

CITY OF NORTHVILLE
Board of Zoning Appeals
May 3, 2017 – 7:30 PM
City of Northville – Council Chambers
215 W. Main Street

I. CALL TO ORDER:

Chair Silvestri called the meeting to order at 7:33 p.m.

II. ROLL CALL:

Commissioners: Present: John Callahan
David Marold
Ryan McKindles
Dominic Silvestri
Jay Wendt
Lou Ronayne - alternate

Absent: Michelle Aniol – excused
Patti Mullen - unexcused

Also present: Sally Elmiger, Planning Consultant
Brent Strong, Building Inspector

III. APPROVAL OF THE AGENDA:

Motion Marold, support by Callahan, to approve the agenda as published.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

IV. MINUTES OF PREVIOUS MEETING: April 5, 2017

Motion Marold, support by Ronayne, to approve the April 5, 2017 meeting minutes as published.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

V. CASES TO BE HEARD – BY CASE:

- A. Case is called.
- B. Appellant presents case.
- C. Board questions & comments.
- D. Public comments on the case.
- E. A motion (usually to grant the variance) is made and seconded; discussed then voted upon; the results are announced by the Chair.

**VI. CASE #17-02
CHESTER CZAPLICKA
619 CARPENTER**

The applicant is seeking a variance for additional lot coverage to retain a shed on premises zoned R-1B First Density Residential District, parcel number 48-001-02-0022-301. The City's Building Official evaluated the proposal, and has determined that the maximum lot coverage allowed for this parcel is 2,376 square feet. Retaining the shed would increase lot coverage to 2,440 square feet. Therefore, a variance for 64 square feet in area (or 0.8%) lot coverage is needed from Section 15.01 of the Zoning Ordinance to allow the shed to remain.

Secretary Callahan called Case #17-02.

Referencing his memorandum of April 27, 2017, Building Inspector Strong updated the Board on this case. At the April 5, 2017 meeting, the Board had determined that the applicant was able to use half the alley to calculate lot coverage. This had changed the variance request, and at this point the applicant was asking for a variance of 29 square feet vs. the original request of 64 square feet.

James M. Toner, Esq., 2139 Bishop Circle Drive East, Dexter, MI, was present on behalf of this application. Owner Chester Czaplicka was also present.

Mr. Toner said the applicant was originally before the Board in February. At that time the maximum lot coverage on the lot was calculated at 2,376 square feet, and the applicant requested a variance of 64 square feet in order to have 2,440 square feet of lot coverage. Then, at the April 5 meeting, the maximum lot coverage area grew 144 square feet to 2,520 square feet, based on the Board's decision that the lot area included 1/2 the alley. This would have put the requested total lot coverage of 2,440 square feet well within the allowed maximum.

However, at the same time, the City was re-measuring the building structures, and concluded that the total lot coverage was now 2,549 square feet, and therefore a 29 square foot variance was still needed.

Chair Silvestri asked if the request was because of the covered walkway. Mr. Toner said this was correct. The covered walkway was not included in the previous building calculations.

Mr. Toner said they were continuing to work with Building Inspector Strong in terms of measuring the walkway, but they also would like to press for a conclusion on the request for a variance. They were asking the Board to grant the variance for 29 square feet, based in part on the fact that the walkway was now being included in the coverage calculation.

Mr. Toner said they had extraordinary conditions, the strict application of which would create practical difficulty for the homeowner, in that the shed would have to be removed. This variance could be granted without substantial detriment to the neighbors and would grant substantial justice to the homeowner.

Chair Silvestri summarized that the shed had been on the property for some time, and the square footage of the shed put the applicant over the maximum lot coverage by 29 square feet.

Mr. Toner asked if Section 22.1 should apply, which suggested that any building that was on the site at the time the ordinance was passed would be allowed.

Chair Silvestri noted that the shed was originally on this property. He asked Building Inspector Strong if the covered walkway was part of the plans that Mr. Czaplicka had submitted for his building permit. Was the walkway taken into consideration when the plans were approved?

Building Inspector Strong explained that when plans were submitted, if house measurements appeared easy to calculate, typically he would ask the architect for the first floor area and calculate the lot coverage himself. That's what he did in this case, based on the architect's square footage calculations.

