

MINUTES
Zoning Board of Appeals
June 11, 2009

MEMBERS PRESENT: Anita Faraone, Fred Haerter, Cecilia Lucas, Steve Torcaso,
Cletus Willems

OTHERS PRESENT: James Schultz, Zoning Administrator; Paula Blise, Zoning
Coordinator; Mark Molinaro, Representative of the Petitioner; Jeanne Vedder,
Petitioner

The meeting was called to order at 4:10 p.m. by Chairman Cecilia Lucas; the roll
was called.

ITEM #1

Approval of Minutes of January 15, 2009

A motion was made by Anita Faraone and seconded by Steve Torcaso, to approve
the minutes of January 15, 2009; the motion carried unanimously.

ITEM #2

**Special Exception Petition to Variance Petition to Obtain Relief from an
Ordinance Exception which Authorizes Relief from the Required Eight-foot
(8') Interior Side Yard to a Five-foot (5') Interior Side Yard in Order to
Construct a Building Addition at an Interior Side Yard Setback of Four Feet,
Three Inches (4'3") (Majority Vote Required for Approval)**

Address:	6220 Third Avenue
Parcel:	05-123-05-228-008
Property Owner/Petitioner:	Jeanne S. Vedder
Zoning Classification:	RS-1
Zoning Ordinance:	Sections 3.03 D(2)(a)(1), (3); 3.04 F(2)(a)

Cletus Willems asked for clarification regarding the relationship between
approval from the Historic Preservation Committee and approval from the Zoning
Board of Appeals. It was explained that for this type of item, the Zoning Board is
the last committee to approve the item. This item went to the Historic
Preservation Committee and was granted a Certificate of Appropriateness. This
committee only considers its own requirements. The certificate, although non-
binding, was submitted to the Zoning Board as evidence.

Anita Faraone asked if the request was approved when the item went before the
Board in 2002. Jim Schultz answered that it was denied; and, that the minutes

Zoning Board of Appeals
Minutes/June 11, 2009
Page 2

reflecting the decision have been provided to the Board members.

The meeting was opened to a public hearing.

Mark Molinaro, 600 52nd Street, spoke. He explained that the Historic Preservation Committee made it very clear that they are requiring that the setback be the same as that of the existing building. He added that the proposal in 2002 was much larger in scale and he thought that it had been approved. The current project is for a sunroom only.

Ms. Blise clarified that there were two (2) variance requests for the subject address in 2002. One (1) request was approved and one (1) request (regarding the same lot line currently under discussion) was denied. After the item was denied, Ms. Vedder had planned to acquire a strip of land from the County so that the setback requirement could be met. She did not proceed with the project at that time; therefore, she did not approach the County regarding acquiring the land. If Ms. Vedder elects to approach the County at this time and acquires the strip of land, it will not be necessary to petition the Board for a variance.

Fred Haerter asked if the petitioner is planning to encroach further into the setback line than in 2002. Mr. Molinaro confirmed that she was not. Mr. Schultz added that the existing building is nonconforming and does not meet the current Zoning Ordinance requirement.

Steve Torcaso asked if the Historic Preservation Committee's decision takes precedence over the Zoning Board's decision. Ms. Blise answered that the ruling by the Historic Preservation Committee is non-binding.

Ms. Vedder feels that abiding by the current Zoning Ordinance requirement would not be aesthetically appealing and would not be maintaining the historic quality of the neighborhood. Mr. Molinaro added that Ms. Vedder was only asking for a variance of nine inches (9"). There would be a nine-inch jog if a variance is not granted. Ms. Vedder stated that there is sufficient land so that if a variance is granted, there would be no issue with fire safety.

Mr. Schultz asked what position the County is taking at this time. Ms. Vedder stated that she had not approached them recently - she does not want to take the time to take that step. Mr. Schultz explained that this would be the most practical solution, as the Board's dilemma is that by law, they must consider certain criteria when making their decision. The decision of the Historic Preservation Committee may not be considered as part of the hardship criteria.

Zoning Board of Appeals
Minutes/June 11, 2009
Page 3

Ms. Blise added that additional criteria includes whether or not the hardship is self-imposed and whether or not the property owner has reasonable use of the land without the variance.

Mr. Haerter asked if neighboring property owners were informed of the request for a variance and if they were given a chance to respond. Staff answered in the affirmative and also stated that after a decision is made, there is a 30-day period for someone to file a claim with Circuit Court.

Mr. Haerter stated that he has a problem with setting a precedent. Ms. Blise concurred, adding that changing the ordinance may need to be considered. She also said that the City Attorney is very clear regarding advising the Board that they must justify the decision that they make.

Cletus Willems spoke regarding the decision process, which is a three-prong process. The third part of the process, which states that the owner must have reasonable use of his land, is the reason that he feels he cannot justify granting the variance.

Anita Faraone asked how much longer the project would take if the land is obtained from the County. Mr. Molinaro answered that the project could then not be completed during this construction season. He reiterated that the only reason the petitioner is approaching the Board is the she is very conscientious regarding abiding by the Historic Preservation Committee's decision and preserving the historic district.

Mr. Willems maintained that step #3 remains the last hurdle. He feels that the Board does not have the authority to approve the variance.

Mr. Schultz suggested the possibility of deferring the item.

Mr. Willems mentioned the possibility that there is a "permissive easement" due to the petitioner's upkeep and maintenance of the County's land.

Mr. Schultz advised that staff could speak with the City Attorney regarding facilitating a solution with the County.

Fred Haerter made a motion to defer the item until the next scheduled meeting. Cletus Willems seconded the motion. The motion carried unanimously.

Zoning Board of Appeals
Minutes/June 11, 2009
Page 4

ITEM #4

Public Comments

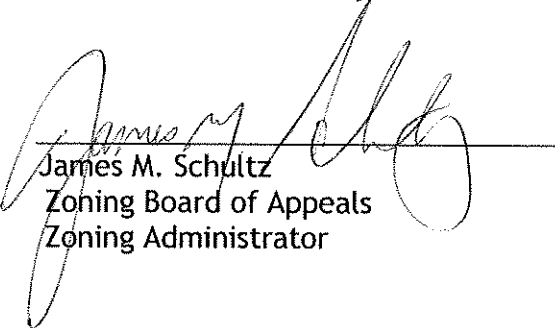
There were no public comments.

ITEM #5

Any Other Business as Authorized by Law

There was no other business.

Anita Faraone made a motion to adjourn the meeting at 4:35 p.m., Steve Torcaso seconded the motion. The motion carried unanimously.



James M. Schultz
Zoning Board of Appeals
Zoning Administrator

Minutes prepared by:
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