

**ZONING BOARD OF APPEALS
REGULAR MEETING
WEDNESDAY, AUGUST 15, 2012, 3:00 P.M.
COUNCIL CHAMBERS, CITY HALL
109 E. OLIVE ST., BLOOMINGTON, IL**

Members present: Mr. Dick Briggs, Mr. Mike Ireland, Mr. Robert Kearney, Mr. Steve Parker, Mrs. Barbara Meek, Mr. Bill Zimmerman
Members absent: None
Also Present: Mr. Mark Woolard, Acting Secretary

Mr. Woolard called the meeting to order at 3:04 p.m. and called the roll. A quorum was present.

The Board reviewed the minutes from July 18, 2012. The minutes were accepted as printed.

Chairman Ireland explained the procedures of the meeting and that the special use case must be reviewed by the City council. Mr. Woolard stated that the cases had been published.

SP-01-12 Public Hearing and Review on the petition submitted by Lue A. Walters, requesting approval of a special use permit for an additional dwelling unit in a multi-family building for the property located at 811 W. Washington Street. Zoned R-2, Mixed Residence District.

Chairman Ireland introduced the case and asked for anyone who would like to speak in favor of the petition to come forward. Lue A. Walters, 1903 N. Towanda Avenue, Normal, Illinois, was sworn in and presented an email from the Bloomington-Normal Chapter President NAACP recommending approval of the application and an agreement with the neighbor, Valerie Dumser for a shared drive. He said he was taken back that he was here again in that he thought he had done due process. He said at the Council meeting his case was on the consent agenda and because of two emails staff recommended denial. One was from a neighbor who wanted grass on his property as opposed to concrete and the other was from a G.A.P. representative from the other side of town with the notion of trying to reduce the density and recommending disapproval. He said today there are two emails and one is from a man and his wife and he constitutes that as one opinion and then there was one other one. He thought the person was misinformed about converting it to a multi-family dwelling in that it is already multi-family plus they are on the opposite side of the block. He said if anyone was to be affected it should be Ms. Dumser and the neighbor on the opposite side and neither of them has come objecting.

Mr. Walters read a statement providing a time line of the meetings that occurred and stated the property has been exposed well over 90 days and over 670 letters gone out throughout the community and the sign was up over ninety days and we have not had one legal objection in here for all to see. He questioned if this was a public board or a staff board. He went to the City Council and sees a denial. He said he pays over \$15,000 in taxes to Bloomington. All this is about him renovating an existing basement apartment that is already there and all he is doing is putting in some cabinetry and a few things. The building was built 1825 and he believes in the record some where along this same basement was used as an apartment because it had a

bathroom, kitchen, fireplace and piano. He said he is not doing any outward impact on this project except only perceived by staff. He continued with discussing the parking and how his parking ratio will increase by 50 percent and he has an agreement with the neighbor for access to the rear parking and the neighbor to the west is a shared drive that is mutually beneficial. He compared the properties with his, the Housing Authority and 827 Washington. 827 does not have any parking spaces with a ratio of zero. The Housing Authority parking ratio is 56 percent and he said his ratio is .67 and better than all three of them. For the floor ratio he felt he is not encroaching outside at all. He feels he is going through this because of staff's concerns not because there are concerned people out there and nothing is different than what he saw before simply because he wants to renovate an existing basement to a single-family apartment to lessen his expenses and taxes. He feels like he is going through double jeopardy. He said to the Board that when things are buried in a consent agenda the City Council is not going to take time to ask the questions you asked me and your best opportunity to get it right is right here. He said if the Mayor and City Council thought enough of you all to appoint you to this Board he is certain they would support your decision given the right understanding.

Chairman Ireland asked why the unit is not rented if it existed already. Mr. Walters explained his work and his discussion with the inspectors and what was needed. Mr. Zimmerman asked about parking and Mr. Walters said less than 50 percent of his tenants have cars and usually cannot afford cars. He will expand the drive by three feet and he has an agreement with Ms. Dumser. Chairman Ireland asked Mr. Walters if the special use were made subject to, that if the neighbor at 809 were ever to disembark from this agreement and you would have to vacate one unit, how would you feel about that and Mr. Walters said he would have no problem with that. Mr. Walters said this is not an easement and this is a common occurrence. He stated he does not have an agreement with the neighbor to the west but it is a common shared driveway.

Chairman Ireland asked for anyone else who would like to speak in favor of the petition and no one spoke.

Chairman Ireland asked for anyone who would like to speak in opposition of the petition. Richard Heiser, 810 West Jefferson, stated his home is directly behind the site in question. He said he and his wife have lived at there for the last 26 years and he knows the history of the property and neighbors. He apologized for the absence at the previous meeting and they neighborhood association is very active in the neighborhood and they consider the zoning decisions that impact them greatly and try address issues in the neighborhood. He said when the Housing Authority apartments mentioned by Mr. Walters were built 35 years ago, it was managed by managers who lived there and if this were built today he doubts that it would be approved. Staff recommendations are based upon neighborhood stability and when the density gets high it affects the quality of life of the people around that site. He said every home owner in the neighborhood pays taxes, has a financial investment, house payments and upgrade their properties and it is not just that a landlord has a deeper investment. The proposal is to pave half of the rear green space and it invites higher traffic, and there is no guarantee that there will be only two cars in that space. The shared driveway agreement is not built into any deed but just a handshake document. The shared driveway on the west side of the lot is not a single car driveway. It has at least two full lanes and when a tenant is parked there the adjacent owners, Jake and Becky still have full access all the way from the street to the garage. It is not a true

shared drive but rather like parallel drives that abut one another. He stated the apartment is already occupied and it has been occupied for more than a year and someone is living in the apartment right now. It is a small back yard and it invites dropping off things and there has trailers, appliances, recycling and full of things. The stability of the neighborhood is impacted greatly. The fire escape is antiquated and per the shared driveway conversation with neighbor Val it will take a lot of excavation to create of a driveway to meet the needs described.

