

BOARD OF ZONING APPEALS

Meeting Minutes

Wednesday, September 21, 2011

Call to Order

The September 21, 2011 Board of Zoning Appeals Meeting was called to order at 7:32 p.m.

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

Those members excused: None.

Staff members present: Amy Blankenship, Legal Counsel, Kathryn Dale, Planner, and Jung-Han Chen, Director, Community Development.

Staff members excused: None.

Executive Session

Ms. Dana moved to approve the agenda with the deletion of the Executive Session. Mr. Meyer seconded the motion. The motion passed 5-0-0.

Adjudication Hearing

BZA-03-2011 221 E. Vine Street, Variance to Sections 1143.05(c)(1)A&B lot area/width; 1149.04(a)(3)(4) parking space location; 1149.04(b)(3) driveway location, Don Thomas, Applicant, Agent

Ms. Dana made motion to adjourn to BZA-03-2011. Mr. Meyer seconded the motion. All were in favor.

Ms. Dale provided an overview of 221 E. Vine Street stating that the Appellant wished to demolish a nonconforming single family lodging house that currently occupied eight people and construct a two-family, with a compliant occupancy of four per unit. Ms. Dale noted that the property was zoned R2MS which allowed for a two-family use. Ms. Dale noted that the existing lot did not meet the underlying requirements for a duplex and that the adjacent lots were not large enough to acquire additional land without making a more nonconforming situation on those lots. Ms. Dale stated that the proposed two-family would meet all setback and lot coverage requirements. Ms. Dale referred to the other variance request to allow the existing driveway to remain in its location on the property. The driveway is currently one-foot from the eastern property line. The Appellant would like to maintain the driveway setback, but also asked that the driveway be permitted to abut the structure foundation. Ms. Dale noted that there would be no change in use, just variances that would allow the owner to use the property. Ms. Dale noted that 1149.04(b)3 was the most needed. Ms. Dale referred to the additional onsite parking, thus less parking on the street.

Ms. Dale noted the Appellant would be placing a conforming use on the property.

Mr. Hollenbaugh inquired about the site plan error regarding street names. Should say E. Vine and N. Bishop.

Mr. Barnhart asked for clarification of the number of occupants. Ms. Dale noted the occupancy would stay the same. Ms. Dale stated that the lodging house was built initially as a single family and at some point became permitted for eight. In the zoning code of 2003 it became R2MS permitted use as a 2 family.

Ms. Dale noted that the adjacent properties were mostly student rentals.

Ms. Dale noted that five parking spots would be provided on the site which isn't provided right now. Ms. Dana inquired if the footprint would be slightly different. Ms. Dale stated it would be very similar in size.

Mr. Don Thomas, Appellant, was sworn in by Mr. Hollenbaugh.

Ms. Dana inquired about the driveway and parking in the rear. Ms. Dana inquired about building height. Mr. Thomas stated it looked 3 stories but was actually 2-1/2.

Mr. Thomas described the current condition of the property; lack of bathrooms, wet basement, etc.

Mr. Prentice inquired if the design would fit with the architecture of other surrounding homes. Mr. Thomas stated it wouldn't stand out as a sore thumb in the neighborhood.

Mr. Hollenbaugh inquired if anyone with standing wished to testify. There was none.

Mr. Prentice moved to reconvene to regular meeting BZA-03-2011. Mr. Meyer seconded the motion. All were in favor.

All of the Board agreed they will begin seeing more demolition/rebuilds as homes begin falling apart and that they would need to review on a case by case basis.

Decision Standards were discussed.

- 1.) The property in question will yield a reasonable return and can be used beneficially without the variance because the property can continue to be used as a nonconforming lodging house per their housing agreement; however, to use the property to its highest and best use as a permitted two-family cannot be beneficially used without the variance because the existing lot does not meet the underlying zoning requirements for the lot width and area.
- 2.) The request for one (1) foot driveway setback from the property line and zero setbacks from the structure is not substantial because the driveway is currently in this location on the property. Additionally the house is essentially located on the same footprint and meets all of the lot coverage and setback requirements.
- 3.) The essential character of the neighborhood would not be substantially altered by the variance and the adjoining properties would not suffer a substantial detriment as a result of the variance because there are currently eight occupants on the property and there would be no increase to off-site parking constraints.
- 4.) There were no comments received from the various City Departments indicating any detrimental effect on government services.
- 5.) The owner has owned the property for over 15 years as a nonconforming use and was aware of the requirements and that a variance would be necessary.
- 6.) The property owner's predicament cannot feasibly be obviated other than a variance because the lot is unchangeable, the adjoining lots are developed and there is no additional land to acquire.
- 7.) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

After considering and weighing these facts and circumstances, the Board found that practical difficulty was shown sufficient to warrant granting the variance to Sections 1143.05(c)(1)A&B; 1149.04(a)(3)(4) and 1149.04(b)(3).

