

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, December 16, 2020

Call to Order

Those members present: Roger Ames, Michael Schnipper, Dan Haizman, Chris Allison, and Kate Rousmaniere

Those members excused: None

Staff members present: Zachary Moore, and Chris Conard

Staff members excused: Sam Perry.

Fire Chief John Detherage was also present for the meeting.

Approval of October 19, 2020 Minutes of the Regular Meeting

Mr. Ames made motion to approve minutes. Ms. Rousmaniere seconded the motion. All were in favor.

Adjudication Hearings

BZA-2020-11, 216 W. High Street Variance to Section 1143.05(c) minimum lot width, maximum lot coverage, maximum front yard lot coverage for the addition of a second dwelling unit in an R2MS Zoning District, Scott Webb, Appellant

Mr. Ames made motion to enter into public hearing BZA-2020-11. Ms. Rousmaniere seconded the motion. All were in favor.

Mr. Schnipper swore in Mr. Moore, Planner.

Mr. Moore reported there being three variance requests: lot width, total lot coverage and front yard coverage submitted by the Appellant Mr. Scott Webb. Mr. Moore reviewed details of the application. Mr. Moore reviewed the staff report included in the agenda packet. Mr. Moore reviewed the location map, zoning classification map, and a bird's eye view looking west and north, and site photographs. Mr. Moore displayed the submitted site plan. Mr. Moore reviewed the applicant's variance requests in detail, along with displaying Staff drawings showing specific calculations for each variance. Mr. Moore displayed the submitted rendering.

Mr. Moore reviewed the Decision Criteria:

Criterion A - Whether the property in question will yield a reasonable return without the variance, Staff does not support granting the variance since the property is currently a single family dwelling and has been utilized for many years as a rental. Demonstrating there is beneficial use without the variance.

Criterion B - Whether the variance is substantial. Even though the total lot coverage and front yard coverage are not substantial, the lot width is, as shown by an analysis of the R-2MS zoned area.

Criterion C - Whether the essential character of the neighborhood would be substantially altered. Staff supports granting the variance as there is a mix of dwelling types, and the addition's design appears complimentary.

Criterion D - Whether the variance would adversely affect the delivery of governmental services. Support by Staff is mixed. Mr. Moore advised the BZA to rely upon comments from the Fire Chief. No comments were received from other City departments.

Criterion E - Whether the property owner purchased the property with knowledge of the zoning restriction. Staff finds this criterion does not support granting the variance. The property owner has owned the property since 2003, though no evidence was contributed concerning the desire to upgrade the use of the property upon acquiring.

Criterion F - Whether the property owners' predicament feasibly can be obviated through some other

method other than variance. Mr. Moore reported there was mixed evidence for this determination. Mr. Moore described ways to achieve by lessening coverages. Mr. Moore questioned whether this was a predicament with respect to Criterion A.

Criterion G - Whether the spirit and intent behind the zoning requirements would be observed and substantial justice done by granting the variance. Staff does not believe the spirit and intent would be upheld.

Criterion H - Any other factors. Staff reported none, though the BZA may rely upon appellant's testimony.

Mr. Moore reviewed the 2017 Up-Zoning map noting that this property was not part of that up-zoning. Mr. Moore reviewed the current zoning map, sharing the R-2MS zoned area that was analyzed in Appendix A of the staff report.

Ms. Rousmaniere inquired if there was a definition for addition versus a detached structure. Mr. Moore explained both. Ms. Rousmaniere inquired how we know what the "attached-ness" is to the property. Discussion followed.

Mr. Webb was sworn in by Mr. Schnipper. Mr. Webb provided a powerpoint presentation. Mr. Webb referred to the 2017 changes to the Zoning Code and the problem still existing that the Mile Square was platted with narrower lots than described in the Code; therefore, Mr. Webb believes the variance request is not substantial as the lot in question is one of the largest in the district. Mr. Webb displayed a chart displaying width and area requirements that do not reflect lot sizes in the district, thus reflecting that the character of the neighborhood would be unaffected by the approval of the variances. Mr. Webb reviewed the lot width and lot area and noted that the lot in question exceeded one requirement and was deficient in the other, presenting a practical difficulty for the development. Mr. Webb noted that side yard setbacks were exceeded thus providing more distance between the building and property line than the existing building. Mr. Webb reviewed the lot coverage variance request and felt it was a very minor variance request - 0.58%. Mr. Webb felt the lot was certainly large enough to accommodate everything. Mr. Webb displayed the proposed design. Mr. Webb noted that delivery of governmental services would not be affected. Mr. Webb reviewed the Fire Chief's comments.

Mr. Webb reviewed the Decision Criteria. Mr. Webb noted that the variances were not substantial and were reflective of the existing neighborhood. The essential character would not be affected since there were similar adjacent uses. The lot width cannot be changed, therefore the owner's predicament cannot be obviated through some other method. Mr. Webb ended by stating that substantial justice would be done by allowing a 2-family structure on one of the largest lots in a 2-Family district.

Mr. Schnipper inquired if Fire Chief Detherage wished to speak. Mr. Detherage was sworn in by Mr. Schnipper. Chief Detherage reviewed issues identified in his review of the case. Chief Detherage discussed access issues, describing the problems at all three access points. Ms. Rousmaniere agreed seeing electrical wires in the photographs. Mr. Schnipper summarized the Chief's concern was really just fighting fire and keeping personnel safe, not simply the lot width. Mr. Detherage agreed with the summary.

Mr. Ames made motion to reconvene to regular meeting. Ms. Rousmaniere seconded the motion. All were in favor.

Ms. Rousmaniere referred to the 2017 rezoning and described the spirit of the action at the time, which was to concentrate density in the eastern portions of the Mile Square, not the west. Her concerns were density, it being a narrower lot, and maximum lot coverage being her main concern. Mr. Ames voiced he had the same concerns as Ms. Rousmaniere did. Mr. Allison suggested the applicant should wait if

Planning Commission is making changes to the Zoning Code to see how this would be affected.

Mr. Allison made motion to deny all three variance requests based upon Decision Criteria A, B, E, and G, following staff's recommendations on those criteria. Mr. Haizman seconded the motion.

AYE: Mr. Ames, Mr. Allison, Mr. Haizman, Ms. Rousmaniere, Mr. Schnipper (5)

NAY: None (0)

ABS: None (0)

New Business

Mr. Moore announced that several text amendments were moving on to City Council for review. The text amendments touches upon a host of various items, mostly for cleanup, clarification and codifying current practices.

Old Business

Mr. Schnipper reminded the BZA of Ohio House Bill 404, extending virtual meetings.

Adjournment

Mr. Ames made motion to adjourn the meeting. Mr. Haizman seconded the motion. All were in favor. The meeting was adjourned at 7:30 p.m.