

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, September 18, 2013

Call to Order

The Board of Zoning Appeals meeting was called to order at 7:35 p.m.

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

Those members excused: None.

Staff members present: Sam Perry and Amy Blankenship

Staff members excused: None.

Mr. Brady made motion to approve the agenda. Mr. Barnhart seconded the motion. All were in favor.

Adjudication Hearing(s)

BZA-11-2013 [318 S. Main Street variance to Section 1149.03\(e\) number of parking spaces, for a multi-family dwelling, Scott Webb Applicant, Agent](#)

Mr. Brady announced that he would be recusing himself from the Public Hearing since being an adjacent property owner. Mr. Schnipper recused himself from the Public Hearing as well since the property owner was a customer of his.

Therefore, Ms. Dana ran the Public Hearing.

Mr. Meyer made motion to adjourn to BZA-11-2013. Mr. Barnhart seconded the motion. All were in favor.

Mr. Perry provided a review of this case. Mr. Perry stated that the variance was for the number of required parking spaces. Mr. Perry stated that the Applicant was proposing (originally) to add two-story front and rear porches to an existing 4-family structure. Mr. Perry provided an aerial photo. Mr. Perry stated the structure was a 4-family structure in a R2MS Single and Two-Family District. Mr. Perry continued that the 4-family use was considered nonconforming but pre-existing; therefore, legal non-conforming. Mr. Perry stated that the proposed front porches and rear porches triggered vehicle management zoning "that any time changes to a structure, site, or use occurs that all vehicle management requirements need to be met".

Mr. Perry continued that because of the porch additions, and the vehicle management code requiring 2.5 parking spaces per unit, they would need 10 total parking spaces. Currently, there are four parking spaces. The Applicant proposed six parking spaces. Mr. Perry stated that the Applicant was not proposing any interior changes.

Mr. Perry referred to an existing detached garage at the back of the property and paved parking to the north. The Applicant proposed to demolish the garage which would provide two additional parking spaces. Mr. Perry referred to recent City Council approval to allow for the addition of front porches without an occupancy reduction in March, 2013. Mr. Perry noted that however, rear porches were not part of this exemption; therefore, the Applicant would have to reduce the occupancy 30%. Mr. Perry concluded that because of this, the Applicant decided to eliminate the rear porch request, thus removing the reduction in occupancy requirement. Mr. Perry stated that the permitted occupancy of 12 would remain the same. Mr. Perry provided pictures of the property and parking spaces. Mr. Perry noted there

was also a grade change issue that could be challenging to modify parking for ten spaces. Mr. Perry displayed photographs showing different angles of the sloping lot. Mr. Perry stated that the porches would be a positive impact to the neighborhood. Mr. Perry stated that the Applicant would be short four spaces in meeting the zoning code requirement.

Mr. Perry stated that another option that could be available would be to convert to a two unit building which would reduce the parking requirement- which would meet criterion F.

Mr. Perry reviewed the other Decision Standards.

Mr. Perry read the R2MS Purpose Statement.

Mr. Webb was sworn in by Ms. Dana. Mr. Webb provided a PowerPoint presentation. Mr. Webb reiterated what was stated by Mr. Perry.

Mr. Webb stated that the building was set back far enough to add porches without needing a variance for the front yard setback.

Mr. Webb referred to parking and stated that by removing the garage would then get the entire width of the property, which would bring the number of parking spaces up to six. Mr. Webb noted there was not a need for any other variances.

Mr. Webb described the practical difficulty; remove the unused garage and improve the site. Mr. Webb noted that the existing retaining wall and sidewalks and stairs would remain.

Mr. Michael Ramsey, property owner of 314 S. Main Street, was sworn in by Ms. Dana. Mr. Ramsey shared his thoughts about making the Mile Square more residential. Mr. Ramsey referred to the Decision Standards, and noted this variance request was not substantial and that the owner was improving the property and making it more compliant.

Mr. Ramsey referred to Sections 1159.19 reconfiguration and 1137.05a reduction in occupancy. Mr. Ramsey also discussed the issue of gravel buildup from stormwater runoff occurring at his neighboring property and his concern if additional paving takes place. Mr. Ramsey felt that ten parking spaces at this property would make it unappealing and would be a detriment to the neighborhood.

Mr. Perry felt Mr. Ramsey's comments were good, that the intent of front porches being exempt was to allow for the enhancement of properties and not reduce occupancy.

Mr. Barnhart made motion to reconvene to Regular Meeting. Mr. Meyer seconded the motion. All were in favor.

Mr. Meyer stated that he felt that the more parking spaces we build the more cars we are going to have and that he didn't want to pave over more grass. Mr. Barnhart noted that the building was plain and that the garage was not an attractive part of the property. Mr. Barnhart agreed that the garage probably took up a couple of parking spaces. Mr. Barnhart stated that he didn't see any problem removing the garage. Mr. Barnhart agreed with less paved parking so as not to increase the water runoff to surrounding properties. Ms. Dana inquired if the BZA granted the request what the contractor would have to do. Mr. Perry stated they would be adding six feet of new asphalt to the south, an overall increase of 3' wide x 20 feet long. There is enough land to have six parking spaces and meet the setbacks. Mr. Perry stated that the rate of runoff would be reviewed by the Engineering Department. Mr. Webb stated that the water runs toward the alley and falls down toward Chestnut Street.

Decision Standards were reviewed.

- a) Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance; will
- b) Whether the variance is substantial; is not
- c) 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; would not
- d) Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewer, garbage); would not
- e) Whether the property owner purchased the property with knowledge of the zoning restriction NA
- f) Whether the property owners' predicament feasibly can be obviated through some method other than a variance; it cannot - the stone wall hinders the space; topography,
- g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance; would be, would be doubling the number of spaces; the sloping of yard hinders ability or ten parking spaces
- h) Any other relevant factor. No

Conditions were discussed. They were: that, compliance with all applicable vehicle management regulations, such as, but not limited to a six inch raised curb around the parking area; that, the front porch addition as proposed, addresses the essential character and spirit and intent decision criteria; that, a statement from a certified Engineer be submitted stating that the plans comply with the City's storm water design standards.

Mr. Meyer made motion to approve BZA-11-2013 based upon Decision Standards b, f and g and the conditions noted above. Mr. Barnhart seconded the motion.

AYE: Ms. Dana, Mr. Meyer, Mr. Barnhart (3)

NAY: None (0)

ABS: Mr. Brady, Mr. Schnipper (2)

Approval of Minutes of the August 21, 2013 Regular Meeting

Ms. Dana made motion to approve the August 21, 2013 minutes. Mr. Barnhart seconded the motion. All were in favor.

Old Business

BZA-04-2013 215 University Avenue, Variance Extension Request, (Approved April 17, 2013)
Scott Webb, Applicant, Agent

Mr. Perry shared that the variance approval for 215 University would expire in October. Mr. Webb submitted a letter requesting an extension. Mr. Perry stated that the request was for 9 months. Mr. Perry noted that the Applicant was present.

Mr. Barnhart made motion to approve the extension request for nine months. Mr. Meyer seconded the motion. All were in favor.

New Business

Continued BZA training was discussed. Staff will check with Steve McHugh.

Adjournment

Ms. Dana made motion to adjourn the meeting. Mr. Meyer seconded the motion. All were in favor. The meeting was adjourned at 8:18 p.m.