Chair Silvestri asked when it was discovered that the covered walkway was not included in the square footage. Building Inspector Strong said he discovered this after the applicant had asked for the variance for the shed. However, from the beginning of the process everyone had agreed that the applicant would need a variance in order to keep the shed.

Mr. Toner clarified that the measurement of the covered walkway emerged after they had requested the inclusion of the alley. Mr. Czaplicka said that the walkway had always been shown on the plan.

Chair Silvestri asked what triggered the inspection and/or the determination that the covered walkway was never included. Building Inspector Strong said that prior to the April 5 meeting, it was discovered that the architect had not included the walkway in the square footage. He commented that he relied on licensed professionals to provide correct information.

Mr. Czaplicka reiterated that the covered walkway was always on the plans. It was not hidden.

Member McKindles said without the addition of the square footage of the covered walkway in area calculations, the applicants would not be here tonight. How large was the shed?

Mr. Czaplicka said it was 68 square feet.

Building Inspector Strong said that at the last meeting, based on previous calculations provided by the architect and a scaled measurement of the walkway, and with the addition to the lot square footage of 1/2 the alley, the applicants had only needed a 2.5 square foot variance. This was before he had physically visited the property.

Chair Silvestri noted that at the April meeting the applicant had requested the Board table this application until May in order to have time to bring as-builts in and verify the measurements.

Mr. Czaplicka said he had talked with the architect to try to get as-built drawings. The architect was very busy and couldn't provide those quickly. When he realized the as-builts wouldn't be ready, Mr. Czaplicka called Building Inspector Strong and asked him to come out to measure.

Chair Silvestri asked if the applicants were disputing tonight's conclusion that a 29 square foot variance was necessary in order to retain the shed, as explained in Building Inspector Strong's April 27, 2017 memorandum.

Mr. Toner said they were disputing that number.

Chair Silvestri reiterated that at the April meeting the applicants had requested that the Board table their request to the next meeting to allow time to get the as-builts. Did the applicants still need more time? If

not, and if the applicants were not in agreement with Building Inspector Strong's conclusion that a 29 square foot variance was required, did they have a dispute?

Mr. Toner said that in February the City's position was that the lot coverage was 2,440 square feet and now suddenly it was 2,520 square feet, which was significantly more. This seemed like an arbitrary application of the city's ordinance to apply the measurement of the walkway as it applied to the property.

Chair Silvestri summarized that the reason the applicant was disputing this was 1) the way the ordinance was written and the calculation method, and 2) going back to his original question, they wanted to get as-builts to verify Building Inspector Strong's numbers.

Building Inspector Strong said the architect did not include the walkway in his lot coverage calculations, and when this was added at the April meeting, the measurement was done by scale drawing only, and it was thought that only a 2.5 square foot variance was needed, after adding 1/2 the alley to the lot area. In April, the applicant opted not to ask for the 2.5 square feet because they thought they could perhaps make up this difference with as-builts. However, as Mr. Czaplicka said, he was not able to get the as-builts. After talking to Mr. Czaplicka, Building Inspector Strong visited the property himself. He had originally included only 5-foot widths on the walkway. When he actually measured it, it was a 6-foot width, resulting in tonight's application for a 29 square foot variance.

Chair Silvestri asked if the applicant was 1) waiving the request to obtain the as-builts to dispute the amount of the variance needed, and 2) waiving their argument that the ordinance should not require this variance request.

Mr. Toner said his understanding was that the Board could determine whether or not the walkway should be included in the calculations for coverage. The Board also had authority to grant a variance. If the Board was willing to grant a variance for the lot coverage, the interpretation issue went away. He thought there was merit to the variance request, given the turnabout in terms of the calculation of the property. The ordinance talked about when there were extraordinary conditions, when the strict application of regulations would create practical difficulty for the homeowner, and when granting a variance would do substantial justice and didn't unduly prejudice other homeowners, the Board could grant a variance, and that is what they were requesting, in light of the history of the measurement.

