

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, October 17, 2018

Call to Order

Those members present: Paul Brady, Roger Ames, Prue Dana, Michael Schnipper, and Daniel Herron.

Those members excused: None.

Staff members present: Sam Perry, and Amy Blankenship.

Staff members excused: Stephen McHugh.

Mr. Brady called to order the Board of Zoning Appeals meeting after the BZA Training held earlier in the evening.

Mr. Brady welcomed Mr. Daniel Herron. Ms. Blankenship swore in Mr. Herron.

Approval of Minutes of the August 15, 2018 Regular Meeting

Ms. Dana made motion to approve the minutes as written. Mr. Schnipper seconded the motion. All were in favor. One abstention, Mr. Herron was not present.

Adjudication Hearing

BZA-2018-17, 101 N. Main Street, Oxford Presbyterian Church, variance to Section 1141.03(c)6B, setback and yard requirements, to allow for the construction of a handicap ramp in the front yard, Joseph Simpson, Trustee, Oxford Presbyterian Church, Applicant

Mr. Schnipper made motion to enter into public hearing BZA-2018-17. Mr. Ames seconded the motion. All were in favor.

Mr. Perry was sworn in. Mr. Perry provided an overview for a proposed accessible ramp at the front of the church. Mr. Perry reported the front yard setback was of issue; as zoned UP (Uptown) it requires that to be located on High Street it needed to have a 16-1/2 foot setback. Mr. Perry provided the handicap ramp would encroach 15' of the 16-1/2 foot setback. The church sanctuary itself encroaches 5'.

Mr. Perry noted that mailings were sent to property owners, and advertised in the newspaper.

Mr. Perry reviewed criteria:

Criterion A, Whether or not there can be **any beneficial use of the property without the variance**:

There is an accessible entrance that can continue to be used without a variance.

Regarding criterion B, Staff believes that the variance **is substantial** because the front yard setback is requirement is 16.5 feet and the proposal is 15 feet.

Regarding criterion C, whether or not the **essential character of the neighborhood** would be negatively altered by the granting of the variance: A COA has been approved by the HAPC. The BZA could find that the HAPC has determined that there is not a negative impact on the character of the area, which is a historic district in this case.

Regarding criterion D, Staff believes that the **delivery of governmental services** to this building **would not** be adversely affected by the granting of this variance request.

Regarding criterion E, **property owner awareness of the zoning restriction**, no because of the property ownership has not changed since the building was built. The restriction came after the building construction.

Regarding criterion F, the **owner's predicament** is that there is not acceptable access to the sanctuary of the church. This could be obviated by using the existing entrance, which enters at front of the sanctuary. The main entrance is at the rear which is more desirable/equitable to the congregation.

Regarding criterion G, whether or not **the spirit and intent behind the zoning requirement would be observed and substantial justice done** by granting the variance: The front yard setback requirement for the Uptown District is intended to maintain a consistent street wall. The allowance for some minimal projections is to accommodate alterations without zoning code obstacles. In this case, the projection is minor in scale with the historic church. Ms. Dana stated that she was not recusing herself, that she was merely a member of the congregation.

Mr. Joseph Simpson was sworn in. Mr. Simpson is a Trustee at the church. Mr. Simpson provided a history of how the church tried to resolve this issue without a ramp.

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

Mr. Brady noted this was a big variance. Mr. Herron agreed; however, the reasoning for it, finds it compelling and commendable of the request, nothing better to accommodate those with a physical disability. Mr. Herron continued that even though substantial, this is overridden by arguments found in the other criteria.

Mr. Ames agrees substantial, however, from a vertical basis was not substantial. Mr. Ames noted that it would not affect the visibility of viability of the town.

Mr. Ames made motion to approve BZA-2018-17, move based upon being a public safety issue, ADA, not horizontally substantial. Mr. Herron seconded the motion.

AYE: Mr. Schnipper, Ms. Dana, Mr. Ames, Mr. Herron, Mr. Brady (5)

NAY: None (0)

ABS: None (0)

Old Business

There was none.

New Business

The BZA discussed if there were any upcoming cases.

Adjournment

Mr. Ames made motion to adjourn the meeting. The meeting was adjourned at 7:47 p.m.