Zoning Board of Appeals

Minutes

July 8, 2014

**Approval of Minutes**: The Board voted 5-0 to accept the June 3, 2014 minutes with minor changes.

**Members Present:** Paul Giunta – Chairman, Ralph Loftin – Vice-Chairman, Thomas Golden – Clerk, Theodore Scott and Mitchell Gorka.

**Public Hearings:**

**7:00 PM 90 Onamog St. (Continuation) – ZBA Case # 1426-2014**

The hearing was continued to July 8th from the June 3rd meeting. The hearing notice was read by Tom Golden-Clerk.

The Board received a letter from Atty. Bergeron (the applicant’s representative, dated July 7, 2014) requesting to “withdraw without prejudice” their petition before the Board. Letter was read and placed on file.

There was no one in the audience this evening for this hearing.

On a motion by Mitch Gorka and seconded by Ralph Loftin to accept the request to “withdraw without prejudice”. The Board voted 5-0 to accept the request to “withdraw without prejudice”.

**7:30 PM 110 Brimsmead St. – Nova & Christopher Hodge – ZBA Case #1427-2014**

**Petition:** The applicant is proposing a second driveway opening. According to Section 650-49(2)a - There shall be no more than one driveway street connection for lots with less than 200 ft. of frontage; Section650-49(2)c – Distance from property line. The edge of the driveway shall be located no closer than the minimum distance governing parking areas as provided for under §650-48C(5) – 5 feet; Section 650-49(2) – Distance from building. No driveway shall be located within 5 ft. of a building, except for driveways intended for drive-up window service which shall be subject to site plan approval.

The applicants, Nova and Christopher Hodge were present this evening.

Tom Golden, Clerk, read into the file the notice of hearing and a letter of denial from Pamela Wilderman, Code Enforcement Officer, dated May 23, 2014 RE: Driveway Permit.

**Plan presented:** Hand drawn by applicant onto a city’s GIS map.

**Topography and size of lot:**

* Lot contains some 4,062 sq. ft. with 50 ft. of frontage
* As you face the house, the lot slopes slightly from left to right according to the city’s GIS map.
* There is a telephone pole close to the entrance of the proposed curb opening.

The applicant, Christopher Hodge stated the reason he is before the Board is, because he is requesting a second driveway. The city is in the process of adding sidewalks, curbing and re-paving of Brimsmead St. Currently, they have been using this dirt second driveway as a means of keeping their cars off the street. The city’s engineering department suggested they apply for a zoning variance in-order to keep this second dirt driveway opening. If the applicant cannot receive a variance, the city will install a sidewalk and curbing. The applicant has been using this dirt second driveway for 10 yrs.

**Hardship** as stated by the applicant:

* They have 2 cars and one driveway that only accommodate one car. Currently, with no sidewalks and curb openings on Brimsmead St., they did not have to worry about parking their second car on their front lawn area during winter parking ban. Now with this new paving and sidewalks, they will not have a place for their second car.
* There is an existing garage, but it cannot accommodate a car, it is too small. They use it for storage.
* This is an old house in an old neighborhood, where homes are close and lots are small.
* Their house is located closest to the street than any other houses in the neighborhood, thus making it unique to other homes in the neighborhood.
* City parking ban from Dec. to March will be extremely hard for them if they lose this second parking space.

**Suggestions by the Board:**

* A Board Member suggested widening the existing driveway and get a 24 ft. curb opening. But, it was suggested that this may not be possible because the house’s door entrance is at the right of the existing driveway and some of the widening of the existing driveway may be too close to the side lot line. Not having a survey plan, the setbacks are hard to calculate.
* The application stated that if they are granted a variance, a gravel driveway may be best to control water run-off.
* Knock down the side of the garage and create a car port affect. That is not possible because the side is of brick construction.
* Cannot expand the existing driveway, because there is a porch at the next door house, # 106, which may make it difficult to park cars and open car doors.
* Maybe the applicant can ask the city’s engineering dept. if they have any front yard measurements or any other surveyed measurements the applicant can work off of.
* Remove the existing driveway and create a double driveway where the dirt driveway is located. The applicant stated they would have to re-grade the lot.
* Telephone pole – will the pole remain? Will this pose a problem?
* Try to utilize the existing garage for a car and construct storage space at the rear.
* Ask their neighbor at #125 to use their driveway to access the rear of their property for additional parking? No…may require an easement

With no certified plot plan submitted for the Board to review, the Board found it difficult to determine if the proposed 15' long ± x 9' wide ± driveway will actually fit in this location and if a vehicle will hang over the new sidewalk. With no plans showing the topography of the land, the Board feared it may cause some water run off to the neighboring lot or even to the applicants’ home.

The applicants are anxious that the road work and sidewalks will be completed before they can get a variance, if a variance is granted.

Some of the Board Members felt they cannot act on this issue until the lot is surveyed.

Board Member, Ted Scott, sees there is a hardship as stated by the applicant:

* The lot is unique; the existing house is closer to the street front yard setback then other homes in the area, thus leaving the applicant with less area to work with.
* The existing driveway cannot be expanded, because of the side lot line and the location of the existing front doorway/walkway.
* Ted Scott would like a certified plot plan to include a property line survey. This survey needs to be tied into the city’s street control, because the engineering plans show the proposed sidewalk and curb moving closer to the centerline of the street.

Board member, Ralph Loftin, felt the city has created the hardship by repaving and installing curbing, thus the city should be receptive to a solution.

Ralph Loftin made the following motions:

* The applicant will come back to the Board with a certified plot plan showing the setbacks of the house to the lot lines. The plan will show the measurement from the house to their front property line to make sure a car will not hang over the sidewalk.
* The applicant will get back to the Board about the utility pole on the sidewalk that it will not be a problem for the proposed new curb opening and driveway.
* The plan will show the topography of the lot, i.e. the hedges and stonewall to see what impact, if any, to the proposal.
* The plan will show how the proposed driveway will fit onto the lot.
* The applicant will check with the city’s engineering dept. to see if they have a survey plan of this lot’s front yard setback to the proposed sidewalk. Maybe the applicant can tie into the city’s survey information.

Tom Golden seconded the above motions. The Board voted 5-0 to accept the above motions.

The Board voted 5-0 to continue the public hearing to August 19th at 7:30 in order for the applicant to acquire the information as mentioned above in the “motions”.

There was no one in the audience to speak in favor or in opposition to the petition.

The public meeting was adjourned at 9:00 PM

Respectfully submitted,

Paul Giunta - Chairman