



**MEETING MINUTES
BOARD OF ZONING APPEALS
TUESDAY, September 28, 2021
6:30 P.M.**

I. Call to Order

Those members present: Michael Schnipper, Calvin Conrad, Chris Allison, and Kate Rousmaniere
Those members excused: Roger Ames
Staff members present: Zachary Moore, Ben Mazer, Eunike Miller
Staff members excused: Sam Perry

II. Approval of July 21, 2021 Minutes of the Regular Meeting

Ms. Rousmaniere made a motion to approve the July 21, 2021 minutes as written. Mr. Allison seconded the motion. All were in favor.

III. Election of Secretary

Ms. Rousmaniere made a motion to nominate Mr. Allison for Secretary. Mr. Conrad seconded the motion. All were in favor.

IV. New Business

BZA-2021-04, VARIANCE, 113 E Collins Street, parking area setback from lot line, Scott Webb, Applicant/Agent

Ms. Rousmaniere made a motion to enter into adjudication hearing. Mr. Allison seconded the motion. All were in favor.

Mr. Moore, Planner for the City of Oxford, was sworn in by Mr. Schnipper. Mr. Moore provided a few details of the case: (1) location, (2) case number, (3) the applicant, (4) the owner, (5) the current zoning – R3MS, (6) current use, (7) “after-the-fact” Variance application to Code Section 1149.06(b)(4) which requires a minimum parking setback of 3 feet from lot lines.

Mr. Moore displayed the Location Map describing where the property is located. Mr. Moore pointed out that the property is in the R3MS zoning district.

Mr. Moore provided Birds Eye Views looking north and west. Mr. Moore noted that some trees have been planted to comply with the City’s Tree Ordinance.

Site photos, taken at the final zoning inspection on August 12th were then displayed. Mr. Moore used a yellow line on two of these photos to indicate where the property line is. The Zoning Code requires two off-street parking spaces with a minimum of 3 feet setback for a single-family dwelling unit. This setback area should

not be covered by anything such as concrete or asphalt. Mr. Moore added that a curb was also installed as a border to separate the two properties. Therefore, the parking area did not comply with the approved site plans.

Mr. Moore referred to Code 1149.06(b)(4) "all driveways, including any areas to be utilized as unenclosed parking spaces, shall not be located within 3 feet of any lot line." Mr. Moore emphasized that the applicant is proposing the elimination of this requirement because the concrete pavement stretches across the property line, thus there is no setback.

Mr. Moore displayed the Submitted Site Plan and explained that both parcels are owned by the same person. Mr. Moore added that despite the same ownership, it still does not comply with the Code. Mr. Moore expanded that the owner and the Community Development Department met and decided if the owner would apply for a variance and bring it to the Board of Zoning Appeals, a temporary approval of the final zoning inspection can be issued pending a BZA decision.

Mr. Moore then discussed the decision criteria:

- A) Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance. - *does not support granting the variance*
- B) Whether the variance is substantial: the applicant is asking for 100% elimination of this standard (3 feet). Staff finds it a substantial variance. – *does not support granting the variance*
- 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 – *supports granting the variance*
- D) Whether the variance would adversely affect the delivery of governmental services – *supports the variance*
- E) Whether the property owner purchased the property with knowledge of the zoning restriction – *does not support the variance*
- F) Whether the property owner's predicament feasibly can be obviated through some method other than a variance – *does not support the variance*
- G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – *supports the variance*
- H) Any other relevant factor – *supports the variance*

Mr. Moore concluded his presentation by pointing out that this is the best process at the moment to achieve Code compliance in this particular situation, and there is substantial evidence to grant this variance.

Questions from the Board

Mr. Conrad believed that it is difficult for emergency vehicles or garbage trucks to access the area. Mr. Moore pointed out that the development of this property was permitted and the applicant had the right to develop the land. Mr. Moore added that both staff and Planning Commission are aware of the issues brought up by Mr. Conrad.

Ms. Rousmaniere wanted to know about lot coverage. Mr. Moore answered that it would be additional coverage if the variance was granted.

Mr. Allison inquired about the width of the driveway. Mr. Moore and Mr. Webb answered 10 feet but 13 feet was poured. Mr. Allison also wanted to know whether the 3 feet setback is required on 115 E Collins as well. Mr. Moore said that standard would apply but a permit for changing the parking area at 115 has not been received. Mr. Moore added that the pavement also being on 115 E Collins is an enforcement matter at this point.

