

Minutes Zoning Board of Appeals
January 27, 2000
Council Chamber, 400 South Vine Street,
Urbana, Illinois 61801

Board Members Present: Anna Merritt, Chairperson
Herb Corten, Charles Warmbrunn,
Paul Armstrong, Jim Fitzsimmons,
Harvey Welch, Darwin Fields

Board Members Absent: None

Staff Present: April D. Getchius, Director/Community Development Serv.
Rob Kowalski, Senior Planner
Mary Jo Montgomery, Recording Secretary

I. Call to Order

The meeting was called to order by Chairperson Anna Merritt at 7:30 p.m. and roll call was taken.

Ms. Getchius stated Mr. Henry Parker passed away. He was a member of the Zoning Board of Appeals for 20 years. Mr. Parker also served on Plan Commission.

II. Approval of Minutes

Minor corrections were made to the January 13th minutes. Ms. Merritt called for a voice vote to accept the minutes. There was a unanimous voice vote to accept the minutes as they stand as corrected.

Chairperson Merritt swore in the public body testifying before the board.

III. Old Business

Case ZBA-99-MIN-2; 604 W. Stoughton. Paul Smith. Request for a minor variance to allow the creation of a zoning lot with less than required lot area.

Ms. Getchius stated that the case before the board was a minor variance request by Paul Smith for the creation of a zoning lot with less than required lot area. Ms. Getchius also stated that a combination of lots can create a single zoning lot. Mr. Smith has developed an apartment building that used a section of the zoning ordinance, 6-4, that states in the R-4 District the maximum floor ratio area may be increased to .07 provided that there is a minimum of 2000 sq. ft. of lot area per dwelling unit. Mr. Smith has a total lot size of 38,100 sq. ft. and could construct 19 units on this site. Units range from 950 sq. ft. to 976 sq. ft. per unit. Mr. Smith is asking for a variance that would allow for a 20th unit. The proposed area is already developed in the plans as a storage unit. To build the extra unit under this provision of the ordinance, Mr. Smith would have to have 40,000 sq. ft. of lot area. He is shy 1900 sq. ft. Ms. Getchius stated that the granting of the variance would not create any change to the building, façade, or structure of the apartment complex. Parking would not be an issue as it is already in place.

Staff suggests there are special circumstances with reference to the parcel because the site consists of several smaller lots. The request is unique because the 20th unit is being prevented from being used as an apartment because of a shortage of 1,900 sq. ft. The variance request is necessary due to special conditions relating to land or structure. The owner did not create the situation that is being presented to the board. The variance, if granted, will not alter the character of the neighborhood. The variance will not cause a nuisance to adjacent property. The proposed variance is the minimum that is required to accommodate the request. Staff recommends that the board grant the variance as requested.

Mr. Paul Smith, the petitioner, stated that he chose this site for the elderly because it was close to the Phillips Center, the hospitals and downtown. He designed the building to fit into the neighborhood. The building was designed to appear to be two large houses. Mr. Smith stated that he spent extra money to design the building to be structurally strong and to ensure handicap accessibility. He reiterated that he is asking for the minor variance of 4.98% to make the storage unit into an apartment.

Ms. Getchius wanted to clarify that although Mr. Smith is targeting and marketing this complex for the elderly, staff viewed this as a standard apartment building. Also, there was one letter in favor of the variance request.

Mr. Fitzsimmons asked if Mr. Smith were to convert the storage unit into an apartment, would there still be enough storage space. Mr. Smith stated that there were nine garages outside that could be used for storage. Also, in the basement there is a nine foot storage bin in front of the cars.

Rondal Gower, architect for Mr. Smith's apartments, wanted to expound on the fact that he wanted to building something in the neighborhood that looked like it belonged in the neighborhood. Parking on grade was possible, but it was more aesthetic to put the parking

underground. With elderly tenants in mind, Mr. Smith wanted to provide a secure environment for them to park their cars. Mr. Gower stated he felt there would not be any adverse effects on the neighborhood. Mr. Corten asked about fire safety. Mr. Gower stated that it is heavily protected from fire and follows all codes.

Mr. Ross McNeal, 609 W. Stoughton, spoke in favor of Mr. Smith's apartment complex.

Dr. Milo Ketchens spoke in opposition to Mr. Smith's variance request. Dr. Ketchens stated he had some major concerns about the project. He stated that calling this an apartment for the elderly is a misnomer in several degrees. It is an R-4 zoning district. He feels Mr. Smith should have applied for a conditional use permit before he built the building. Dr. Ketchens stated he didn't think Mr. Smith could put an age limit on individuals renting his apartments because it would be a form of discrimination. Dr. Ketchens stated that if the board allowed Mr. Smith to build another apartment unit on the lot it would further destroy the integrity of the neighborhood and cause further congestion and traffic problems. Dr. Ketchens stated that the design of Mr. Smith's apartment complex was comparable to Melrose and University Commons, suggesting that Mr. Smith could rent out each apartment to four individuals.

