

EAST ROCHESTER ZONING BOARD OF APPEALS MINUTES

PLACE: 120 West Commercial Street, East Rochester Village Offices
DATE: June 15, 2010
TIME: 7:00pm

PRESENT:

Frank Barbero, Chairman
Margot Gilhart, Member
Matthew Fox, Member
Patrick Piccioli, Member
Tony Gonzalez, Member

Larry Pierce, Building Inspector
Rob Leni, Village Attorney
Tracie Miller, Recording Secretary

Mr. Barbero called the meeting to order at 7:00pm.

1st Item on the Agenda: 210 West Spruce Street, parcel # 151.28-2-19. Frank Deciantis was present requesting a variance to install a front driveway wider than ten feet. Mr. Deciantis stated that he submitted an application to widen the driveway on a property he has owned for 32 years. He is looking to pave the portion marked in yellow on the survey map, which amounts to 250 square feet. The property has a three car garage and is a large double house. Mr. Deciantis stated that times have changed and tenants have more cars. He said the cars can all fit, but people are blocking each other. Mr. Deciantis doesn't want a curb cut, he just wants to pave a little piece of the driveway and there will still be four feet of grass left next to the adjacent property. Mr. Deciantis stated that at the Planning Board meeting, Larry Pierce made a comment about the driveway being non-conforming. Mr. Deciantis believes the codes were made for a 40' x 120' lot and his lot is 80' x 120'. He doesn't believe approval of his request would be setting a precedent because his lot is wider and has a lot of green space around it.

Tony Gonzalez asked Mr. Deciantis if he spoke with the neighbors or got any approval letters from them. Mr. Deciantis said that he didn't know he needed letters, but he talked to Jon Lewis who was ok with the driveway extension. Mr. Deciantis did not speak with the neighbors on the opposite side of his property, but noted that they had a double wide driveway installed a few years ago. Tony Gonzalez stated that because the Planning Board gave a negative recommendation it would have been a good idea for Mr. Deciantis to get

approval from the neighbors before coming to the Zoning Board. Mr. Gonzalez also said that he lives next to a double and the landlord limits the number of cars allowed. Mr. Deciantis stated that he is frustrated with the Village's rules and said that good tenants are looking for apartments with a lot of amenities. He feels loyal to the Village because he grew up here, but has been watching things change for the worse. He doesn't want to create a detriment and feels that two single house driveways have more pavement than what he is requesting. Mr. Gonzalez asked Mr. Deciantis how many apartments his double had to which Mr. Deciantis replied two apartments and six bedrooms total. Mr. Gonzalez asked if three cars per apartment is necessary, because four cars total seemed more reasonable. Mr. Gonzalez asked if parking could be accommodated behind the house, parallel to the garage so it doesn't affect the sidewalk appeal. Mr. Gonzalez noted it was just another option to consider, but Mr. Deciantis would have to reapply to explore that option. Margot Gilhart asked if the area in front of the third garage bay was paved. Mr. Deciantis stated that the driveway was paved, but tapered there. Ms. Gilhart asked if the existing curb cut was 16 feet. Mr. Deciantis said he doesn't think it's even 16 feet now. Rob Leni pointed out that the amended code 135-69-B states that a driveway in front of the plane of the house cannot be wider than ten feet. He said it can be extended to 16 feet in the rear of the house, but currently the driveway there is 30.5 feet. Mr. Leni also stated that in this case the driveway is pre-existing, non-conforming; therefore exceeds what is already over code.

Mr. Gonzalez referred to a previous driveway extension approval on a property across from the Country Party House. He regrets approving this as it now looks like a parking lot and doesn't want to repeat this mistake. Other Board Members agreed.

Frank Barbero opened the discussion to the public. Barb Marr introduced herself as a Planning Board Member who lives at 935 Linden Avenue. Ms. Marr stated that she hoped the Zoning Board members had a chance to read the minutes from the Planning Board meeting. Ms. Marr does not want to offend Mr. Deciantis, but also doesn't want to lose green space and have snow storage issues which would set a precedent within the Village. She is asking the Zoning Board to please take into consideration the Planning Board's recommendation. Mr. van Edig was also in the audience and asked to speak. He stated that the paving would make the Village less attractive and that many property owners have to shift cars in their driveways, that's part of living in East Rochester. Mr. van Edig also feels if this variance is granted it would cause water drainage issues. Mr. Barbero officially closed the public comment session.

Tony Gonzalez made a motion to deny the variance based on the recommendation from the Planning Board. Matthew Fox seconded the motion. Voting was a unanimous 5-0, in favor of denying the variance request.

Margot Gilhart commented to Mr. Deciantis that she didn't care for the looks of the grass as it is now, with tire tracks worn into it. She requested that grass or trees be planted in that area and it no longer be used for parking.

