



**MEETING MINUTES
BOARD OF ZONING APPEALS
MONDAY, November 22, 2021
6:30 P.M.**

I. Call to Order

The November 22, 2021 meeting of the Oxford Board of Zoning Appeals was called to order at 6:30 p.m. by Michael Schnipper.

Those members present: Michael Schnipper, Calvin Conrad, Chris Allison, Kate Rousmaniere, and Roger Ames

Those members excused: None

Staff members present: Sam Perry, Zachary Moore, Christopher Conard, and Eunike Miller

Staff members excused: None

II. Approval of October 26, 2021 Minutes of the Regular Meeting

Mr. Conrad made a motion to approve the October 26, 2021 minutes as written. Ms. Rousmaniere seconded the motion. All were in favor.

III. New Business

Mr. Moore informed everyone that Mr. Webb's client withdrew the application for the variance request for BZA-2021-12, 314 University Avenue.

BZA-2021-08, VARIANCE, 77 S Main Street, size of wall sign, Timothy Hoskins, Applicant/Agent

Mr. Ames made a motion to enter into adjudication hearing. Ms. Rousmaniere 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 – UP, (6) current use, (7) Variance application to Code Section 1151.05(c)(1)(A) name plate sign size.

Mr. Moore displayed the Location Map, the Zoning Map, and provided a few site photos taken on October 18th along with the Birds Eye View looking to the east.

Mr. Moore then provided the Relevant Zoning Provisions and explained that the applicant is proposing an approximately 4.5 square feet wall sign instead of the standard 2 square feet allowed by the Code. Mr. Moore then showed the detailed sign plan and its proposed location.

Mr. Moore displayed the Decision Criteria and added that Staff believes there is substantial evidence to support the variance request:

- A) Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance. – *supports granting the variance*
- B) Whether the variance is substantial. – *supports 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. – *supports the variance*
- F) Whether the property owner's predicament feasibly can be obviated through some method other than a variance. – *supports the variance*
- G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. – *supports granting the variance*
- H) Any other relevant factor. – *not applicable*

Questions from the Board

Mr. Allison inquired whether the Sign Ordinance allows one sign per structure. Mr. Moore answered that the Ordinance states one sign per principal structure, but it also addresses secondary entrances. Mr. Allison also wanted to know if the variance is denied the size of the sign has to be reduced. Mr. Moore said yes, the size of the sign would have to be reduced to 2 square feet, or the Applicant apply for a wall sign above the awning. Mr. Moore noted if the variance was granted the Board could add a condition that no additional wall sign is allowed on the building.

Timothy Hoskins, Triangle Sign Company, was sworn in by Mr. Schnipper. Mr. Hoskins stated that Mr. Moore did a great job presenting the case and he did not have anything to add to the presentation. Mr. Hoskins added that Mr. Dave Horner from Hotel Development was in attendance as well.

Questions from the Board

Mr. Allison wanted Mr. Hoskins to describe the proposed sign. Mr. Hoskins said it is cast aluminum plaque with silver beveled edges, recessed background, and raised graphics. The sign will be stud mounted onto the brick.

Ms. Rousmaniere inquired why they wanted a bigger sign. Mr. Hoskins stated that it fits nicer. Mr. Hoskins grabbed a measuring tape to illustrate his statement. Mr. Hoskins added that it would be more visible from the street.

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

Mr. Conrad made a motion to approve the variance request based on Criteria A, B, C, D, E, F with the stipulation that no additional wall signage is allowed for the restaurant space. Ms. Rousmaniere seconded the motion.

Roll call was taken.

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

NAY: None (0)

ABS: None (0)

Variance GRANTED with the stipulation of no additional signage.

BZA-2021-09, VARIANCE, 5111 Morning Sun Road, principal entrance upon a street, Scott Webb, Applicant/Agent

Mr. Ames 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 gave details about the case (1) applicant, (2) owner, (3) current zoning, NB, (4) current use, (5) variance to Section 1141.03(b) principal entrance upon a street. Mr. Moore added that the residential entrance would be in the rear of the building but the commercial entrance is upon a street. Mr. Moore noted that this is a re-application to a previously approved application in January 2021. The applicant was not able to obtain the permit in time so the variance approval since then has expired.

Mr. Moore displayed the Location map, this lot is located on the southwest side. Zoning Map was then displayed.

Mr. Moore provided some site photos of the undeveloped lot. Birds Eye view was also displayed.