Dr. Ketchens next point was concerning the memorandum from Ms. Getchius to the zoning board, dated January 3, 2000, (enclosure 11) in Dr. Ketchens memo. Dr. Ketchens stated that Ms. Getchius' memo stated that Mr. Smith did not purchase a parcel of land and start dividing it into lots, nor is he subdividing an existing lot, therefore it does not fall into a specific category described under section 93-C2C, Specific Variance (enclosure 1). Dr. Ketchens stated that the petitioner is asking for a variance to further reduce the required minimum of 2000 sq. ft. of lot area per dwelling unit, section 6-4 of the Urbana Zoning Ordinance (encl. 4). Dr. Ketchens then stated that at most, the petitioner has only 100 sq. ft. of lot area left to build the 20th unit. He feels Mr. Smith is deficient 1,900 sq. ft., which would be a variance of 95%. Furthermore, in regards to the sanitary easement, (enclosure 5) 1,677 sq. ft. on this lot, Dr. Ketchens stated that in a memo from Jim Nixa, Engineering, Public Works, dated August 18th, to Craig Grant, Mr. Nixa stated that the petitioner can not build over the sanitary easement (enclosure 6). Dr. Ketchens feels that the 1,677 sq. ft. should be subtracted from the total area of the lot.

Dr. Ketchens stated that the detailed reasons he feels the variance should not be granted are as follows:

1. Mr. Smith deliberately and knowingly circumvented the R-4 zoning ordinance to create an apartment complex of higher density that is allowed in the ordinance.
2. On denial of previous zoning change, on Mr. Smith's affidavit, dated 29th November to the City of Urbana, Zoning Board of Appeals, refused to answer the question: to the best of your knowledge can you affirm that the special circumstances were not the result of a situation or condition knowingly or deliberately created by the petitioner. There was a question mark in the answer space.

3. Dr. Ketchens stated he felt the building was built with the intent of the storage space being used for the additional apartment from the beginning.
4. Dr. Ketchens stated that the variance request by the petitioner far exceeds the minimum ordinance required of 2,000 sq. ft. of lot area per dwelling unit, paragraph A6 & 6-4.
5. Regarding the floor area ratio, Mr. Smith decided to build with .07. Dr. Ketchens stated that he felt the building was designed with the sanitary easement omitted. If the sanitary easement is omitted from the lot size, Mr. Smith is only allowed 18 apartment units.
6. Regarding the special circumstances, Mr. Ketchens stated he feels there are no special circumstances. He feels Mr. Smith could tear down an adjacent apartment building and use that land.
7. Dr. Ketchens stated he feels that Mr. Smith's apartment project is all about money.
8. Dr. Ketchens questioned what if you were a widower you would have to rent a two bedroom two-bathroom apartment.
9. Dr. Ketchens also questioned if this was a home for the elderly, why there are no plans for a community kitchen or space for staff to look after the people.
10. Dr. Ketchens is concerned about Mr. Smith renting each bedroom, which would make 20 apartments, 40 apartments in an R-4 zoning district.

Mr. Corten asked how many people were living in the 5 houses that were previously located where the apartment building now stands. Dr. Ketchens stated that he felt there were one or two people in two of the houses. In the third, there was a family. In the other two, there were two or three people. It was not the number of people Mr. Smith is now proposing to rent to.

Ms. Ketchens stated she is against granting the variance to Mr. Smith. She seconded everything Dr. Ketchens stated and would like their memorandum to become part of the minutes of this meeting.

Ms. Getchius clarified two points. Although Mr. Smith would like to rent to elderly, it is not an assisted care facility. On the issue of the easement, although you can not build across them, they are always included in the lot area, whether it is in an older area or in a new subdivision. Easements do not deduct from the lot area and the open space area.

Mr. Warmbrunn wanted to clarify that an apartment was defined as the number of doors. An apartment with two bedrooms is still considered one apartment. Ms. Getchius stated it is in fact still a single apartment unit by zoning and building codes.

Mr. Corten wanted to clarify the vacated alley and easement, if it was no longer used as a utility easement. Ms. Getchius stated that the alley has been vacated, but if there is a utility located there, the city retains the easement. Ms. Getchius stated that if you can encase and protect the sewer, then you can build over it. Mr. Corten asked if the building was built over the utility. Mr. Gower stated that he met with city engineering and was told he could build to the east lot

line of the stair tower as shown on the plans. Mr. Gower stated that ductile iron was added to the area from the north boundary to the south boundary to protect the concrete.

Mr. Corten moved that in Case ZBA-99-MIN-2 with the findings that the staff had presented, the board grant the variance as requested. Mr. Warmbrunn seconded.

Mr. Warmbrunn stated that he felt it was a simple issue for the board to go with what the staff had recommended. The structure is already there and to change the storage unit to another apartment would have no effect on the surrounding area.

Roll call vote.

<i>Ms. Merritt</i>	<i>aye</i>	
<i>Mr. Fitzsimmons</i>	<i>aye</i>	
<i>Mr. Corten</i>	<i>aye</i>	
<i>Mr. Welch</i>	<i>aye</i>	
<i>Mr. Armstrong</i>		<i>aye</i>
<i>Mr. Warmbrunn</i>	<i>aye</i>	
<i>Mr. Fields</i>	<i>aye</i>	

Motion passed unanimously.

IV. New Business

No New Business

The next ZBA meeting will be February 17th, 2000.

V. Adjournment

There being no further business to discuss, the meeting was adjourned at 8:30 p.m.

Respectfully submitted:

Mary Jo Montgomery
Recording Secretary

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