Chair Silvestri was concerned that last time the applicants were before the Board, they wanted to get as-builts. Technically, they didn't have their as-builts. Right now the Board was simply looking at the numbers provided by Building Inspector Strong, and the applicant's dispute based on their own interpretation of the Ordinance.

Mr. Toner said that last time they weren't willing to concede that a variance was necessary at all, and that was why they asked for the as-builts, because they were so close – 2 square feet – to meeting ordinance requirements, and they thought that perhaps the as-builts would resolve that. Now, they were trying to avoid having to appear before the Board again, and thought that perhaps this could all be resolved this evening, with a variance.

Chair Silvestri said it was the applicant's choice to go forward or to wait for as-builts,

Building Inspector Strong commented that as-builts were unlikely to resolve a need for a 29 square foot variance.

Mr. Toner said they were willing to move forward with the variance request. Chair Silvestri said this decision would be noted in tonight's record.

Chair Wendt asked if the shed could be modified. Mr. Czaplicka said without a variance it would have to be completely dismantled.

In response to a question from Chair Silvestri, Mr. Czaplicka said the shed was about 20 years old.

Mr. Toner said the other possibility was to modify the walkway. Again, based on the measurements originally reported, the situation was resolved when it was determined that half the alley could be used.

Chair Silvestri opened the public hearing. Seeing that no one came forward to speak, Chair Silvestri closed the public hearing.

Board Member Ronayne initiated a brief discussion regarding process and variance criteria. Planning Consultant Elmiger said the criteria for a variance had been in place for many years.

MOTION McKindles, support by Ronayne, in the matter of BZA Case #17-02, 619 Carpenter, to grant the variance as requested.

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| Ronayne | yes |
| Marold | no |
| Callahan | no |
| McKindles | no |
| Wendt | no |
| Silvestri | yes |

Therefore the motion failed, 2-4 (Marold, Callahan, McKindles, Wendt opposed).

The following motion was offered regarding findings of fact:

MOTION McKindles, support by Marold, in the matter of BZA Case #17-02, 619 Carpenter, the following findings of fact apply:

- The Board did not find any practical difficulties with relation to the applicant, as they did not find any unique or exceptional conditions on the site.
- The Board did not find substantial justice that would be improved by the granting of the variance, as denial of the variance would be consistent with justice toward other property owners.

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| Ronayne | yes |
| Marold | yes |
| Callahan | yes |
| McKindles | yes |
| Wendt | yes |
| Silvestri | yes |

Therefore the motion passed unanimously.

CASE # 17-03

**GREG PRESLEY/WIDAK
217 W. DUNLAP**

To consider two variance requests on premises zoned R-1B, First Density Residential District, at 217 W. Dunlap, Northville, Michigan, 48167, parcel number 48-002-01-0511-002. The applicant is seeking a variance to expand a non-conforming building (Section 22.01) that is currently located in the side yard setback, rear yard setback, and within 10 feet of the principal building on the subject site. The second variance request is to permit construction of a chimney within the front yard setback. The variance needed is 3.75 feet from the requirements in Section 15.01.

Gregory H. Presley, Presley Architecture, 108 N. Center, Suite 205, Northville MI, was present on behalf of this application, as was Arayn Lias. Mary Beth Widak was listed as the homeowner, and had recently married Mr. Lias. They were combining two households into one.

Mr. Presley pointed out that the existing small garage was in the only place it could go on this very small corner lot. The garage was 1/2 foot off both property lines that were not on the street.

The home's basement had uneven floors and also had water issues. The basement was partial, with part of it being a crawlspace. What was left was about the size of the garage in terms of useful storage, but things could not be stored in the basement because of the likelihood of mildew.

The owners proposed to raise the garage roof in order to get storage over the garage. Right now the storage over the garage was about 4 feet clear in the center and decreased from there. The applicant would like to have a code-compliant garage loft that they could walk in and store things.

Mr. Presley understood from the April 26, 2017 Carlisle/Wortman letter that there was a concern about light. The proposed ridgeline was about 4.5 higher in the center than it was originally and would meet code. The ridgeline was mainly running east-west, with a cross-gable that faced the neighbor to the south.

