounding properties were also two-family. Mr. Perry pointed them out.

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

Mr. Webb provided a PowerPoint presentation. Mr. Webb noted that the owners of the property were present. Mr. Webb described the surrounding lots.

Mr. Webb described the lot area (6,071 square feet) and that the size of the lot in question was actually a typical size for the District and the Mile Square.

Mr. Webb stated that currently the site was occupied by a non-conforming use and that the owner was proposing to build a new two-family residence that would meet all requirements of the zoning district including setbacks, lot coverage and parking. The new building would fit well on the site and clear up all the other zoning code issues. Mr. Webb noted that this new structure would eliminate the non-conforming use. Mr. Webb noted that the owner could continue forever the nonconforming use if he chooses. Mr. Webb described all of the current structure's nonconformities. Mr. Webb stated that the new building would meet all of the current life safety standards and would be fire suppressed. Mr. Webb stated that the new building would be built compatible to the neighborhood.

Mr. Webb described how the exterior of the property would be cleaned up.

Mr. Webb discussed the current structural problems with the structure and life safety issues going on with the building and that the best choice was building a new structure which would make it code compliant.

Mr. Webb stated he chose to design the structure longer instead of increasing the height of the structure to three stories.

Mr. Webb talked about Remodeling versus Reconfiguration as another means, should the existing building remain, versus Reconstruction, building a new conforming two-family structure with eight occupants.

Ms. Dana inquired about the dimensional requirements; where the alley is and how many feet currently were at the side yard. Mr. Webb stated less than 4". Mr. Webb added that the new structure would be 7.5'

on both sides. Ms. Dana reiterated that the front yard and back yard setbacks would meet criteria.

Mr. Gerry Ramella, occupant of 212 S. Poplar Street, inquired if he should be living in the house. Mr. Brady stated that issue was not before the BZA. The BZA requested him to contact City Staff the next day regarding rental permits, etc.

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

Mr. Brady reviewed the Decision Standards. Mr. Brady stated that the property would yield a reasonable return without the variance as the income would still be there from the single family structure. Mr. Brady noted that the variance request was large. Mr. Schnipper referred to the 56% variance in lot width and that he had a real problem with that. Mr. Schnipper noted that the owner could still have a reasonable return on the property with another means of construction.

Mr. Perry invited another option that a Reconfiguration could occur by converting to a two family with six occupants; one unit with six occupants or a two-family with three in each. In referring to the Reconfiguration Mr. Perry added that there were other means to reach the Applicant's goal other than a variance.

Mr. Barnhart provided input regarding the Decision Standards: that, the variance would not substantially alter neighboring properties, nor affect government services; that the zoning restrictions were irrelevant and the issue could be obviated through another method, not doing what they propose. Mr. Barnhart felt that in considering the neighborhood and what is located overall, that he didn't see this as a negative application. Mr. Barnhart noted that the width of the lot and area can't be changed and that the area was student housing.

Mr. Meyer noted that as much as he would like to see a new building, this was an incredible variance. Ms. Dana agreed it was substantial to the zoning code.

Discussion took place. Mr. Brady stated that the owner could keep what they have or build a single family structure. Ms. Dana stated she was conflicted over the variance request as there were positives to the application, but didn't rise to the standards that were presented to the BZA.

Ms. Dana made motion to deny BZA-10-2013, 212 S. Poplar St., variance to Sections 1143.05(c)(1)(A) minimum lot area, 1143.05(c)(1)B minimum lot width in the R2MS District be denied based upon Decision Standards b (variance is substantial) and g (spirit and intent). Mr. Schnipper seconded the motion.

AYE: Mr. Brady, Ms. Dana, Mr. Schnipper, Mr. Meyer (4)

NAY: Mr. Barnhart (1)

ABS: None (0)

Approval of Minutes of the July 17, 2013 Regular Meeting

Ms. Dana made motion to approve the July 17, 2013 minutes as written. Mr. Barnhart seconded the motion. Mr. Meyer abstained as he was not present at the meeting. All others were in favor.

Old Business

There was none.

New Business

There was none.

Adjournment

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

The meeting was adjourned at 8:14 p.m.