

HAMILTON ZONING BOARD OF APPEALS MINUTES

Memorial Room 299 Bay Road.

March 4, 2020

Members Present: Bill Bowler (Chairman), Kim Dietel, and John Rodenhizer.

Associate Member: Bruce Gingrich

This meeting was called to order by Bill Bowler at 7:00 pm with a quorum established.

Public Hearing: For the application submitted by MPM Companies, LLC for the property located at 22 Elliott Street for a Special Permit to demolish and rebuild a single family dwelling and a Variance to change the non-conforming structure in such a manner as to increase an existing non-conformity or create a new non-conformity.

Bob Griffin (Griffin Engineering) and Michael McNiff (MPM Companies, LLC) were present. According to Mr. Griffin, Mr. McNiff bought the 5,600 sf parcel in October. The parcel had 56' of frontage. The lot coverage was currently 22%. The parcel was located in a district that required at least 20,000 sf of land and allowed up to 25% of lot coverage. Mr. Griffin asserted that the size and shape of the lot justified a hardship. John Rodenhizer suggested the applicant look through the plan catalogue or have an architect design a home that would fit the existing setbacks of the property and meet current criteria. Mr. Rodenhizer added that the ZBA typically allowed an existing non-conformity but did not allow for a greater non-conformity.

Bob Griffin said Michael McNiff had the right to request a hardship based on the size and shape of the lot. If a variance request was not granted, the house would need to be rebuilt on the existing footprint. Mr. Griffin added that the neighbors were all in agreement with minimizing the side yard setbacks by 18' and 2'. Kim Dietel responded that the neighbors could sell their homes in the future. Mr. Griffin said the lot was too narrow and the soils to the rear of the lot were terrible. Mr. Griffin suggested the ZBA approve individual lots based on their individual merits. Bruce Gingrich said he had reviewed the architectural plans and found there was room to tighten the design up and still allow for flow throughout the house. The change would allow for the side yard issue to be remedied. It was noted a fence was already on the lot line.

Bill Bowler agreed with his colleagues in regard to the three variances requested. Mr. Bowler said moving the building back would lessen the front yard setback encroachment and speaking for himself, might allow him to consider trading the improvement for increasing the lot coverage requirement. Mr. Bowler thought an architect would be able to design a building that would not increase the side yard setback encroachment. Mr. Bowler recommended continuing the hearing and allow the petitioner to revisit the proposal with another plan or allow the petitioner to withdraw without prejudice.

Bob Griffin agreed to consult an architect. John Rodenhizer said the current house met the 25% lot coverage threshold currently and did not understand the requested hardship. Mr. Griffin said

the garage, which created a significant benefit and justified the need, was the reason the threshold would be exceeded. Bill Bowler responded that residents, as a matter of right, were entitled to have a garage. Mr. Bowler added that in the past, the Board had granted a variance to allow for the construction of a one car garage. It was noted that the majority of garages in the neighborhood were constructed for one car.

David Smith (Home St.) submitted a letter of support. Mr. Smith had been the proponent for the dilapidated house by-law, which gave the Town the authority to encourage an owner to sell his property to a developer. The by-law solved the neighborhoods' ten year long problem with this property. Mr. Smith said all abutters had endorsed his letter of support and the application. Mr. Smith hoped the project would improve the neighborhood. The developer had made a commitment to neighborhood concerns, including minimizing rodent infestation during demolition. The developer would also survey the property boundaries and install markers as the previous owner had claimed to own more property than the abutters had assume to be theirs. The developer would also negotiate the status of fences and trees on or adjacent to the property boundaries. Bill Bowler responded that the Board hoped to work with the developer to come up with a project that met the requirements of the Zoning By-law.

Michael McNiff recalled that he had built 35 homes in Hamilton. Mr. McNiff said there were zoning infractions all over town and hoped the Board would listen to the neighbors in their desire to have a beautiful home in their neighborhood. Mr. McNiff was sad that he had to come up with a plan for a narrow house to fit the lot because some towns allowed for an 8' setback. John Rodenhizer stated that the Board allowed some applicants to go to the property line if the existing structure was already at the property line. The Board allowed for building within the non-conformity that existed but did not allow building that exceeded the existing non-conformity. Mr. Rodenhizer said the Board stayed within the Zoning By-law to keep the town beautiful. Kim Dietel said they hoped to receive a plan but were intent on following the law. Mr. Rodenhizer said he believed there was no hardship.

David Smith said the garage was appealing as it relieved the parking situation that existed on the street. Mr. Smith added that decreasing the setback by 18" or 2' was minimal compared to the parking benefit. John Rodenhizer responded that if this proposal were allowed and other neighbors also proposed to increase their homes, the neighborhood would become gentrified with small alleys between the large homes. Mr. Rodenhizer suggested the applicant get creative and not choose a plan out of a book as the plan could not be reduced appropriately. Mr. Rodenhizer added that a car was 6' and only having one foot on each side was not appropriate. Mr. McNiff responded that the Board was being inflexible and referred to soils as a source of hardship.

The hearing was continued until the April 1, 2020 meeting.

Meeting minutes review and approve.

Motion made by John Rodenhizer to approve the minutes of April 3, 2019, October 2019, and November 2019.

Seconded by Kim Dietel

Vote: Unanimous in favor.

Updates from the Chair.

Adjournment.

Motion to adjourn made by John Rodenhizer.

Seconded by Kim Dietel.

Vote Unanimous to adjourn at 7:42 pm.

Prepared by:

Marcie Ricker

Attest

Date