Mr. Lias said that his neighbor to the south was not able to come this evening, but was in support of this project. Chair Silvestri noted that while they had no positive testimony from that neighbor, they also had not received comments in opposition either.

Mr. Presley said that the Carlisle Wortman review letter suggested constructing a shed instead of raising the garage. Because this was a corner property, the only place a shed could go would be in an area 4.5 feet wide by 20 feet, an area that was the back yard. The applicant would like to put in a new door and enjoy that area as their back yard. Also, useful storage on the hypothetical shed would only be 3.5 wide, and it was uncertain that the Historic District Commission would approve an additional structure visible from the street. A shed would have to be 5 feet off the side property line and 10 feet from the main structure.

In response to a question from Chair Silvestri, Mr. Presley said the footprint of the garage was not going to change. The design would be code-compliant.

Regarding the 2nd variance, which was to permit construction of a chimney within the front yard setback, Mr. Presley said the Carlisle/Wortman letter had noted that if a vent could not be accommodated inside the house for safety reasons or a narrower fireplace configuration was not available, then the request would meet variance criteria.

Mr. Presley said that while he had built fireplaces inside of buildings, he would rather have them outside. It was preferable to pull the chimney out of the plane of the building if possible. Also, placing the chimney inside the building would render the upstairs room not a room by code, as it would not meet the minimum requirement for room size because the chimney would take up about 2 feet of that room. Right now the room was about 8'9", and the chimney would render it 6'9". 90" was the minimum width for a code-sized room. Bringing the chimney into the building would therefore cause them to lose a third bedroom. Further, on the first floor, bringing the chimney into a small house like this one rendered it not worthwhile. While those were not quite life/safety issues, they were technical issues regarding putting the chimney into the house.

Mr. Presley said the house predated the ordinance. They were asking for something that many other people had. If not for the fact that it was a side yard on a corner, the chimney would be code compliant. Already the wall of the existing house was into the front yard setback and the west side of the home was nonconforming.

Chair Silvestri asked if it were possible to reduce the depth of the chimney. Mr. Presley said there was a chimney there now which was about 17". They were showing the chimney at 21", which was approved by the Historic District Commission. He could reduce it by 6", bringing the depth to 15", which was less than what was there now.

Chair Silvestri said the applicants were requesting a 3.75-foot variance, but Mr. Presley had just described reducing the request by 6". Would the applicants have to go back before the HDC for approval of that?

Mr. Presley said they were going to have to go before the HDC again anyway, because the garage, if approved by the BZA, would also have to be approved by the HDC.

Member Callahan asked if the fireplace was a new addition to the home, or did it replace an existing fireplace? Mr. Presley said there was an existing chimney that served the boiler and water heater. That would be removed and those flues would be a part of the new chimney. The new part would serve a new natural fireplace.

Planning Consultant Elmiger asked if the BZA denied the variance for a chimney, would the applicants still need a chimney at that location? Mr. Presley said they would continue to use the existing chimney in that case, which was about 17" x 17". The existing chimney was already protruding out.

Building Inspector Strong said that a child's bedroom had to be no less than 7 feet wide.

Member Callahan asked if a gas fireplace were installed, would a chimney be necessary? Mr. Presley said if they went with a direct vent fireplace, they would not need a chimney. There would still be a projection out into the front yard setback, but a chimney that went up through the 2nd floor would not be necessary. However, with a historic home on an important corner, he felt the HDC might have an issue with a very contemporary solution to an historic home.

Chair Silvestri opened the public hearing.

Nancy Chiri, 661 W. Main Street, asked to look at the drawings. She asked if the new garage roof would cause drainage issues on the neighbor's driveway. Mr. Presley said drainage issues would not be impacted. Gutters would direct water to the subject property and water would not drain on the property next door. Ms. Chiri was concerned about the extra height and pitch. Mr. Presley said it would be the same amount of roof surface area as existed now, with the same amount of water.

As there were no further comments from the public or from the Commission, Chair Silvestri closed the public hearing and asked for a motion regarding the first variance request.

