

NEW BERN BOARD OF ADJUSTMENT MINUTES

January 28, 2013

The New Bern Board of Adjustment held a work session on Board of Adjustment procedure at 5:30 pm followed by its regular meeting at 6:30 pm on Monday, January 28, 2013 in the City Hall Courtroom, second floor, 300 Pollock Street.

Members Present: Ms. Sarah Afflerbach, Chairman
Mr. Kenneth Brown
Mr. Barry Evans
Mr. Benjamin Beasley
Mr. David Herndon
Ms. Renee Murphy
Mr. Willie Newkirk, Sr.
Ms. Beth Walker
Mr. Phil Urick

Members Excused: Mr. Jeffrey Midgette
Ms. Lois Jamison

Members Absent: None

Staff Present: Mr. Bernard George, Planning Division Manager

Chairman Sarah Afflerbach called the meeting to order.

Staff Bernard George opened with a prayer.

Roll call was taken and a quorum declared.

Minutes: Reading of the minutes from the previous meeting was waived by unanimous consent. Minutes were unanimously approved with a motion and second.

New Business:

- A. Consideration of a variance request for relief of five feet from the minimum five foot side yard setback requirement. The applicant proposes an academic restoration of the original entrance and porch of a historic home located at 213 Hancock Street.

Staff Comments:

Mr. Bernard George presented an overview of this request, advising the applicant is Mr. Richard Parsons. He presented historic photos of the home, showing the porch in its original form. Mr. George noted the applicant is in the process of restoring the home back to its circa 1771 status. He has presented an application to the Historic Preservation Commission, to which

the Commission granted a Certificate of Appropriateness approving his plans. Mr. George read the letter from HPC Chair Richard Frye supporting the proposed variance request. Mr. George advised staff has reviewed the application and found it complete. Adjacent property owners were appropriately notified. Due to unique characteristics of the property, a variance is needed to meet the side yard setback requirements as the restoration progresses.

Board member David Herndon requested clarification on the 'unique characteristics' Mr. George mentioned. Mr. George advised the house was originally constructed facing the river and surrounding areas were not developed. The house sits sideways to the street, essentially making the backyard the side yard.

Board member Beth Walker questioned the 10' easement next to the porch, and if that would be maintained as open space. Mr. George advised it would, as the easement is for the property owner to gain access to the side and rear yards. He noted the driveway is a shared drive between both properties, but the placement of the porch would not inhibit use of the drive for either property owner.

In response to a Board question on how far the porch might extend, Mr. George advised it would extend out 4' from the house.

Staff member Bernard George swore in applicant Richard Parsons.

Applicant Comments:

Mr. Richard Parsons provided historical information on the property; lot information, original interior designs, later interior changes, reiterating what he would like to do in the academic restoration process.

Chair Afflerbach questioned the placement of the driveway. Mr. Parsons advised the driveway is completely on the neighboring property, but they share it, as Mr. Parsons uses it to access his backyard. He provided distance information between the homes proving there is enough space for the steps off the proposed porch without encroaching the neighboring property or obstructing use of the driveway.

Mr. Bernard George walked the Board through a video of the property.

Public Comments:

Chair Afflerbach advised in the absence of additional public attendees, the public comment section would be waived, with no need to open or close this portion of the meeting.

Board Discussion:

Chair Afflerbach stated she felt this was a fairly text-book case of why a variance was needed.

Board member Newkirk agreed stating that since the applicant had presented to the HPC and his changes were approved, it seemed to be the right move forward for the property.

Chair Afflerbach shared that since the neighbor and easement would not be impacted, it created a strong case for consideration.

Board member Beth Walker noted the previous zoning restrictions adopted prior to the establishment of the HPC. Therefore this project was caught in between development regulations, and felt it was more appropriate to today's development standards to allow the reconstruction of this porch.

Motion made by Ms. Walker that the Board grant the variance for relief of five feet from the minimum five foot side yard setback requirement, citing the hardship of the original design of the home and the benefits of the academic restoration to the historic fabric of the Downtown Historic District. Motion was seconded by Mr. Urick. Chair Afflerbach requested Staff Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of nine (9) Yes's, and zero (0) No's.**

Chair Afflerbach asked the Board to consider item B; if the variance is in harmony with the general purpose and intent of the ordinance.

Motion made by Mr. Newkirk that the Board approve the variance because it is in harmony with the intent and purpose of the ordinance. Motion was seconded by Mr. Urick. Chair Afflerbach requested Staff Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of nine (9) Yes's, and zero (0) No's.**

Chair Afflerbach asked the Board to consider item C; granting of the variance secures the public safety and welfare and that substantial justice has been done.

Motion made by Ms. Beth Walker that the Board approve the variance because the applicant is not infringing upon anyone else's property and the public health and welfare are assured. Motion was seconded by Mr. Brown. Chair Afflerbach requested Staff Mr. George take an individual roll call.


Mr. George took a roll call. **Motion unanimously passed with a vote of nine (9) Yes's, and zero (0) No's.**

Chair Afflerbach asked the Board to consider making a motion to grant the variance.

Motion made by Mr. Newkirk that the Board grant the variance as requested by the applicant. Motion was seconded by Mr. Urick. Chair Afflerbach requested Staff Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of nine (9) Yes's, and zero (0) No's.**

With no further discussion, meeting adjourned.



Sarah Afflerbach, Chairman

Bernard George, AICP, Secretary