

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, March 21, 2018

Call to Order

Those members present: Paul Brady, Roger Ames, Prue Dana, Michael Schnipper, and Rosmarie Shaughnessy.

Those members excused: None.

Staff members present: Sam Perry, and Amy Blankenship.

Staff members excused: Jung-Han Chen, and Stephen McHugh.

Approval of Minutes of the February 21, 2018 Regular Meeting

Mr. Ames made motion to approve minutes as written. Ms. Dana seconded the motion. All were in favor.

Adjudication Hearings

BZA-2018-07 9 E. High Street, Masonic Lodge, variance to Section 1143.10(c)(2) front yard setback requirement in the vacated Right-of-Way, Scott Webb, Appellant

Ms. Dana made motion to adjourn to public hearing BZA-2018-07. Mr. Schnipper seconded the motion. All were in favor.

Mr. Ames announced that he would need to recuse himself since being a member of the Masonic Lodge.

Mr. Perry was sworn in.

Mr. Perry provided an overview. Mr. Perry stated the variance request was on behalf of the Masonic Lodge for a front yard setback variance request to install an elevator to service the basement tenants. The two basement tenants are having difficulty with access for some of their clientele. Mr. Perry described the restrictions in the area which is why the properties on the north and south streets set back so much farther. Mr. Perry shared the proposal would encroach into the required front yard 10 feet, still leaving 6-1/2 feet. Mr. Perry stated this has been reviewed by the HAPC. Mr. Perry shared that he had just found out from the Law Director that there is an additional requirement at issue for the vacated right-of-way allowances for items and this building structure addition would not be permitted. Mr. Perry stated it would be best if the two were heard together. Mr. Perry inquired Mr. Webb what his feelings were if he wanted to proceed. Mr. Webb stated it was certainly news to him, referring to the parking garage stairway nearby. Ms. Blankenship apologized as she did not notice were talking about the vacated right of way and referenced section 1141.03f, use of the vacated right-of-way which limits the use of the vacated right-of-way. Ms. Blankenship read aloud.

Mr. Perry provided a site drawing and photographs, noting that the second story window above the addition would still be visible.

Mr. Perry reviewed the Decision Criteria.

Criterion A: Beneficial use of the property without the variance. Mr. Perry described how the lower level tenants were having difficulty serving their clientele. The only way to the lower level is by stairs.

Criterion B: If the variance is substantial; because of the new structure protruding and changing the look of the area, it is substantial.

Criterion C: If the essential character of the neighborhood would be negatively altered, Mr. Perry stated

that the HAPC did approve the exterior design.

Criterion D: Delivery of governmental services to this building could be adversely affected by granting the variance; Mr. Perry referred to the Engineering comments expressing concern for water and sewer service lines. But, the concern is not for protection of a water or sewer main line.

Criterion E: The owner's awareness of the zoning restriction; Mr. Perry stated the property has been in current ownership for a long while.

Criterion F: The owner's predicament; it would be very disruptive to operations to reconfigure the entire building for an elevator install and be compliant with the front yard setback.

Criterion G: the spirit and intent be observed and substantial justice done by granting the variance. Mr. Perry stated that the spirit and intent of the front yard setback requirement is to ensure a consistent street wall.

Criterion H: Mr. Perry reviewed other relevant factors:

1. The rear elevator entrance used for the Masonic Lodge was added in 2002.
2. The impact to public safety for pedestrians traversing the sidewalk and drivers backing out of the Masonic Lodge parking space.
3. The benches and tables in this area appear to be underutilized. It is unknown if they will remain.

Mr. Perry reported that staff didn't think there was sufficient evidence to warrant the variance.

Mr. Brady inquired where was the practical difficulty. Mr. Brady inquired if the parking place was part of the lot. Mr. Perry responded yes.