MOTION McKindles, support by Ronayne, in the matter of BZA Case #17-03, 217 W. Dunlap, first variance request, that the applicant's request for a variance to expand a non-conforming building – the garage – be approved based on the following findings of fact:

1. The size and location of the garage and the property in general met the practical difficulty standard.
2. Granting the variance would do substantial justice to the applicant as well as to other property owners in the district.
3. The condition leading to the variance request was not self-created.
4. The applicant has requested the minimum variance necessary.
5. Approval of the variance would not have an impact upon safety or create a public nuisance.

Chair Wendt said that he hadn't been able to hear everything Ms. Chiri discussed and asked her to repeat her concerns. Ms. Chiri reiterated her concerns regarding drainage on the neighbor's property.

Chair Silvestri asked if there was discussion on the motion. Hearing none, he called the question.

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| Ronayne | yes |
| Marold | yes |
| Callahan | yes |
| McKindles | yes |
| Wendt | no |
| Silvestri | yes |

Therefore the motion carried 5-1 (Wendt opposed).

Chair Silvestri asked for a motion regarding the second variance request.

Motion McKindles, support by Ronayne, in the matter of BZA Case #17-03, 217 W. Dunlap, second variance request, that the applicant's request for a variance of 3.75 feet from the requirements in Section 15.02 for the chimney location be granted based upon the following findings of fact:

1. The size and location of the property present a practical difficulty
2. Granting a motion will do substantial justice to the property owners.
3. The condition leading to the request for a variance was not self-created.
4. The applicants have requested the minimum variance necessary.
5. The approval of the request will not impact public safety or lead to a public nuisance.

Chair Silvestri asked if there was discussion on the motion. Hearing none, he called the question.

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| Ronayne | yes |
| Marold | no |
| Callahan | no |
| McKindles | yes |
| Wendt | yes |
| Silvestri | yes |

Therefore the motion carried 4-2 (Marold, Callahan opposed).

CASE # 17-04

GREG PRESLEY/SERRA

222 WEST STREET

To consider two variance requests on premises zoned R-1B, First Density Residential District, at 222 West Street, Northville, Michigan, 48167, parcel number 48-002-01-0487-000. The applicant is seeking two variances from Section 15.01 to construct a two-story addition on the north side of the house. The first variance request is to permit construction of the addition one (1) foot into the required 8-foot side yard setback. The second variance is to permit the side yard setbacks to equal ten (10) feet instead of the required fifteen (15) feet. Therefore, a variance of five (5) feet is requested from Section 15.01.

Gregory H. Presley, Presley Architecture, 108 N. Center, Suite 205, Northville MI, was present on behalf of this application, as were the owners Craig and Whitney Serra. The Serras had a child since moving into the home, and would like to stay in the home to raise their family.

The lot size was ½ the minimum lot size in the district. There was a shed on the north side of their garage. This needed to be dealt with as the north concrete retaining wall was bowing out. The existing garage was not useful for parking even a small car, as after pulling in they couldn't open the car doors.

Mr. Presley said they had not yet been to the Historic District Commission.

They were proposing a 2-story addition. However, it would really be a story and ¾. They intended to drop the 2nd story wall so that it was more like a half wall height, in order to minimize impact on the house to the north in terms of light and air.

Mr. Presley distributed a document describing light impact of this addition. At 41st degree latitude, on June 21 summer solstice in the middle of the day the sun was at 71 degrees. On the December solstice, December 21, the sun was at 33 degrees.

The proposed addition would lower the shadow line on December 21 – the worst sun day – it lowered the shadow line 3.5 feet. However, the main structure already shadowed the house to the north, so the house was shadowed to the north regardless.

On June 21st, with the new addition, the sun would land wholly on the subject property, so the property to the north would get full sun.

Mr. Presley acknowledged that the alteration would cast some shadow line on the house next door, but they had made attempts and would be glad to make all attempts to make sure this alteration didn't impact that house in a manner that would be inappropriate. There would be some impact, but they would try to minimize that.

In reply to a question from Chair Silvestri, Mr. Presley said that for 6 months of the year, the proposed addition wouldn't impact light on the neighbor's home. It would make a minor difference for the other 6 months of the year.

Mr. Presley distributed letters of support from property owners at 216 and 218 West Street.

