

**: OFFICIAL PROCEEDINGS :****: OF THE CITY OF PEORIA, ILLINOIS :**

A Zoning Board of Appeals Meeting was held on Monday, September 8, 2011, at 1:30 p.m., City Hall, 419 Fulton Street, Council Chambers, Room 400, with Chairperson Barry presiding.

**ROLL CALL**

The following Zoning Board of Appeals Commissioners were present: Chairperson Barry, and Commissioners Blackwell, Ierulli, Ernestine Jackson, Jerry D. Jackson, Kouri, and Wagner - 7. Absent: None.

Staff Present: Gene Lear and Polly Stainback

Chairperson Barry explained the meeting procedures, and Ms. Stainback administered the swearing in for testimony.

**MINUTES**

Commissioner Blackwell moved to approve the minutes of the meeting held on August 11, 2011, as printed; seconded by Commissioner Ierulli.

Approved unanimously by viva voce vote.

**ZBA 2942**      **Petitioner Fulvio Zerla is requesting a variance from the City of Peoria Land Development Code with the following Articles: Article 4.1.4. to allow a parking lot to encroach 30 feet into the required 30-foot front yards along Moss Avenue and along Union Hill/Dr. Martin Luther King Jr. Drive; Article 8.1.6.E. to allow for 39 parking spaces instead of the required 66 parking spaces; and Article 11.3 *Retaining Wall Definition*, to allow a retaining wall to exceed the retaining wall height requirement of 3 feet with a maximum height of 25 feet tapering down to 5 feet with a decorative safety rail of 3 feet on top of the retaining wall. The property is zoned R-6 Multi-Family Residential and is located at 818 W. Moss Avenue in the Moss-High Historic District.**

Chairperson Barry announced Case No. ZBA 2942 and asked Mr. Lear to read it into the record.

Gene Lear, Senior Urban Planner, Planning and Growth Management Department, read Case No. ZBA 2942 into the record. He displayed information and photographs of the subject property. He spoke regarding the proposal and Staff recommendations as follows:

**BACKGROUND:**

The subject property fronts on the corner of Moss Avenue and Union Hill. The frontage along Union Hill is considered a front yard per the Land Development Code, due to the fact that there are other properties that front Union Hill where Union becomes Dr. Martin Luther King Jr. Drive. Currently, the subject property has a small 11-space parking lot, which encroaches into both required front yards. The number of parking spaces in this parking lot is not in compliance with the Land Development Code. In addition, there is an existing parking garage on the site that provides 25 very small parking spaces, which are not in compliance with the Code. The existing grade elevation differential along the Union Hill frontage is at least 25 feet.

The Petitioner is proposing to build a 39-space parking lot along the west side frontage of the property, which would include 3 handicap accessible spaces. The proposed parking lot would encroach 30 feet into both required front yards and require a retaining wall. To meet the required front yard setback would mean losing the usable portion of the courtyard in front of the building and possibly devalue the property. The proposed retaining wall would taper from a height of 5 feet to a maximum height of 25 feet as you go down the hill. While not totally in compliance with the Code, the proposed 39-space parking would bring the property much closer into compliance with the Land Development Code. A proposed 3-foot decorative safety rail is proposed to be placed on top of the retaining wall.

**SITE PLAN REVIEW BOARD (SPRB) CONCLUSIONS AND RECOMMENDATIONS:**

After reviewing the Petitioner's application and performing a site inspection, the Site Plan Review Board recommendation is not to object to the variance request, subject to approval by the Historic Preservation Commission, for the following reasons:

1. A hardship exists. The topography of the land, both in the slope and elevation, restrict usable land.
2. Practical difficulty exists. In order to develop a larger parking lot to bring the property closer into compliance with the Land Development Code and not destroy the usable courtyard in front of the building, a retaining wall greater than 3 feet in height is necessary because of the lay of the land. If such wall is provided in accordance with the requirements of the Zoning Ordinance, the retaining wall would have to be terraced at 3 feet, causing the need for multiple walls which, as stated above, would cause the loss of usable courtyard space and a reduction in required parking spaces. The attached parking garage does provide some parking; however, such parking is not in compliance with the Land Development Code.
3. An additional practical difficulty exists for the following reason: The lack of off-street parking for this apartment development causes more parking to be placed on Moss Avenue, creating congestion and difficulty for tenants of the apartments and nearby residents.
4. For the reasons stated above, the granting of the variation will not alter, but help to maintain, the essential character of the neighborhood.

In discussion with Commissioner Blackwell, Mr. Lear indicated he thought there were 33 apartments in the subject building, and the parking requirement is 2 per unit.

Fulvio Zerla, Petitioner, representing Zerla Properties, LLC, spoke regarding the proposal. He explained the hardship included the topography of the land, with both the slope and elevation restricting the usable land. He commented that they were implementing the more expensive option for additional parking. He mentioned that the retaining wall and rail would be anchored and placed to manage the slope of the parking lot to make it user friendly. He stated the improvements would make the building much more attractive and would improve the neighborhood property values.

