

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, January 20, 2021

Call to Order

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

Those members excused: None.

Staff members present: Sam Perry, Zachary Moore, Benjamin Mazer, and Chris Conard.

Staff members excused: None.

Election of Officers and Swearing In of BZA Members

Mr. Ames made motion to nominate Mr. Michael Schnipper as Chair of BZA. Mr. Haizman seconded the motion. There were no other nominations. Roll call taken, all were in favor.

Mr. Haizman made motion to nominate Mr. Roger Ames as Vice Chair of BZA. Ms. Rousmaniere seconded the motion. There were no other nominations. Roll call taken, all were in favor.

Mr. Schnipper made motion to nominate Mr. Dan Haizman as Secretary of BZA. Ms. Rousmaniere seconded the motion. There were no other nominations. Roll call taken, all were in favor.

Mr. Conard administered the Oath of Office to the BZA members. The BZA members each raised their right hand and were sworn in virtually.

Approval of December 9, 2020 Minutes of the Regular Meeting

Mr. Haizman made motion to approve the minutes as written. Mr. Allison seconded the motion. All were in favor.

Adjudication Hearings

BZA-2020-12, 5115 Morning Sun Road, variance to Section 1141.03(b) requiring every building to have its principal entrance upon a street bordering the lot, Scott Webb, Appellant

Mr. Haizman made motion to enter into public hearing BZA-2020-12. Mr. Rousmaniere seconded the motion. All were in favor.

Mr. Schnipper swore in Mr. Zachary Moore, Planner, City of Oxford.

Mr. Moore reviewed the staff report included in the BZA agenda meeting packet, for two mixed-use buildings, located at 5111 and 5115 Morning Sun Road. Mr. Moore announced that his PowerPoint would be a combined presentation for both as the variance requests, with different addresses, are for the same lot (but to be split). The variance request is for Section 1141.03(b) of the zoning code which states that it requires every building to have its principal entrance upon a street bordering the lot. Mr. Moore reviewed the submitted site plan and highlighted the principal entrance locations, both residential and commercial locations. Mr. Moore reviewed the front and rear renderings and planned parking, including number of spaces and their locations. Mr. Moore reviewed the basement floor plan, first floor plan, second floor plan, and third floor plan, describing the entrances and separation of units and stairwells.

Mr. Moore reviewed the decision criteria:

A. Whether the property in question will yield a reasonable return. Staff believes that the vacant property could yield a reasonable return without the variance.

B. Whether the variance is substantial, staff supports granting the variance as it is not substantial.

C. Whether the essential character of the neighborhood would be substantially altered, staff supports granting the variance as the design in terms of street presence is in keeping with the spirit of the NB

District.

D. Whether the variance would adversely affect delivery of government services, staff and the Fire Chief supports the variance. Mr. Moore noted that the Fire Chief has requested turning radii information to ensure adequate accessibility.

E. Whether the property owner purchased the property with the knowledge of the zoning restriction? Staff does not support granting the variance since the owner was made aware of past interpretation but chose to proceed with the current plan.

F. Whether the property owner's predicament feasibly be obviated through some method other than a variance. Staff did not support granting the variance. Mr. Moore discussed other choices the applicant could do.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Staff supports granting the variance. Mr. Moore reviewed the neighborhood character, (no sideways buildings); 2. public health and safety, and 3. general navigability reducing confusion for visitors/deliveries. Therefore, staff believes that all three of these purposes have been upheld.

Therefore, staff supports granting the variance for both structures.

Mr. Ames inquired was the only egress to the residence the basement stairway, is that the only way in and out? Mr. Moore described other ways to access units. Discussion followed. Mr. Ames sees a safety problem. Getting into the fire code with the discussion, a point of clarification of previous variances for this lot, why was this not included? Mr. Perry responded that it was not known at the time this provision was not complied with.

Mr. Allison inquired isn't there a provision that the sidewalk connects directly from the street to the entrance? Mr. Allison stated he didn't see that. Discussion followed. Mr. Allison noted that there were no sidewalks going to the back entrances and believes this is student housing, arriving by foot, on a daily basis, foot and bike traffic versus cars. Mr. Schnipper inquired if pathways were added, would that solve Mr. Allison's concerns. Discussion followed. Mr. Allison noted that you would have to walk through the driveway to get to the sidewalks. Mr. Haizman agreed with Mr. Allison. Discussion followed.

Mr. Scott Webb, Appellant, was sworn in by Mr. Schnipper.

Mr. Webb provided a PowerPoint presentation. Mr. Webb reviewed past designs of the property, the lot split and change of zoning. Mr. Webb described the reasoning for the site design for the significant amount of grading to the property. Mr. Webb referred to having followed the Stewart Square model with shared access easements, walk out basements, and designs meeting the building code. Mr. Webb noted the sprinkled buildings, and there being no issue with the location of the entrances from a building code perspective, no problem with exits, or second means of egress. Mr. Webb continued that foot traffic connections, sidewalk continuation, was being exaggerated. We are meeting the intent of the code. Mr. Webb reviewed decision standards:

A. Feel have done best for the site in the design.

B. Is not substantial.

C. The essential character would be improved as it has been vacant. This would be the first opportunity to offer a neighborhood business site in the NB District.