Mr. Presley summarized that they were asking for 2 variances in order to construct a conforming addition on the north side. The only reason they were present this evening was because this was a nonconforming structure on the south side. Both variances were needed in order to construct the addition.

Chair Silvestri asked how long the owners had been in the home. Ms. Serra said they had been there 3 years.

Mr. Presley mentioned that the new addition would put them over the allowed 35% lot coverage. However, this included the wood deck in the rear. They would remove whatever portion of the rear deck was required – he thought it was 55.3 square feet – in order to stay within the required 35% lot coverage.

Member McKindles said that if a motion was offered to grant the requests, and it was not conditioned on the removal of the square footage of the deck, there was no way to ensure that the structure would conform to the 35% standard. Planning Consultant Elmiger agreed, saying that without such a condition the Board would be creating a nonconformity. The condition should state that the necessary part of the deck would be removed in order to conform to the lot coverage standard.

Chair Silvestri asked how much further the new garage and addition would extend beyond what was existing right now. Mr. Presley said because of the way the property angled, it would extend 1.7 feet on the west side and .8 feet on the east side.

Chair Silvestri asked about the north side. Mr. Presley said on the north side it would be 7 feet off the property line. Currently the shed/garage was 8.5 feet off the property line. They were extending it 1.5 feet into the side yard setback.

Member McKindles asked what the shed/garage was used for now. Mr. Serra said it was used for general storage. Mr. Presley reiterated they were trying to get a 3rd bedroom upstairs. The house currently had 2 bedrooms.

Member Ronayne said that he lived in the neighborhood. He spoke to the difficulty of the homes there meeting ordinance standards, because of how and when the structures were built. Indeed, in that neighborhood there were several properties that had nothing but structure on the whole property. When he saw people coming in that wanted to add value to their property and structure, and to modernize a little to current standards of living, the standards for a dimensional variance made it very hard to justify granting the variance. The current applicants didn't create the need for a variance. The home was already

nonconforming. He felt the applicants and Mr. Presley had done a nice job in trying to adhere to not only what the City required but more importantly Historic District standards, and the addition would be an asset to the neighborhood.

Chair Silvestri asked if the applicants would need a variance to rebuild the shed to its current specifications. Building Inspector Strong said that if a structure was destroyed by any means beyond 60% then it could only be rebuilt in conformance with the ordinance. In this case, if the shed were destroyed, it would not constitute 60% and could be rebuilt.

Planning Consultant Elmiger further explained that an expansion of a nonconforming structure was only an issue if the expansion was done within the nonconforming area. This building was nonconforming on the south side, but they were expanding the building on the north side.

Chair Silvestri summarized that if the applicants wanted to rebuild without expanding the current shed/garage they would not require a variance.

Commissioner Marold noted that an approving motion would need to include a condition to remove the required amount of deck before any building permits were issued to ensure that lot coverage requirements were met.

Chair Silvestri opened the public hearing.

Nancy Chiri, 661 W. Main Street, said the house was modernized about 10 years ago. Was there a variance given at that time?

Chair Silvestri said the Board did not have old records before them tonight.

Ms. Chiri asked if there would be a small heater for the extra bedroom that would exhaust out to the neighbors. Mr. Presley said there would not be a small heater, and the bedroom would be heated from the primary heat source.

Mr. Serra said they were here tonight in order to modernize an old home. He acknowledged this would be a change and sometimes changes were difficult. The Serras loved Northville and were very invested in the community; he walked to work downtown. They wanted to find a balance where they could grow their family and still live here. He spoke to the difficulty of finding an affordable 3-bedroom home in the Northville area. For his family to stay in Northville they needed to expand this home. The two previous owners had lived in the home for about 2 years each at most, had a child and moved on. The house was improved with Hardie Board installed on 3 sides of the home, but not the north side. When they moved in the Serras had found architectural plans that illustrated putting on an addition similar to what they were requesting. Without the addition of a 3rd bedroom, this was a house that would probably have constant turnover.

Mr. Serra asked that the Board to approve the variance requests.

Sarah Weyburne, 226 West Street, said they lived in the house immediately north of this one. They opposed both variance requests. They were extremely concerned about lost sunlight in their home. The loss of sunlight for six months out of the year in their living room would have a significant impact. The window specifically impacted was a south-facing window.