Mr. Scott Webb was sworn in. Mr. Webb described having gone before the HAPC first. Mr. Webb stated that the parcels have never been combined. Mr. Webb described the location of the site. Mr. Webb stated they looked at the rear of the building where the parking space was located and it would only give access to one of the businesses. Mr. Webb stated that for the downstairs businesses the only access was through the alley. Mr. Webb stated that he wasn't sure why they had only installed an elevator to go up and not down. Mr. Webb stated that he felt the practical difficulty is there is nowhere else for the elevator to be placed. Mr. Webb stated that the proposal offered the least impact on the neighborhood. Mr. Webb noted that he repeated the design of the building complementing it. Mr. Webb described surrounding structures. Mr. Webb referred to the Uptown Parking Garage and its stair locations. Mr. Webb reviewed the Decision Criteria: The variance was not substantial. Mr. Webb stated that currently the building did not meet ADA compliance and that aging customers are expressing concern regarding their ability to continue to patronize. The variance is not substantial, worked as much as possible to keep the size of the structure down to minimum impact. Mr. Webb stated that if they had to relocate the incoming sanitary line, it would be something they would have to bear. In regards to the feasibility may be obviated through some other method, there was no practical solution to provide access to the lower level.

Mr. Webb noted that the existing elevator was not a public elevator; it was only for use for the Masonic Lodge.

Ms. Dana inquired if it was possible or less or more expensive to replace the existing elevator. Mr. Webb stated it would be more expensive and that there was no basement under the existing elevator.

Ms. Dana made motion to reconvene to regular meeting. Mr. Schnipper seconded the motion. All were in favor.

Mr. Brady agreed that the present elevator could be redone. Discussion of how only masonic members could get into the temple if reconfigured for the other stops. Mr. Brady stated he felt the request was really substantial as it altered the streetscape. Mr. Schnipper agreed and that he felt it would

be inconsistent with everything down that side of the street.

Mr. Schnipper made motion to deny BZA-2018-7, 1143.10(c)(2) based upon it is substantial and would not serve the spirit and intent of the zoning code. Ms. Shaughnessy seconded the motion.

AYE: Mr. Schnipper, Ms. Shaughnessy, Ms. Dana, Mr. Brady (4)

NAY: None (0)

ABS: None (0)

BZA-2018-08 [211 W. Collins Street, variance to Section 1143.03\(c\), R1MS rear yard setback requirement of 35', Scott Webb, Appellant](#)

Ms. Dana made motion to enter into public hearing BZA-2018-08. Mr. Schnipper seconded the motion. All were in favor.

Ms. Dana recused herself.

Mr. Perry was sworn in by Mr. Brady.

Mr. Perry provided an overview stating that the desire of the property owners was to construct a rear dormer addition to the existing structure within the current footprint upon a non-conforming rear yard setback. Mr. Perry stated that currently construction was taking place on a separate lot behind this structure. Mr. Perry described the rear yard setback. Mr. Perry referred to the zoning code which states it requires at least 35 feet between the rear property line and the house. Mr. Perry stated the house was built at 20'8" from the rear property line. The dormer addition would also be 20'8". Section 1137 requires that any expansion of a nonconformity be compliant with the Oxford Zoning Code. Therefore, the variance request is for 14'4". Mr. Perry provided an aerial view noting that the garage shown has been demolished.

Mr. Perry reviewed the Decision Criteria:

Criterion A: Reasonable return or whether there can be any beneficial use of the property without the variance. Mr. Perry reported that currently this is a single family home, and is able to demonstrate that a beneficial use exists without the variance.

Criterion B: Variance is not substantial because the dormer will not expand beyond the current footprint or building height.

Criterion C: Essential character of the neighborhood would not affect the essential character, however the additional parking would.

Criterion D: The delivery of government services would not be affected.

Criterion E: Property owner awareness of the zoning restriction prior to purchase. Mr. Perry noted that the current property owner purchased it and the rear alley lot in May 2017. A building permit for the same project was submitted in May 2017. Mr. Perry reported that the applicant had the opportunity to consolidate the lots and retain the adjacent parking but instead chose to retain the alley lot as a building site.

