

MINUTES OF THE ZONING BOARD OF APPEALS
January 30, 2017

The regular meeting of the Zoning Board of Appeals was called to order by Chairman William Cotey at 7:00 p.m. at the Village Hall.

Members present: Chairman William Cotey, Amy Flores, Mark Moore, Walter Oakley, Kurt Schultz, and David Semmelman.

Members absent: Matthew Krummick.

A quorum was established.

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

OLD BUSINESS: None.

NEW BUSINESS:

ZBA 17-01 Stacey Peterson, Applicant
330 and 332 Brainerd Avenue

Request is for a variation to Zoning Code Section 14-4.1 to reduce the minimum required lot width for a nonconforming lot of record from 75% of the lot width required in an R-7 District to not less than 16% (10 feet wide) of the lot width required in an R-7 District order to construct a single family attached development in an R-7, Single Family Attached Residential District.

ZBA 17-02 Stacey Peterson, Applicant
330 and 332 Brainerd Avenue

Request is for a variation to reduce the minimum required lot area from 10,800 square feet to approximately 10,454 square feet in order to construct a three dwelling unit single family attached residential structure in an R-7, Single Family Attached Residential District.

ZBA 17-03 Stacey Peterson, Applicant
330 and 332 Brainerd Avenue

Request is for a variation to change the garage door orientation for single family attached dwellings for property in an R-7, Single Family Attached Residential District.

Mr. David Smith, Senior Planner, introduced the requested variations. He stated that there are three variations being requested. He stated that the property is located at 330 and 332 Brainerd Avenue. He stated that the southern lot fronting Brainerd is 330, and the flag lot shaped lot

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abutting it to the north with the narrower property line fronting Brainerd is 332. He stated that the first variation being sought is to reduce the minimum lot width from 60 feet to the existing 10 feet in order to develop the property. He stated that lot width in accordance to the Zoning Code is measured at the building line which is 30 feet back from the front property line.

Mr. Smith stated that the Village would be able to approve a new Plat of Subdivision today with this type of flag lot configuration as shown at 332 Brainerd Avenue. Section 14-4.1 of the Zoning Code allows non-conforming lots of record to be built upon if they are not less than 75% of the lot width required in the district in which such lot is located and if legal at the time they were created.

Mr. Smith stated that the subject lot at 332 Brainerd is only 10 feet wide at the building line which is only 16% of the lot width required in the R-7 District and would not be a buildable lot if it were not for the fact that the Village Board of Trustees do have the authority to vary without limit Section 14-4.1 of the Zoning Code related to lot area and lot width for legal nonconforming lots of record that are located in residential districts. He stated that this is the variation that the petitioner is requesting.

Mr. Smith stated that the second variation requested by the petitioner is to reduce the minimum lot area for the 332 Brainerd Avenue lot in order to allow up to three dwelling units on this lot. He stated that the Zoning Code allows up to one (1) dwelling unit per every 3,600 square feet of lot area. He stated that the subject lot is large enough for only two dwelling units, but that they are asking for approval to develop three (3) units at 332 Brainerd Avenue.

Mr. Smith stated that the third variation request is to change the garage door orientation for a single family attached residential structure in order to allow the garage doors to face the front property line.

Mr. Smith stated that the petitioner is seeking only feedback from the Zoning Board of Appeals and not a recommendation to the Village Board of Trustees. He stated that it is the petitioner's proposal to present multiple Site Plan alternatives to the Zoning Board of Appeals in order to assess which one may be the best option and looked at the most favorably. Mr. Smith stated that one of the proposed Site Plan options is to develop three (3) townhome units on the 332 Brainerd Ave. lot and two (2) townhome units on the 330 Brainerd Avenue lot.

Mr. David Pardys, Village Attorney, stated that the flag lot would not be compliant with current Code as it does not meet the minimum required lot width per the Zoning Code. He stated that they researched the history on these two parcels. He stated that in order for a lot to be a legal non-conforming lot of record, it must be legal at the time it was created. He stated that they researched these parcels to learn if they were created prior to the minimum lot width requirement. He stated that these two parcels were subdivided by a meets and bounds description. He stated that at the time these parcels were created it was done at a time that the Code did not prohibit this type of configuration. He stated that this means that it has a legal non-conforming status today.

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Mr. Tim Archibald, architect and agent for the petitioner, gave an overview of the two parcels located at 330 and 332 Brainerd Avenue. He stated that they are seeking three variations, but they only apply to 332 Brainerd and not the front lot located on 330 Brainerd Avenue. He stated that the petitioner is seeking to develop both lots together; they chose to present to Staff and the Zoning Board of Appeals the Site Plan options for both properties together.

Mr. Archibald stated that in reference to the lot width variation, there was a 1976 variation approved to allow the four units on the two parcels together. He stated that this variation allowed two structures each with two dwelling units on the two parcels to replicate what was there before and that any future development could only replicate the footprints that were there before. He stated that the Village Attorney and Village Staff could accept this premise that two (2), two (2) family units could be constructed on these two parcels.

Mr. Pardys stated that the 1976 variation for these properties was not very clear as to what they applied for. He stated that it appeared that the property owner at that time were confronted with financing a mortgage, but the bank told them that they have two (2), two (2) family dwellings on these properties that were not allowed by Code at that time. He stated that an R-8 re-zoning was contemplated, but ultimately they decided to ask for a variation. He stated that the exact language in the variation from 1976 was not spelled out clearly, but that it would allow the residential structures to be re-built, but that they would have to be re-built within the exact footprint.