Jason Breede, nearby homeowner, indicated the proposal would help Moss Avenue; and he wanted to go on record as supporting this case.

Roger Sparks, questioned if the parking lot expansion would cause drainage problems on neighboring property and also asked if the building would be handicap accessible.

Petitioner Zerla stated there would be a retention system. He said the building is not handicap accessible, but the new parking lot would allow people access to the courtyard.

Mr. Lear read a letter from Rodney A. Lorenz, President of Moss-Bradley Residential Association, regarding the Association's support of the proposal.

#### **DELIBERATION:**

Chairperson Barry administered the Findings of Fact, as listed below:

- A unique hardship or practical difficulty does exist, as listed by Staff.
- The property in question could yield a reasonable economic return without the requested variance.
- The conditions upon which an application for the variance sought are unique to the property and are not applicable to other property within this same zoning district.
- The purpose of the variance is based primarily upon a desire to increase financial gain.
- The hardship is not self-created.
- The proposed variance would not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.
- The proposed variance would not alter the character of the neighborhood.
- The proposed variance would not impair an adequate supply of light and air to adjacent property, nor increase the danger of fire, nor impair natural drainage, nor create drainage problems on adjacent properties.
- The proposed variance would not endanger the public safety, nor diminish, nor impair the property values within the neighborhood.
- The proposed variation is not consistent with the Comprehensive Plan and other development codes and regulations of the City.

**MOTION:**

Commissioner Ernestine Jackson motioned to grant the variance, subject to approval by the Historic Preservation Commission. The motion was seconded by Commissioner Jerry D. Jackson.

The motion to grant the variances passed by roll call vote 7 to 0.

Yeas: Barry, Blackwell, Ierulli, Ernestine Jackson, Jerry D. Jackson, Kouri, Wagner;

Nays: None.

**ZBA 2943**      **Petitioner Greg Smith is requesting a variance from the City of Peoria Zoning Ordinance, Article 7.5.e., *Front Yard Requirements*, to allow a detached garage building to encroach 13 feet into the required 25-foot front yard. The property is located at 2316 E. Grandview Avenue in the R-2 Single-Family Residential District.**

Chairperson Barry announced Case No. ZBA 2943 and asked Mr. Lear to read it into the record.

Gene Lear, Senior Urban Planner, Planning and Growth Management Department, read Case No. ZBA 2943 into the record. He displayed information and photographs of the subject property. He spoke regarding the proposal and Staff recommendations as follows:

**BACKGROUND:**

The subject property is located on a deep corner lot, 75 feet wide by 290 feet deep, which has frontage on Grandview Avenue, located on the north side of the property and Breckenridge Court, which is located on the east side of the property. The lay of the land is such that the property slopes upwards going from Breckenridge Court to the west side of the property.

The Petitioner is proposing to demolish an existing 12 feet by 14 feet storage shed, which is in disrepair and currently encroaching 18 feet into the required front yard along Breckenridge Court. The Petitioner is proposing to then construct a new garage, 24 feet by 30 feet, which will serve as vehicle storage and other storage for the residence. In order to meet the requirements of the Zoning Ordinance in terms of setback, the Petitioner is indicating that he would have to cut extensively into the hillside in order to build the proposed garage in the rear yard. The solution, according to the Petitioner, is to build the garage building partially in the required front yard closer to Breckenridge Court on relatively flat land.

**SITE PLAN REVIEW BOARD (SPRB) CONCLUSIONS AND RECOMMENDATIONS:**

After reviewing the Petitioner's application and performing a site inspection, SPRB does not object to the variance request for the following reason:

The only location for placing the proposed garage is behind the residential structure in either the area termed "front yard" by the Zoning Ordinance or in the rear yard. A practical difficulty exists in placing the proposed garage in the rear yard because of the slope of the property in that location.

Greg Smith, Petitioner, Coach House Garages, indicated that the old shed would be removed. He said the new garage would match the siding of the existing home and improve the property in a significant way for present and future residents.

In discussion with Commissioner Blackwell, Petitioner Smith indicated that he thought the existing carport would remain.

In discussion with Commissioner Jerry D. Jackson, Petitioner Smith said the proposed garage would be a two-stall garage.

**DELIBERATION:**

Chairperson Barry administered the Findings of Fact, as listed below:

- A unique hardship or practical difficulty does exist, as indicated by Staff.
- The property in question could yield a reasonable economic return without the requested variance.
- The conditions upon which an application for the variance sought are unique to the property and are not applicable to other property within this same zoning district.
- The purpose of the variance is not based primarily upon a desire to increase financial gain.
- The hardship is not self-created.
- The proposed variance would not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.
- The proposed variance would not alter the character of the neighborhood.
- The proposed variance would not impair an adequate supply of light and air to adjacent property, nor increase the danger of fire, nor impair natural drainage, nor create drainage problems on adjacent properties.
- The proposed variance would not endanger the public safety, nor diminish, nor impair the property values within the neighborhood.
- The proposed variation is not consistent with the Comprehensive Plan and other development codes and regulations of the City.

