

MINUTES OF THE ZONING BOARD OF APPEALS
February 9, 2009

The regular meeting of the Zoning Board of Appeals was called to order by Chairman Mark Moore at 7:01 p.m. at the Village Hall.

Members present: Chairman Mark Moore, William Cotey, Kurt Hezner, Terry Howard, Howard Jaffe, Walter Oakley, and Andy Robinson.

Members absent: None.

A quorum was established.

Village Staff present: John Spoden; Director of Community Development; David Smith, Senior Planner; and Pat Sheeran, Project Engineer.

Board Member Jaffe moved, seconded by Board Member Howard, to approve the January 12, 2009, Zoning Board of Appeals meeting minutes, as amended.

Motion carried 7 - 0.

OLD BUSINESS: None.

NEW BUSINESS:

ZBA 08-25 Lucas Ackerman, Applicant
162 Broadway Avenue

Request is for a variation to reduce the minimum required corner side yard setback from 30 feet to approximately 10.8 feet for a setback of 9.3 feet in order to construct a single-family home in an R-8, Multiple-Family Residential District.

Mr. David Smith, Senior Planner, introduced the case for the variation request. Mr. Smith stated that the petitioner is requesting approval for a variation to reduce the minimum required corner side yard setback in order to construct a single family home in an R-8, Multiple Family Residential District located at 162 Broadway Avenue.

Mr. Lucas Ackerman, petitioner, stated that the variation request is justified due to the narrow 50 foot wide lot and that he needs the space for his family. He stated that he owns the property.

Ms. Nancy Horn, 154 Broadway Avenue, stated that she is concerned about the drainage. She stated that she hopes that the direction of the drain spouts for the 162 Broadway home will not point towards her property. She stated that she is concerned about the setback of the proposed detached garage. She stated that snow has been plowed onto her property from the alley in the past. She

Minutes of the February 9, 2009, Zoning Board of Appeals Meeting
Page 2 of 4

stated that she is concerned about where the petitioner's garbage will be placed. She stated that she has seen an increase in water and that the house located to the rear of her home has been flooded in the past. She stated that the petitioner will need a pumper truck during construction for dust.

Chairman Moore stated that Ms. Horn's concerns include drainage, sump pump runoff, alley issues with snow removal, and the construction dust. He asked Ms. Horn why she is concerned about the proposed improvements. Ms. Horn stated that she is concerned because the proposed home will be set back only 5 feet from her property.

Mr. Pat Sheeran, Village Project Engineer, stated that the drainage flows will not direct water to the west. He stated that the proposed swale between the proposed home and Ms. Horn's home will carry water to the south, not to the west.

Ms. Horn stated that she is concerned about the potential location of the sump pump and downspouts of the proposed new home.

Mr. Sheeran stated that the sump pump will be tied to a utility connection. He stated that the downspouts can be directed so that water drainage will not be directed towards Ms. Horn's property.

Ms. Horn stated that she is also concerned about snow being plowed onto her property from the alley behind her home.

Mr. John Spoden, Director of Community Development, stated that the subject alley is a public alley. He stated that Jack Krier from the Streets and Utilities Division is the contact person regarding plowing snow in the alley.

Ms. Horn stated that as the petitioner constructs his house, she is concerned about the how the snow gets plowed.

Chairman Moore asked how the construction dust and protection of the trees will be addressed. Mr. Spoden stated that there are requirements for both construction dust mitigation and tree protection.

Board Member Robinson asked if the petitioner is a realtor. Mr. Ackerman stated that he is not a realtor.

Board Member Howard stated that he is having difficulty seeing how the petitioner is not self-creating the hardship. He stated that the increase in house size is substantial, and he asked why the petitioner needed the degree of variation that he is asking for. Mr. Ackerman stated that the proposed house will not be any closer to the corner side yard property line than where the existing house is currently located.

Board Member Howard stated that the small lot is not designed for the proposed size of the house.

Minutes of the February 9, 2009, Zoning Board of Appeals Meeting
Page 3 of 4

Board Member Jaffe advised the petitioner that sprinklers will be required.

Mr. Ackerman stated that if they are required, he will have them installed.

Board Member Hezner stated that there are at least two other single family home properties that were granted corner side yard setback variations, so then there is a precedent set with the proposal before the Zoning Board of Appeals tonight. He stated that there may be a problem with the proposed fence along the interior side yard having a negative impact on drainage.

Mr. Sheeran stated that the minimum clearance for the fence shall be no less than 3 inches above the ground.

Board Member Hezner stated that the petitioner should consider not installing the fence in order to help the drainage flow in that area. He asked what the tree preservation requirement is for tree removal. Mr. Spoden stated that there is a replacement program for trees that are 18 inches dbh or larger.

Board Member Hezner stated that the revised plans indicate that the detached garage facade has changed from stone to cedar siding which is not reflected in the petitioner's narrative. He asked where the electric and gas connections are coming from. Mr. David Wickwire, architect for the petitioner, stated that those connections will come from First Street near the alley.

Board Member Oakley asked what the age of the sewer is. Mr. Sheeran stated that the sanitary sewer is more than 60 years old and the storm sewer along Broadway is between 10 to 12 years old.

Board Member Oakley asked how deep the swale is along the interior side property line. Mr. Sheeran stated that there is not an established standard for the swale depth. He stated that the swale depth is unique to the property conditions and the depth is determined on a case by case basis in order to deal with the drainage issues.

Chairman Moore asked the petitioner if he is in agreement with the Planning Division review comments in the DRC Staff report. Mr. Ackerman stated that he will comply with the review comments.

Board Member Robinson asked if the proposed development is in compliance with the Comprehensive Plan. Mr. Spoden stated that Comprehensive Plan future land use map designates the subject lot and surrounding area to eventually be rezoned to Single-Family Residential, so a single-family home proposed for the subject lot would then be in compliance with the Comprehensive Plan.

In the matter of ZBA 08-25, Board Member Hezner moved, seconded by Board Member Howard, to recommend the Village Board of Trustees approve a variation to reduce the minimum required corner side yard setback from 30 feet to approximately 10.8 feet for a setback of 9.3 feet in order to

Minutes of the February 9, 2009, Zoning Board of Appeals Meeting
Page 4 of 4

construct a single-family home in an R-8, Multiple-Family Residential District, in accordance with the plans submitted.

Motion carried 5 - 2.

Ayes: Moore, Cotey, Hezner, Oakley, Robinson

Nays: Howard, Jaffe

Absent: None

COMMUNICATIONS AND DISCUSSION:

Board Member Jaffe moved, seconded by Board Member Hezner, to adjourn the Zoning Board of Appeals meeting.

Motion carried 7 - 0.

Meeting adjourned at 7:52 p.m.