They would also suffer lost views of homes and trees down Dunlap Street. This view was important to them.

If the variances were granted those two aspects would be a huge loss. If the building was only 7 feet away from their window they would feel closed in in their own home.

Michael Weyburne, 226 West Street, asked about Section 15.02.7 which gave a formula for setbacks based on height and length of two buildings constructed close to each other.

Planning Consultant Elmiger said that regulation applied to R-3 and R-4 Zoning Districts, and the subject property was in R-1B Zoning.

Ms. Weyburne asked about fire regulations regarding two buildings so close to each other.

Chair Silvestri explained that if the variances were granted, the structure would still need to comply with all the ordinances and requirements of the City in order to obtain a building permit.

Planning Consultant Elmiger said the minimum side yard in that district was 7 feet. This building would be 7 feet from the property line.

Ms. Weyburne explained that their home was also nonconforming, and was 1 foot from the property line. Two very close nonconforming homes would make for a very tight situation. When the Weyburnes were in the Serras' situation with the limitations of a 2-bedroom home, they chose to build a 3-story addition off the back of their home so that there was no infringement on the side. Their 3rd bedroom could not be detected from the front of the street. Had the applicants looked at adding to the back of their home or explored other options? How would the construction, if permitted, affect their property values? Would a potential buyer be put off by the distance between this extension and their home? She was also concerned about maintaining the quaint look of Dunlap Street. Oversized housing would not fit there.

Ms. Weyburne summarized that their main 2 points were the loss of light for 6 months of the year and the loss of their views along Dunlap Street.

Denise Nash, 417 W. Dunlap, said that when they moved into their home they had one bedroom and a small room that didn't even have a closet. With Mr. Presley's help they significantly changed the interior of the home in order to get 3 bedrooms, and they put on a little addition over an existing portion. People did some extraordinary things in the Historic District in order to live there, and it was important to differentiate between needs and wants. It was important to maintain the character of that entire side of the street, and it was important to maintain a little air space between the two homes under discussion. Weren't there other options such as adding on to the rear? She was not in support of the variance request.

Kenneth Dobson, 121 West Street, was concerned about water runoff from the subject property.

Chair Silvestri said this was not part of the variance request. However, the owners still needed to comply with the remaining requirements under the Building Code.

David Field, 223 High Street, said he was Ms. Serra's father. He had lived there 29 years and spoke to the changes that had occurred to some of the historic homes during that time. He described the small lots

on Dunlap and High Street, and noted that of his 7 neighbors, 3 had taken the roof off and gone up one floor. Two had built 2-story additions. Mr. Field had added to his own home on the rear and side.

In the case of the subject property, people had moved in and out of the small home constantly. Also there were structural problems on the north side that needed to be fixed. The back wall to the garage was not repairable. The previous owners had improved the home with Hardie Board on 3 sides only, because of the structural difficulties of the north side.

Mr. Field acknowledged that he wouldn't be at the meeting if it weren't that his daughter and son-in-law were the applicants, but he would still be in support of the addition, just as he had supported each and every person who had built on around him, because it helped the community by adding value, and he had yet to see people put a substantial investment into their property that hadn't helped everyone. He wanted to encourage people to stay in the community and raise their children.

Tom Barry, 239 High Street, asked if Mr. Presley had considered a different type of addition as had been discussed this evening.

Tamara Notarianni, 314 Dunlap, said that she could appreciate wanting to add on with a growing family, and the desire to keep young people with growing families in the neighborhood. She had also lived there for 20+ years, and had also built an addition. However, she did think it was important to keep the integrity of the look and feeling of the street that was part of the Historic District, and when people moved in they knew what they were getting in to. A larger structure would not look right on that street. It would be better if an addition could be added to the rear. The Historic District was not so historic anymore because so many people were building up and out. That was not the intent of the District.

Seeing that no one else came forward to speak, Chair Silvestri closed the public hearing.

Mr. Presley said they were at the 25-foot setback line in the back, so they couldn't go back without a variance. Their only opportunity was to build to the north.