Chairman Cotey asked what would happen if the buildings from back then would be destroyed by fire or natural causes. Mr. Pardys stated that the applicant can ask to build on the lots of record in accordance to the variations requests.

Mr. Archibald stated that the property located at 332 Brainerd Avenue was established as a legal lot of record. He stated that the hardship established is the previous allowance for the units that could be developed on the subject lots. He stated that the other aspect for this variance request was the issue of how to handle the rear lot as a legal nonconforming lot of record.

Mr. Archibald presented the deeds with legal descriptions that pre-date the 1958 Zoning Code which established the minimum required lot width. He stated that these lots were established as legal lots of record prior to the 1958 Zoning Code which established the minimum lot width requirement. He stated that this history has enabled them to request the variation they are seeking now. He stated that because the Zoning Code changed over time, this has created a hardship. He stated that they have asked Village Staff and the Village Attorney to take that into consideration.

Mr. Archibald stated Staff and the Village Attorney have concurred that it is a legal non-conforming lot of record and that we as the petitioner are permitted to request the variations.

Mr. Pardys stated that the section in the Zoning Code that addresses non-conforming lots of record allows them to be built upon provided that they are not less than a certain percentage in lot width or lot area. He stated that the Zoning Code further allows the Village Board to grant

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variations for those lots that are less in width or area than what the Code permits in the Section of the Zoning Code that address nonconformities.

Mr. Archibald stated that the first variation request is more about the legal status of the lot and not so much about design of the plan. Mr. Archibald presented his responses for the standards for the first variation.

Chairman Cotey stated that more detailed plans will be sought from the petitioner before the Zoning Board of Appeals will make its recommendation to the Village Board. Chairman Cotey asked the petitioner if he has seen the Staff review comments in the DRC Staff Report and if he understands all of them. Mr. Archibald stated that he has seen the Staff review comments and understands them.

Mr. Archibald presented two of the Site Plan options that they believe are the most viable. The first was the five dwelling unit Site Plan and the second Site Plan showed four dwelling units on the two parcels.

Mr. Archibald stated that they are considering a brick row house type of design.

Mr. Archibald presented other Site Plan alternatives they were considering. He stated that the big picture for tonight is to get feedback from the Zoning Board of Appeals on the three requested variations.

Mr. Jim Engdahl, 234 W. Maple Avenue, stated that he is concerned about the impervious surface needed to develop the property and its potential impact upon his property.

Mr. Fred Chung, Senior Project Engineer, stated that for any new impervious surface there will be on site detention required.

Mr. Engdahl stated that the petitioner knew what the problem is when they bought the property.

Mr. Jim Shackelford, 215 Elm Court, stated that he lives across the street. He stated that his neighborhood is already a high density area.

Mr. Vince Arpino, Sr., 305 Maple Avenue, stated that he is concerned about the increase in density.

Mr. Vince Arpino, Jr., 109 W. Maple Avenue, stated that they should be able to plan garages that will hold two cars and to have on-site outdoor parking for an additional two cars for each dwelling unit. He stated that five (5) dwelling units are too many for this site.

Mr. James Quirke, 338 Brainerd Avenue, stated that he lives next door. He stated that he does not support the proposal. He stated that he has legal access to the driveway currently located on the subject site. He stated that he is concerned that any development will not be able to provide access that will accommodate a fire truck.

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Mr. Steve Longren, 322 Brainerd Avenue, stated that he is concerned about the height of the new development.

Mr. Quirke stated that he is concerned that he will lose his parking space.

Board Member Schultz asked if there is an opportunity to create a shared drive situation between the subject site and the parcel to the north. Mr. Archibald stated that there isn't a legal easement on the site today.

Board Member Schultz asked if there is an opportunity to create an easement for parking for the neighbor to the north. Mr. Archibald stated that he can discuss the issue with his clients the property owner.

Board Member Schultz stated that he would be okay with variation number one regarding the lot width, but would not support a plan that included five dwelling units. He stated that a plan with three, but not more than four dwelling units is better. He stated that he is okay with a plan that sought a variation on the garage door orientation if there was adequate screening.

Board Member Semmelman stated that he concurs with Board Member Schultz. He stated that he likes the motor court layout as it would create less impervious surface.

Board Member Moore asked for clarification regarding the 1976 variation granted for the property. Mr. Pardys reviewed the content of the ordinance approving the 1976 variation. He stated that the 1976 variation permitted up to four dwelling units on the two parcels and that they could be replaced if built in their exact locations and it seemed as though the two parcels were treated as single lot of record at that time.

Board Member Moore stated that he would not support a plan with more than four dwelling units for the two parcels.

Board Member Flores stated that she also would not support a plan with more than four dwelling units for the two parcels.

Board Member Oakley stated that he also would not support a plan with more than four dwelling units for the two parcels.

Chairman Cotey stated that he also would not support a plan with more than four dwelling units for the two parcels. He stated that consideration should be given to creating a shared driveway opportunity with the neighbor to the north.

In the matters of ZBA 17-01, ZBA 17-02, and ZBA 17-03, Board Member Moore moved, seconded by Board Member Schultz, to continue these items to the April 10, 2017, Zoning Board of Appeals meeting.

Motion carried 6 - 0.

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Ayes: Cotey, Flores, Moore, Oakley, Schultz, Semmelman

Nays: None

Absent: Krummick

COMMUNICATIONS AND DISCUSSION: None.

Board Member Semmelman moved, seconded by Board Member Schultz, to adjourn the Zoning Board of Appeals meeting.

Motion carried 6 - 0.

Meeting adjourned at 8:15 p.m.