**MOTION:**

Commissioner Wagner motioned to approve the request. The motion was seconded by Commissioner Blackwell.

The motion to grant the variance passed by roll call vote 7 to 0.

Yeas: Barry, Blackwell, Ierulli, Ernestine Jackson, Jerry D. Jackson, Kouri, Wagner;  
Nays: None.

**ZBA 2944**      **Petitioner Zissis Vesoulis is requesting a variance from the City of Peoria Land Development Code, Article 4.1.4., *Building Envelope Standards: Height*, to allow the building residence to exceed the required building residence height of 35 feet with a maximum height of 42 feet, 8 inches. The property is located at 1010 NE Glen Oak Avenue in the R-3 Single-Family Residential District.**

Chairperson Barry announced Case No. ZBA 2944 and asked Mr. Lear to read it into the record.

Gene Lear, Senior Urban Planner, Planning and Growth Management Department, read Case No. ZBA 2944 into the record. He displayed information and photographs of the subject property. He spoke regarding the proposal and Staff recommendations as follows:

**BACKGROUND:**

The Petitioner is proposing to rebuild the top of house turret (tower) to the original home appearance in 1890. The house was originally built by John Gift, a prominent Peorian at the time. The existing structure has a height of 37 feet, 9 inches at its highest point, which exceeds the mean gable height of the roof. The proposed tower will be constructed of reclaimed historic brick and concrete block to replicate the limestone parapet.

A new flat roof with a copper skylight will also be installed. The proposed new height of the tower will be the same height as the mean gable height of the proposed new skylight, which would top out at 42 feet, 8 inches. The Petitioner has gone before the City of Peoria Historic Preservation Commission, which has granted its approval, subject to the City of Peoria Zoning Board of Appeals granting the variance for the height of the proposed tower.

**SITE PLAN REVIEW BOARD (SPRB) CONCLUSIONS AND RECOMMENDATIONS:**

After reviewing the Petitioner's application and performing a site inspection, SPRB does not support the variance request for the following reason:

1. Although the granting of the variation will not alter the essential character of the neighborhood, there is no hardship or practical difficulty.

Chairperson Barry questioned if the actual peak of the roof is higher than the allowed height of the structure. Mr. Lear explained the roof peak is higher, but the location of the mean gable height is lower.

Zissis Vesoulis, Petitioner, gave a brief historical perspective of the subject property built in 1890. He explained that the building footprint would not change, nor would it impair the view of any neighbors. He mentioned that there was enthusiastic support of the Historic Preservation Commission, and this would be another enhancement of the historic homes in the neighborhood.

In discussion with Chairperson Barry, Petitioner Vesoulis explained that he did not want to build to the original height because of the cost issue, involving a lot of masonry, as well as reinforcement for the additional weight that would be added to the top. He said the Historic Preservation Commission was aware of the lower height.

Commissioner Jackson questioned when the tower was taken down. Petitioner Vesoulis said he was not sure. He said he knew the masonry was taken down because it was crumbled and unsafe, at least in 1995 when a new roof was added, but possibly pre-dated that.

**DELIBERATION:**

Chairperson Barry administered the Findings of Fact, as listed below:

- A unique hardship or practical difficulty does exist. (Per Commissioner Blackwell, no hardship was presented.)
- The property in question could yield a reasonable economic return without the requested variance.
- The conditions upon which an application for the variance sought are unique to the property and are not applicable to other property within this same zoning district.
- The purpose of the variance is based primarily upon a desire to increase financial gain.
- The hardship is not self-created. (Per Commissioner Blackwell, no hardship was presented.)
- The proposed variance would not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.
- The proposed variance would not alter the character of the neighborhood.
- The proposed variance would not impair an adequate supply of light and air to adjacent property, nor increase the danger of fire, nor impair natural drainage, nor create drainage problems on adjacent properties.
- The proposed variance would not endanger the public safety, nor diminish, nor impair the property values within the neighborhood.
- The proposed variation is not consistent with the Comprehensive Plan and other development codes and regulations of the City.

**MOTION:**

Commissioner Ernestine Jackson motioned to grant the variance as petitioned. The motion was seconded by Commissioner Wagner.

Commissioner Wagner commented that it would be money spent in the historic district, and he thought he should be allowed to it. Commissioner Ernestine Jackson concurred.

The motion to grant the variance passed by roll call vote 5 to 2.

Yeas: Barry, Ierulli, Jerry D. Jackson, Wagner;  
Nays: Blackwell, Kouri.

**CITIZENS' OPPORTUNITY TO ADDRESS THE ZONING BOARD OF APPEALS**

There were no citizens who wished to address the Zoning Board of Appeals.

**ADJOURNMENT**

Commissioner Ernestine Jackson moved to adjourn the Zoning Board of Appeals Meeting; seconded by Commissioner Blackwell.

The motion was approved unanimously by viva voce vote.

The Zoning Board of Appeals Meeting adjourned at approximately 2:30 p.m.

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Gene Lear, Senior Urban Planner  
Planning and Growth Management Department

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