Mr. Moore shared the Relevant Zoning Provision with the Board and highlighted the relevant part: "Every building...shall have its principal entrance upon a street bordering such lot." Mr. Moore then displayed the Principal Entrances, both the residential and commercial. Mr. Moore pointed out that the permit application has been approved by all departments. If the variances were re-granted by the BZA the work could start right away.

Mr. Moore displayed the building plans next and gave detailed explanation: The basement has the garages for the residents. There will be two dwelling units per building. The upper levels will be accessed via a stairwell. The first floor will have the commercial suites. The residential apartments with their main entrance will be on the second floor. Each of the apartments will have an internal stair to access the third level of the building.

Mr. Moore displayed the Decision Criteria and stated that Staff finds substantial evidence that supports re-granting the variance request.

- A) Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance. – *supports granting the variance*
- B) Whether the variance is substantial. – *supports 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. – *supports the variance*
- G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. – *supports granting the variance*
- H) Any other relevant factor. – *supports granting the variance*

Mr. Webb, Architect for the Applicant, was sworn in by Mr. Schnipper. Mr. Webb thanked the Board for reconsidering the application. Mr. Webb stated that it is a mixed-use building. Mr. Webb explained that it is based on the Stewart Square model, and the parking for the residents and for the commercial space is separated. Mr. Webb pointed out that the ADA ramp on the side of the building is part of the ADA accessibility and an easement was needed for cross access to make sure that the ramp will not be interrupted.

Mr. Webb mentioned that the Fire and Police Departments did not have any comments this time. Mr. Webb stated that Fire and Police are often concerned about the main entrance not located on the street. However, in this case they did not have objection since the site was designed with access from both directions and fire equipment is able to get to through and the entrances to the buildings are easily accessible for them. Mr. Webb added they believe that the intent of the Code has been met.

Questions from the Board

Ms. Rousmaniere wanted clarification whether there is access to the property from both Morning Sun Rd and Sycamore St. Mr. Webb said yes.

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

Mr. Ames made a motion to approve the variance request based on support from Criteria A, B, C, D, G. Ms. Rousmaniere seconded the motion.

Roll call was taken.

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

NAY: None (0)

ABS: None (0)

Variance GRANTED.

BZA-2021-10, VARIANCE, 5115 Morning Sun Road, principal entrance upon a street & maximum lot coverage, **Scott Webb, Applicant/Agent**

Mr. Moore, Planner for the City of Oxford, was sworn in by Mr. Schnipper. Mr. Moore gave details about the case: (1) Applicant, (2) property owner, (3) zoning – NB, (4) current use, (5) variance request to Sections 1141.03(c) and 1143.16(c)(4), (6) it is a re-application.

Mr. Moore displayed a Birds Eye View of the site along with some photos, and the Relevant Zoning Provisions. Mr. Moore added that the maximum lot coverage is 50% in the NB Zoning District.

Mr. Moore showed the principal entrance locations. Mr. Moore next explained that the Lot Coverage with the previous approval (January 2021) was 50.53% for 5111 Lot and 56.51% for 5115 Lot, 53.58% together. Mr. Moore added that the way Staff interpreted the initial lot coverage approval was set at 56.51% for both parcels. Mr. Moore also pointed out it was acknowledged in January that additional lot coverage could result by adding walkways to access the entrances in the rear of the building. Mr. Moore stated as the plan went through the building permit process, it got refined more. This resulted in the following percentages: 5111 Lot 53.25%, 5115 Lot 59.15%, together 56.26%.

Mr. Moore next presented a drawing of both the commercial and residential entrances. Mr. Moore then displayed the floor plan which is similar to the proposed building on Lot 5111.

Mr. Moore displayed the Decision Criteria and added there are substantial evidence to support the variance request:

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

Questions from the Board

Ms. Rousmaniere wanted to know why there is a difference in lot coverage. Mr. Moore explained that the additional coverage is a result of the walkways to the back entrances. Mr. Moore restated that this fact was considered at the January meeting.

Mr. Conrad wanted Mr. Moore to identify the entrances to the property. Mr. Moore pointed out the entrance locations.

Mr. Webb, Architect for the Applicant, was sworn in by Mr. Schnipper. Mr. Webb explained that they first applied for the lot coverage variance and then later for the variance for the entrance. Mr. Webb also explained that by adding the walkways the lot coverage increased.

Questions from the Board

Mr. Conrad wanted to know whether there is sufficient space between the two buildings. Mr. Conrad also referred to the 10 foot setback from last month's BZA case. Mr. Webb explained that all the side yard requirements are met and there are more than 10 feet between the two buildings.