Mr. Schnipper mentioned that an email from David Judy was received about the sump pump discharge where the water is going down on the alley west towards S Poplar. Mr. Schnipper wanted to know if the variance is not granted would it help alleviate some of the drainage. Mr. Schnipper inquired about the location of the sump pump discharge. Mr. Moore stated that the sump pump discharge is located in the north-south alley. Mr. Moore added they are aware of the issue and he talked to the Engineering Department. Engineering is working with the owner to find a solution; they are thinking of putting in a French drain. Mr. Moore added that the coverage, in part, contributes to the issue based on what Engineering said, but does not find that it contributes in a significant way.

Mr. Conrad stated that he found it very unpleasant that cars were parking in standing water in the alley. Mr. Moore explained that parking enforcement is the Police Department's responsibility. Mr. Moore then re-emphasized that Engineering is working towards a solution in regards to the water issue.

Mr. Webb, Architect for the applicant, was sworn in by Mr. Schnipper. Mr. Webb started his presentation with explaining why the entire space was paved. He stated that their concern was the grade, north to south, and if the strip had been left unpaved it would have become a catch basin for water, and gravel or mulch would have gotten washed out of it eventually. Mr. Webb further explained that the role of the curb was not simply to delineate where the property line is but also to direct the water. Mr. Webb added that the unpaved 3 feet strip would be a maintenance issue.

Mr. Webb stated that they agree with staff. Mr. Webb added that this is a reasonable request and the plans were submitted to comply with the Code but in the field there was a better idea in regards to using this space.

Questions from the Board

Ms. Rousmaniere had a question whether the owner knew about the bordering parking lot. Mr. Webb stated that the owners are aware of where the property line is.

Mr. Conrad wanted to know why the objection to use concrete rather than plants. Mr. Webb answered that because of the storm water issue and maintenance issue. Mr. Webb added that plants can get easily destroyed in an alleyway.

Mr. Schnipper added that the decision made in the field and the reasons behind it are understood. However, the Board would be more amendable to a request before a fact and not after it happened, Mr. Schnipper emphasized. Mr. Webb agreed with Mr. Schnipper and added that he did not find out about this issue until the day of the final zoning inspection.

Ms. Rousmaniere made a motion to reconvene to regular session. Mr. Allison seconded the motion. All were in favor.

The Board's Discussion

Ms. Rousmaniere mentioned that she is annoyed by the request being "after-the- fact". Ms. Rousmaniere inquired what happens if one of the properties will have a different owner. Mr. Allison had the same concern. Mr. Allison thought that the curb is very important and suggested to put it in the variance as a requirement. It would help when one of the properties will go under different ownership.

Mr. Schnipper agrees with Mr. Moore that the lot coverage will increase a little and did not think it would be a problem in this case. Mr. Schnipper commented on the water in the alley explaining that it is very common after a heavy rain for water to stay in the alley for a long period of time. Mr. Schnipper acknowledged Mr. Conrad's concern and re-emphasized that Engineering is working to find a solution. Mr. Conrad stressed

that the City should alleviate the problem. Mr. Schnipper reassured Mr. Conrad that the City is working on it.

Mr. Allison liked the wider driveway because it makes turning from the alley to the parking lot easier. Mr. Allison agreed with the proposal of leaving the concrete because it is less maintenance and it would not get destroyed as a grassy area would.

Mr. Conrad was concerned how the concrete compounds the water issue when raining. Mr. Allison added that cutting the concrete will not alleviate the water problem. Mr. Schnipper agreed with Mr. Allison that cutting out that 3 foot strip would make things worse when it first rains, creating mud when driven over or parked on.

Ms. Rousmaniere and Mr. Conrad voiced their concerns that houses can be built in alleys. Mr. Schnipper added the best thing that can be done is to come up with things that minimize the negative aspects of building in an alley.

Ms. Rousmaniere made a motion to approve the variance based on support from criteria C, D, G, and H with a provision that the curb be maintained over time. Mr. Allison seconded the motion.

Roll call was taken.

AYE: Ms. Rousmaniere, Mr. Conrad, Mr. Allison, Mr. Schnipper (4)

NAY: None (0)

ABS: None (0)

Variance GRANTED.

Revisions to BZA Rules of Procedure

The revision is to change the meeting from the third Wednesday to the fourth Tuesday of the month. Also, the time be taken out to provide flexibility without formally having to change the Rules again.

Mr. Conrad made a motion to approve the revisions. Mr. Allison seconded the motion. Roll call was taken. All were in favor.

Mr. Schnipper inquired from Mr. Moore whether there are any cases for October. Mr. Moore said there are 3 cases. Next meeting is on October 26, 2021 at 6:30 p.m.

V. Adjournment

Ms. Rousmaniere made a motion to adjourn the meeting. Mr. Conrad seconded the motion. All were in favor. The meeting was adjourned at 7:14 p.m.