D. Government services; Bayer Becker has been working with the City Engineering Department regarding utilities and turning radius's.

E. Yes, we did know the zoning restrictions, but working with the grading.

F. Does not support the variance

G. Spirit and intent is we can meet the building code and using model of Stewart Square and Fire Chief blessing.

Ms. Rousmaniere inquired about rear lighting and her concern regarding the back entrance as it could be dark. Mr. Webb stated that lighting standards would come from building review. Mr. Webb described the planned lighting.

Mr. Schnipper inquired about pathway potential for sidewalks that Mr. Moore identified in PowerPoint. Mr. Webb felt it was his oversight.

Mr. Webb, this was a sprinkled building, having egress windows, and protected stairs.

Mr. Perry, Community Development Director, was sworn in by Mr. Schnipper to provide an historical background of the development of the NB District.

Mr. Allison, curious why this didn't go back to Planning Commission as it is a major variance; maybe Planning could have made adjustments to the code by reviewing this project? Discussion followed. Discussed conditional use processes.

Mr. Schnipper inquired Mr. Webb's comment that plans, etc., had been approved through our department. Mr. Moore's response was it was going through the normal building permit review cycle.

Mr. Haizman made motion to enter into regular session. Ms. Rousmaniere seconded the motion. All were in favor.

Ms. Rousmaniere, asked regarding the principal entrance, she was good with this variance, as it seems to be a good case. Ms. Rousmaniere spoke that the pathway and lighting was a concern for her. Mr. Schnipper agreed. Mr. Allison agreed as long as we agree on a direct pathway; there should be a connector, therefore avoid walking through grass.

Mr. Haizman stated he was good with.

Mr. Ames made motion to approve BZA-2020-12, 5115 Morning Sun Road, variance 1141.03(b) based on decision criteria that, the variance was not substantial, it will not interfere with government services, and will not affect the neighborhood. Mr. Haizman seconded the motion.

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

NAY: None (0)

ABS: None (0)

Mr. Schnipper noted that the next adjudication hearing was functionally the same, but the BZA would address it separately.

BZA-2020-13, 5111 Morning Sun Road, variance to Section 1141.03(b) requiring every building to have its principal entrance upon a street bordering the lot, Scott Webb, Appellant

Mr. Ames made motion to enter into public hearing BZA-2020-13, 5111 Morning Sun Road, variance 1141.03(b). Ms. Rousmaniere seconded the motion. All were in favor.

Mr. Zach Moore, Planner, was sworn in by Mr. Schnipper. Mr. Moore displayed the same PowerPoint reviewing the variance request and noted the information to being the same as the prior hearing. Mr. Moore displayed the submitted rendering stating that again there was a gap in the sidewalk from the front to the back of the building for pedestrian circulation. Mr. Moore reviewed whether the lighting was adequate for the back of the building. Mr. Moore reviewed the floor plans for each level of the structure. Mr. Moore reviewed the decision criteria, which was the same as the previous case.

Mr. Allison inquired if it would be an issue when adding sidewalks that it could change the lot coverage thus requiring additional variances? Mr. Schnipper directed the question to Mr. Mazer, legal counsel, for his opinion. Mr. Mazer responded that since the BZA has heard the proposal and understands the consequences the BZA can grant as a part of their decision.

Mr. Scott Webb, Appellant, was sworn in by Mr. Schnipper.

Mr. Webb displayed the same PowerPoint and referred to the second building. Mr. Webb referred to the site plan, and the intention would be that the sidewalks should be extended in both directions over to the rear driveways. Mr. Webb noted that they were agreeable to the change. Mr. Webb continued reviewing his PowerPoint, same as the first case along with the decision standards.

There were no questions from the Board.

Mr. Perry had nothing further to offer.

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

Mr. Ames made motion to approve BZA-2020-13, variance 1142.03(b) based upon the decision criteria, that the variance was not substantial, it would not interfere with government services, and would not affect the neighborhood with the understanding that the additional sidewalk may take up more of the lot coverage than was presented. Mr. Haizman seconded the motion.

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

NAY: None (0)

ABS: None (0)

Discussion followed and it was determined that, for the record the BZA acknowledges that the sidewalk could also increase the lot coverage for 5115 Morning Sun Road.

Mr. Ames made motion to approve BZA-2020-12, 5115 Morning Sun Road, granting the motion that the additional sidewalk may take up more of the lot coverage than was presented, as it was not substantial, governmental services would not be affected, and it would not interfere with the spirit and intent of the neighborhood. Mr. Allison seconded the motion.

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

NAY: None (0)

ABS: None (0)

New Business

None.

Old Business

None.

Adjournment

Mr. Ames made motion to adjourn the meeting. Ms. Rousmaniere seconded the motion. All were in favor. The meeting was adjourned at 7:46 p.m.