2nd Item on the Agenda: 203 Bluff Drive, parcel # 139.62-4-32. Applicant Mark Leeper was in attendance requesting a variance to install a front driveway wider than ten feet. Mr. Leeper stated that he built a new garage and had a curb cut done last year. Margot Gilhart asked if the current driveway was pre-existing. Mr. Leeper said it was half asphalt and half stone and he wants to extend it to 18 feet wide. Mr. Leeper said he measured the curb cut at 17 ½ feet. Mr. Leeper quoted the Planning Board Chairman as stating the driveway could be "whatever the curb cut is and Ed Parrone as saying "whatever the variance is". Mr. Leeper stated the total additional asphalt would be 76 square feet. Frank Barbero noted that Mr. Leeper's request was not what was approved by the Planning Board, which was 16 feet 6 inches. Mr. Leeper said he thought the curb cut was 16 feet 6 inches when he presented his case to the Planning Board. Rob Leni pointed out that the curb cut is wider where the apron flares out to which Mr. Leeper replied without the flare the driveway is 17 ½ feet. Mr. Pierce said that the curb cut was done at the discretion of the Department of Public Works Supervisor and there are no size restrictions. Mr. Leeper mentioned that at 205 Bluff Drive the curb cut is 19 ½ feet and the property across the street from his is 24 feet (they can fit three cars side-by-side). Margot Gilhart asked if the DPW Supervisor made any comments regarding this to which Mr. Leeper replied none that he knows about. Mr. Leeper also stated that he paid \$950.00 last year to have the curb cut done. Matthew Fox said he could see how an 18 foot driveway would allow better access to the garage. Margot Gilhart noted that it looked like Mr. Leeper had to "swing" into his garage to which Mr. Leeper agreed.

Mr. Barbero opened the public comment session. Ms. Barb Marr introduced herself and asked to speak. She said the Planning Board sent a positive recommendation because they felt Mr. Leeper's property had much more green space and not as many issues as the previous agenda item at 210 West Spruce Street. Also, it was aesthetically pleasing to combine Mr. Leeper's two driveways (stone and asphalt) into one. Kiki DiStefano, also an owner of 203 Bluff Drive, pointed out another reason for their request is because the current driveway is narrow and they have a trailer they need to back into it. Also, there is a large blind spot on Bluff Drive and people drive too fast in this area. She

feels a wider driveway would be safer. Mr. Barbero officially closed the public comment session.

Margot Gilhart made a motion to approve the variance as presented as long as the driveway width does not exceed 18 feet. Ms. Gilhart's approval is based on addressing safety issues and allowing plenty of green space to remain. Pat Piccioli seconded the motion. Voting was a unanimous 5-0, all in favor of approving the variance.

3rd Item on the Agenda: 501 West Commercial Street, parcel # 138.75-1-10. Applicant was not present. Rob Leni announced that this item be carried over to the next Zoning Board meeting. Mr. Barbero asked to submit two letters he received regarding this item to the Zoning Board minutes. Mr. Leni advised that since the applicant was not present it was at the discretion of the Chairman to allow comments on this item. Mr. Barbero allowed discussion on 501 West Commercial Street to commence.

Margot Gilhart said she understood Mr. Mapstones' concerns (in his letter) and asked if the recording secretary could write a letter advising Mr. Mapstone to take his concerns up with the new owners and not the Zoning Board. She added that the new owners seemed friendly and cooperative. Rob Leni agreed that the Zoning Board is the wrong governing body for Mr. Mapstone to speak to.

In respect to Mr. Levato's letter, Mr. Leni pointed out that the Planning Board minutes reflect that other Village residents saw the public hearing sign, as they were present at the meeting. Mr. Leni told the Board that he will confirm what type of response these letters warrant. Mr. Gonzalez stated that Mr. Levato had a valid question about what the course of action would be should the new business violate their parking lease agreement. Mr. Pierce stated that initially a violation notice would be sent, then an appearance ticket and a fine of up to \$1000.00 per day. Tony Gonzalez suggested a response letter be sent to Mr. Levato explaining that he should contact the Building Department should he encounter a parking violation. Frank Barbero said that Ms. Gilhart told Mr. Levato this verbally. Rob Leni said that the variance has already been approved. Ms. Gilhart said that RW Manufacturing has their own discipline procedure in place for employees who do not follow the parking rules. Frank Barbero asked if there were any public comments and there were not, so he closed the public hearing. Rob Leni told the Board that he would confirm how to respond to Mr. Mapstone's and Mr. Levato's letters before the next Zoning Board Meeting.

New Business:

As a representative of the Building Department, Larry Pierce wanted to caution the Zoning Board about approving modified applications. He went on to say if the applicant said the driveway was 16 feet 6 inches at the Planning Board Meeting then changed the width for the Zoning Board Meeting, the application should be sent back to the Planning Board with the true representation of the facts for re-approval.

Pat Piccioli asked Larry how the Montessori school property on the 200 block of West Avenue was zoned. Larry said it was zoned residential/single-family development and cited East Rochester code 193-53. Mr. Piccioli said the neighbors have been asking him about it. He also said the Montessori school will be moving to French Road in December. Tony Gonzalez suggested Mr. Piccioli speak with the priest at St. Jerome's Church regarding new tenants for the Montessori property.

Voting for the Vice Chairman and Board Secretary took place. Margot Gilhart nominated Tony Gonzalez for Vice Chairman and Matthew Fox seconded that nomination. Voting was a unanimous 4-0, all in favor.

Margot asked what the role of Secretary was and Rob Leni said it was to be a liaison between the Zoning Board and the Recording Secretary. Matthew Fox nominated Margot Gilhart for Secretary and Pat Piccioli seconded the nomination. Voting was a unanimous 4-0, all in favor.

Old Business:

A motion to approve the May 18, 2010 meeting minutes was made by Tony Gonzalez and seconded by Pat Piccioli. Voting was a unanimous 5-0, all in favor.

A motion to adjourn was made by Matthew Fox and seconded by Pat Piccioli. Voting was a unanimous 5-0, all in favor. The meeting was adjourned at 8:10pm.

Respectfully submitted,

Tracie Miller
Recording Secretary