Prue Dana moved to approve BZA-03-2011 221 E. Vine Street, Variance to Sections 1143.05(c)(1)A&B lot area/width; 1149.04(a)(3)(4) parking space location; 1149.04(b)(3) driveway location, Don Thomas, Applicant, Agent. Gary Meyer seconded. The motion passed with the following roll call:

AYE: George Prentice, John Barnhart, Prue Dana, Gary Meyer, Todd Hollenbaugh (5)

NAY: None (0)

ABS: None (0)

BZA-04-2011 22 S. Beech Street, Mesler Auto Body, Variance to Sections 1151.05(a)(2)A.1.a and 1129.01 wall sign shall be no more than 3 feet in height, Randy Adams, Applicant, Agent

Ms. Dale provided an overview of this case stating that the Appellant wished to install a 4'x10' wall sign on the Beech Street facing wall of Mesler Body Shop. Ms. Dale described the existing signage as there being two wall signs and one pole sign (which is grandfathered and nonconforming). Ms. Dale referred to Section 1151.03(a)(2)A.1 which states that the property is allowed to have three wall signs because of having double frontage.

Ms. Dale stated that the existing signage wouldn't be removed at this time.

Mr. Barnhart inquired if they could put a newer up-to-date sign on the pole. Ms. Dale stated that as long as they don't remove the framing they could do a face change.

Mr. Hollenbaugh swore in Mr. Randy Adams. Mr. Adams stated that the owner wanted to utilize the wall, preferably nostalgia as they have been in Oxford for a long time. Mr. Adams stated that a 3' sign would get lost on a 17' wall; 3' is so small it would almost defeat the propose. Mr. Adams stated the owner thought maybe the sign would give them a little more exposure. Mr. Adams described the sign as maintenance free. Mr. Adams stated he talked the owner out of painting on the sign. Mr. Adams described the materials he would be using.

Mr. Prentice made motion to reconvene to regular meeting, BZA-04-2011. Mr. Meyer seconded the motion. All were in favor.

Discussion was had regarding the Economic Director's comments received and the relation of the sign setback from S. Beech Street. Much of the discussion was had regarding the size of the wall and the need for a slightly taller sign to look proportionately correct.

Mr. Prentice felt the request made a lot of sense. Ms. Dana referred to the pole sign as being retro and suggested maybe considering consolidating signs a bit on the property. Ms. Dana felt the sign was a good use of the space and great it won't have to be painted over.

Decision Standards were reviewed :

Regarding the requested variances, the BZA made the following Findings of Fact:

- 1.) The property in question will yield a reasonable return and can be used beneficially without the variance because the property can continue to be used as an auto body shop and signs currently exist on the building; furthermore, the business will still be able to have this additional sign even if the variance is denied.
- 2.) The request for one (1) additional foot in height is not substantial as it relates to the size of the wall in which it will be located and the distance it is from the street. (83' from S. Beech Street property line; 99'-101' from S. Beech Street curb)
- 3.) The HAPC determined in August that the essential character of the neighborhood would not be substantially altered by the variance and the adjoining properties would not suffer a substantial detriment as a result of the variance by approving the sign for the Uptown Historic District.
- 4.) There were no comments received from the various City Departments indicating there would be a detrimental effect on government services.
- 5.) The property has been in the family for over 40 years and there was no testimony given as to whether the current managers and owners were aware of the zoning requirements.
- 6.) The property owner's predicament cannot feasibly be obviated other than a variance due to the visibility distance.

- 7.) The spirit and intent of the sign requirement would be observed and substantial justice done by granting the variance because the sign is setback so far from the road that the height increase will not appear to be substantial.
- 8.) Other relevant factors included the Economic Development Director's report and the HAPC's decision to approve a 4 foot high sign in the historic district.

After considering and weighing these facts and circumstances, the Board found that practical difficulty was shown sufficient to warrant granting the variance to Sections 1151.05(a)(2)A.1.a .

Ms. Dana referred to Decision Standards' 2 and 7.

Prue Dana moved to approve BZA-04-2011 22 S. Beech Street, Mesler Auto Body, Variance to Sections 1151.05(a)(2)A.1.a and 1129.01 wall sign shall be no more than 3 feet in height.

Randy Adams, Applicant, Agent . Gary Meyer seconded. The motion passed with the following roll call:

AYE: Todd Hollenbaugh, Gary Meyer, Prue Dana, George Prentice, John Barnhart (5)

NAY: None (0)

ABS: None (0)

Approval of Minutes of the April 20, 2011 Regular Meeting*

Minutes were reviewed. Two changes were noted on the last page in referencing Mr. Barnhart.

Ms. Dana made motion to approve the minutes with minor changes. Mr. Barnhart seconded the motion. All were in favor.

Old Business

There was none.

New Business

Ms. Dale provided a review of the upcoming October BZA cases.

Discussion took place regarding attendance to this meeting. There were questions from some of the Board members as several will be unable to attend. Ms. Dale to get back with Board members to reschedule Hearing and contact Appellants.

Mr. Hollenbaugh welcomed Amy Blankenship as she replaces Rob Jacques as Legal Counsel.

Adjournment

Mr. Meyer moved to adjourn the meeting. Mr. Meyer seconded the motion. The meeting was adjourned at 8:26 p.m.