Chair Silvestri asked if they added to the back and even if they needed a variance to do so, would they be able to get an addition there?

Mr. Presley said they would not be able to get an addition there due to the size of the very small lot. Mr. Serra added that the shed was pulling their house and damaging its foundation.

Chair Silvestri said the majority of concerns from the public was regarding whether alternatives were considered.

Mr. Presley said that normally he would try to place an addition in the back. But in this case it was not possible because of the lot size.

Chair Silvestri asked the Weyburnes if they knew how high off the grade their windows were. They did not know this.

An audience member said that if the Serras sought a variance for the rear setback, probably no one would have objections to that. It was the side-to-side relationship that was the issue.

Building Inspector Strong said there would have to be a rear setback variance and possibly a lot coverage variance for an addition in the rear.

Chair Silvestri asked Mr. Presley if it was feasible to enlarge the rear of the home. Mr. Presley said his approach was not to design something that required a variance for the addition itself, but rather to create a conforming addition as much as possible. That said, there was already a shed on the north side that took up volume. They were talking about 1-1/2 stories as opposed to the one story that was there. It was an expansion to what was already there, and not that much of an expansion.

An audience member wanted confirmation that the addition would only be ½ story added to what was already there. She supported the variance request in order to allow the Serras to stay in the neighborhood.

Mr. Weyburne asked if the 1-1/2 story would bring the shed/garage further north. Mr. Presley said it would not.

Mr. Presley continued that they would modify the plans to maximize the light and go to the HDC with a revised design that would remove the cross gable that faced north. They would look at further options to try to minimize the shed addition while still making a room that met code, and that still addressed the neighbor's concerns as best they could. They could do this within the terms of the variance request.

Chair Wendt asked if a decision should be postponed until HDC heard this case. Chair Silvestri said the applicant wanted a decision before going to the HDC.

Planning Consultant Elmiger said the HDC would look at this proposal regarding mass, making sure it would not overpower the original structure and that it would be as diminutive as possible. If the HDC was not satisfied with the massing of the addition, it was possible they could ask for a reduction in size, but they could not ask that the addition be increased in size.

Chair Silvestri indicated he was ready for a motion.

MOTION by Callahan, support Marold, in the matter of BZA case #17-04, 222 West Street, to grant the variance requests from Section 15.01: 1) for construction of the addition 1 foot into the required 8-foot side yard setback and 2) to permit the side yard setbacks to equal 10 feet instead of the required 15 feet, thus granting a variance of 5 feet, with the following condition:

- Removal of that portion of the deck that is necessary in order to keep the structure within the lot coverage requirements.

And based on the following findings of fact:

1. Practical difficulty is due to the exceptional shape of the lot itself as well as the age of the structure.
2. Substantial justice would apply because there doesn't appear to be a lesser variance possible and it would give substantial relief to the property owner.
3. The situation was not self-created since this structure was nonconforming for some time.
4. The request appears to be for the minimum variance required.
5. The variance would not impact public safety or create a public nuisance.

Chair Silvestri asked if there was discussion on the motion. Hearing none, he called the question.

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| Ronayne | yes |
| Marold | yes |
| Callahan | yes |
| McKindles | yes |
| Wendt | yes |
| Silvestri | yes |

Therefore the motion carried 6-0.

Referring to previous discussion, Planning Consultant Elmiger explained that the criteria for a variance were difficult to meet for a reason. From a planning standpoint, variances should be rarely granted. The criteria were there to make sure there was a fairness standard across all property owners. While many property owners could accommodate the zoning regulations, their rights still needed to be considered when a property owner requested a variance due to lot size or if they had an historic structure that was nonconforming.

VIII. PUBLIC COMMENTS:

Mr. Field said that he served on the Historic District Commission and was familiar with the difficulties of modifying a home in the District. He discussed the importance of seeking a variance before appearing before the HDC, so the HDC would know what they were working with.

IX. DISCUSSION:

None.

X. ADJOURNMENT:

Motion McKindles, support by Marold, to adjourn the meeting at 9:13 p.m.

Voice vote: Ayes: All. Nays: None. Motion Unanimously Carried.

Respectfully submitted,

Cheryl McGuire, Recording Secretary

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