Criterion F: The owner's predicament cannot be obviated by any other method. Mr. Perry reported that there is an unfinished attic that cannot be used without an addition that protrudes above the current roofline. Mr. Perry continued that it would be up to the BZA to consider if this is a predicament.

Criterion G: The spirit and intent behind the zoning requirements would be observed and substantial justice done by granting the variance. Mr. Perry stated that based upon the site plan provided, the rear dormer expansion appeared to be a minor change to the nonconforming structure.

Criterion H: Any other relevant factors. Mr. Perry referred to the 2013 revised nonconforming chapter which included removing some restrictions of alterations to nonconforming buildings. Mr. Perry

provided the example of front porch additions and 25% additions were permitted; however, these were permitted with the requirement that setbacks and lot coverage would be in compliance.

Mr. Perry stated that staff didn't believe there was sufficient evidence to warrant the variance.

Mr. Ames inquired if there would be an increase in residents. Mr. Perry responded no, would stay the same. Mr. Schnipper inquired if there was a rental permit currently. Mr. Perry responded that he did not know.

Mr. Scott Webb was sworn in. Mr. Webb stated the request was to put a dormer on the rear of the existing building. Mr. Webb stated that it would not increase the footprint, the variance was not substantial and would not effect the neighborhood. Mr. Webb stated that the existing house had an unfinished second floor.

Mr. Webb stated that the proposed new dormer provided access to the unfinished second floor and provides a bathroom stacked over the one below. Mr. Webb stated it would become a four bedroom two bathroom house.

Mr. Webb reviewed the Decision Criteria. Mr. Webb stated this was a single family house, no change of occupancy, no parking on the site and these are two separate lots of record (in reference to the alley lot and this lot). Mr. Webb noted that there was never parking on this lot.

Mr. Brady swore in Mr. David Morton, 230 W. Collins. Mr. Morton stated that any expansion on that block was a substantial impact. Mr. Morton stated there was no parking and referred to alleyway access and the problem it will cause with more cars in the area. Mr. Morton stated he has lived there since the 1980's and probably now would not look at that area to buy as a single family. Mr. Morton described the current thru traffic. Mr. Morton inquired if the owner was going from 2 to 4 people. Mr. Brady stated no that as a rental would be permitted for 4 which would stay the same.

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

Mr. Brady announced that Ms. Shaughnessy has left, and Ms. Dana recused herself; therefore, there are only three members and we have to offer to the applicant whether to table. Mr. Webb stated he wanted to move forward with the motion and vote.

Mr. Ames made motion to BZA-2018-08, 1143.03c, approve and grant variance on footprint of building not changing, or is not substantial. Mr. Schnipper seconded the motion.

AYE: Mr. Schnipper, Mr. Brady, Mr. Ames (3)

NAY: None (0)

ABS: None (0)

Ms. Rosmarie Shaughnessy left the meeting at 7:30 p.m.

BZA-2018-09 [209 N. Campus Avenue, variance to Section 1143.05\(c\), minimum lot width 75' and 7,500 sf of lot area for a two-family dwelling; and Section 1143.05\(c\) maximum front yard lot coverage of 5%, Scott Webb, Appellant 32](#)

Mr. Brady announced he would need to recuse himself.

Due to lack of a quorum, BZA-2018-09 was tabled until the next meeting.

Mr. Schnipper made motion to table. Ms. Dana seconded the motion. All were in favor.

BZA-2018-10 [207 W. Collins Street, variance to Section 1143.03\(c\) 5' rear yard setback; variance to Section 1143.03\(c\) front yard lot coverage limited to 5% when the site is accessed from an alley; variance to Section 1149.04\(a\)\(1\) parking limits in the required front yard to one required parking space, Scott Webb, Appellant 47](#)

Ms. Dana announced she would need to recuse herself.

Due to lack of a quorum, BZA-2018-10 was tabled until the next meeting.

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

Old Business

There was none.

New Business

The BZA discussed the cases for April.

Adjournment

Ms. Dana made motion to adjourn meeting. Mr. Schnipper seconded the motion. All were in favor. The meeting was adjourned at 7:36 p.m.