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

Mr. Ames made a motion to approve the request for variances based on support from Criteria A, B, C, D, G. Ms. Rousmaniere seconded the motion.

Roll call was taken.

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

NAY: None (0)

ABS: None (0)

Motion PASSED to grant the variance requests.

BZA-2021-11, VARIANCE, 207/209 W Collins Street, front yard coverage, maximum front yard parking spaces & maximum driveway width/angle, **Scott Webb, Applicant/Agent**

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

Mr. Moore, Planner for the City of Oxford, was sworn in by Mr. Schnipper. Mr. Moore provided details about the case: (1) location, (2) single building with four units, (3) applicant, (4) owner, (5) zoning – R-1MS, (6) current use – undeveloped/off-site parking area for 207/209 W Collins, (7) Variance request to Sections 1143.03(c), 1149.06(b)(1), and 1149.06(c)(5).

Mr. Moore displayed the Location Map and explained the property is 4,323 square feet with a little over 65 feet of lot width. The lot width meets with the minimum requirement in the R-1MS district, however it does not meet with the minimum standard area requirement (6000 square feet). Mr. Moore referred to a provision in the non-conformities chapter of the Code which allows a single family dwelling to be built if the lot has a minimum area of 3000 square feet as long as all the other dimensional provisions are met.

Mr. Moore mentioned that 213 W Collins St, west of the property, only has alley lot frontage, and 201 W Collins is considered as a Lodging House.

Zoning Map was displayed along with site photos taken on November 9th and with the Birds Eye View. Mr. Moore noted that both parcels associated with 207 & 209 W Collins are under the same ownership.

Mr. Moore recalled that there were variance requests in June 2018:

1. rear yard setback (35 ft to 17 ft)
2. front yard coverage (5% to 58%)
3. front yard parking (1 to 4 spaces)

Mr. Moore explained the variance requests were denied at that time.

Mr. Moore displayed the proposed site plan and added that the yard setbacks are met which results in a rectangular buildable area.

Mr. Moore showed the submitted Building Renderings and noted that the proposed dwelling is 11 feet wide, which is very narrow, to follow the setback requirements. Mr. Moore continued his presentation by displaying the floor plans. The proposed building has 3 floors.

Variance #1 – front yard coverage

Mr. Moore displayed the Relevant Zoning Provisions and explained that the Applicant is requesting to increase the front yard coverage from 15% to 46.2%.

Variance #2 – front yard parking

Mr. Moore drew attention to Code Section 1149.06(b)(1) which states that “1 parking space may be located in a required front yard. All other parking spaces required or provided in excess of the minimum requirement shall not be located in the required front yard.” The Applicant is requesting 2 parking spaces in the front yard. Mr. Moore explained the only option to comply with code is to do a double stacked driveway which could be to either side of the building.

Variance #3 – driveway width & angle

Mr. Moore cited the Relevant Zoning Provision, Section 1149.06(c)(5), which says “driveways shall be a maximum of 18 feet wide at the street right-of-way line and shall flare no greater than 30 degrees from perpendicular with the right-of-way line.” The Applicant is proposing 22 feet 11 inches as the driveway width and 63 degrees as the driveway angle, Mr. Moore added. Mr. Moore then displayed the drawing.

Mr. Moore started to discuss the Decision Standards. Mr. Moore pointed out that there is insubstantial evidence to support the variances:

- A) Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance. – *mixed evidence*
- B) Whether the variance is substantial. – *does not support granting the variances*
- 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. – *does not support granting the variances*
- D) Whether the variance would adversely affect the delivery of governmental services. – *does not support granting the variances*
- E) Whether the property owner purchased the property with knowledge of the zoning restriction. – *does not support granting the variances*
- F) Whether the property owner's predicament feasibly can be obviated through some method other than a variance. – *does not support granting the variances*
- G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. – *does not support granting the variances*
- H) Any other relevant factor. – *not applicable*

Questions from the Board

Ms. Rousmaniere inquired what the address would be. Mr. Moore said he does not know yet. Mr. Moore added if the variances were granted Staff would look into it and would talk to the Police Chief and the Fire Chief too.

Mr. Webb, Architect for the Applicant, was sworn in by Mr. Schnipper. Mr. Webb stated that the beneficial use of this property as parking for the adjacent property is not appropriate since it is a separate lot. Mr. Webb referred to the relevant Code Section 1137.05(a) which requires a minimum area of 3000 square feet and a minimum lot width of 33 feet. Mr. Webb noted that the practical difficulty is that the lot is 44% larger than the minimum size requirement and 30% greater in width yet the buildable area is distinctly smaller. Mr. Webb emphasized that the variance requests are for parking.

Mr. Webb stated that providing compliant parking would result in additional reduction of the buildable area, about 20%. Mr. Webb re-emphasized that the request is two parking spaces in the front yard setback area. Mr. Webb explained they suggested parallel parking in the Preliminary Zoning Review but it was not accepted because of having concerns about the length of parking (22 ft). Mr. Webb said that is how the idea of angled parking came about. Mr. Webb thought the staff report seems to indicate that the need for variances is an opportunity to deny the property as a buildable lot rather than a practical difficulty meant to provide relief.

Mr. Webb next discussed the Decision Standards and their point of views:

- The undeveloped property currently yields no return
- Variance is substantial because the shape and size of the lot present a practical difficulty
- The essential character of the neighborhood would not be affected
- Delivery of governmental services would not be affected
- The zoning restriction was irrelevant until the development was considered
- A variance is required to provide any parking on the site
- Substantial justice is done by recognizing the practical difficulty in developing the site

Questions from the Board

Ms. Rousmaniere inquired whether the front yard coverage is because of the parking. Mr. Webb said yes.

Mr. Schnipper asked Mr. Clawson, who was in attendance, if he wanted to give a comment. Mr. Clawson did not have any comments.

Mr. Ames made a motion to reconvene to regular session. Mr. Allison seconded it. All were in favor.

Mr. Schnipper thought Mr. Webb did a nice presentation pointing out that the variance requests is about parking. Mr. Schnipper was concerned where the cars currently parking on the vacant lot would go. Mr. Schnipper also expressed his concerns about the potential hazards such as overhead wires and narrow alleys when an emergency response happens. Ms. Rousmaniere agreed with Mr. Schnipper.

Mr. Conrad made a motion to deny the variance request based on Criteria B, C, D, E, F, G.

Mr. Conrad, Law Director suggested the Board first discuss the Criteria. Mr. Conrad expanded on his reasons to deny the variance requests.

Mr. Conrad stated there is a need to second the motion to deny the variance requests.

Ms. Rousmaniere seconded Mr. Conrad's motion.

Mr. Conrad suggested the Board to go over the Decision Standards as a Body.

- A) It was agreed on that the parking is beneficial but not a financial return. Therefore it is a mixed evidence.
- B) Mr. Schnipper, Ms. Rousmaniere, Mr. Allison agreed with Staff that the variance is substantial. Mr. Ames added that the parking issue could be alleviated by a different design, and Mr. Conrad agreed.
- C) Mr. Schnipper said the parking design is non-characteristic not only in the neighborhood but also in Oxford. Mr. Allison did not have comments. Ms. Rousmaniere thought this Criterion presents mixed evidence. Mr. Ames stated that people park in alleys and block access. Mr. Conrad thought the result will be forcing cars to park on the street, therefore negatively affecting the neighborhood.
- D) Mr. Schnipper agrees with the comments from Police and Fire. Mr. Allison thought there was no specific comment made related to this lot. Ms. Rousmaniere said it would have a negative effect. Mr. Ames agreed with the Police and Fire Chief, and Mr. Conrad as well.
- E) Mr. Schnipper stated the house was bought in 2005, and the text amendment was in 2017. The Board agreed that this Criterion does not support the variance.
- F) The Board agreed on the Criterion not supporting the variance.
- G) Mr. Schnipper did not believe that the spirit and the intent of the Code would be observed by granting the variance. The Board agreed.
- H) No other factors were mentioned.

Roll call was taken.

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

NAY: None (0)

ABS: None (0)

Motion passed to DENY the variance requests.

BZA-2021-12, 314 University Avenue, VARIANCE, minimum lot width for three family & minimum parking setback, **Scott Webb, Applicant/Agent**

Staff reminded the Board that according to Mr. Webb, his client had withdrawn the variance application.

Mr. Schnipper inquired whether there was a case for the December BZA meeting. Mr. Moore said no application has been submitted yet. Although there might be one case for a front yard setback variance request.

V. Adjournment

Mr. Ames made a motion to adjourn the meeting. Ms. Rousmaniere seconded the motion. All were in favor.
The meeting was adjourned at 8:11 p.m.