Mr. Ireland questioned if all six units are occupied and Mr. Heiser said he did not know if all units are occupied but the basement unit is occupied today. He said the tenants are good to the neighbors but there has been drug activity and there have been police calls. Mr. Walters is easy to engage with and he listens and cares but the section eight business is tricky and when you increase the density and the number of people interacting we have single family units on either side. He said there is single-family dwellings on either side of the site and their hope is to increase the number of single-family and owner occupied units because we think it improves the quality of life. Increasing the density adversely impacts all of us.

Cindy Shepard, 918 S. Madison Street, stated she is a property owner in the immediate area and owns 812, 818, 820, 720, 714.5, 827, 829, 822, 824, 902, 902.5, 904 W. Washington. She opposes increasing the number of apartments because parking already is already limited and adding cars would exacerbate the problem. The building does not have a fire escape up to codes and with a fire the tenants would not be able to walk down exterior stairs. If the petitioner were to bring the building up to code he would have to locate the fire escape on the east side of the property and would take up even more yard space when the house takes up most of the lot. The property needs to be brought up to code on the existing apartments rather seeking a greater concentration of people, apartments and parking. There have been noise and litter issues with the current level of occupancy. The tenants have parked in on the adjacent property for an extended period of time and blocked driveway access by the rightful owner. This may be because there was no parking in the street. If approved the city mandated off street parking would go into effect. As recent former owner of the building, she said she has knowledge about the property and its ability to generate sufficient income to service the debt and adding a basement unit would not increase the total rents sufficient to offset the cost of constructing egress windows, the fire escape, parking and bringing the entire building up to code. She said she appreciates the beautiful "purple house" and the existing apartments which were designed by Mr. and Mrs. James Oliver who owned the property for many years and left a legacy that should be valued and cherished and any interest by the current owner in merely pulling out every penny possible from the place should be quashed. She said when she owned the property which was up until the last five years, there was no apartment in the basement and it was never used it as an apartment. There was no kitchen and no bathroom at all. The owner of the driveway on the west at 813 worked as her office manager for many years and she complained many times about the problems at 811 after she sold it. The problems mainly involved noise and people parking in her driveway and she would have to go out a lot and make them leave. Access to parking in the back would not work out in the long run. She also owns 827-829 W. Washington and there are only four apartments in that building. She did not think it could be converted back to six units because of the city codes and it is difficult to get good tenants in a basement apartment.

Mr. Kearney stated it was difficult for him to understand why adding one unit will cause a tipping point in the neighborhood add. Ms. Shepard said there is large amount of street parking and the existing driveways are full of cars and the 800 block is very congested based on people living there now. The Board discussed how the neighbor to the west has not made any expressed any concerns regarding the petition.

Mr. Woolard stated the staff report is essentially the same as before except for the history with the recent meetings. Staff has concerns that the request is inconsistent with the predominant character of the neighborhood. Nearly all of the units are single-family or two units and not five or six unit buildings. The housing authority had occupancy of tenants who physically could not drive and there was not a need for parking many cars for their tenants.

Mr. Walters stated the two adjacent neighbors have their entire back yard paved. Also contrary to Mr. Woolard's statement, tenants can freely drive in and out of his parking space on the west side of the lot as explained by Mr. Heiser. He said his property has not been rented for a year. He explained how he could not get it rented when he applied to get the ingress and egress window and it was essentially completed. He said he has not got occupancy because he has not got this approval and a neighbor went through foreclosure and had nowhere to go and asked if they could stay there until they found a place to go and that is how the people got there. There was discussion on the code and requirements and Mr. Walters understanding of what was required. He has not occupied more than five units.

Mr. Kearney stated that he does not see any new developments in this case. He referred to Mr. Heiser's concerns and asked Mr. Walters to address such for the back yard. Mr. Walters said he will not tolerate loitering in the back yard and he wants the same thing from his neighbors as he wants for him. He wants to landscape around the parking area. He will make two legal parking spots about six feet from the lot line. Mr. Briggs said that the two neighbors look like they have paved to the back.

Mr. Woolard stated that he had received three emails that were passed out and he spoke with one of the persons. Part of their concerns was that this would encourage other similar developments.

The vote on the special use recommending approval was approved with five (5) voting in favor and one (1) against.

Before Mr. Kearney voted he stated that he was looking for new evidence and in the first time around we knew that this was a fragile neighborhood and he does not think we learned too much more on that score. He does not think a vote in favor tips the balance in terms of this neighborhood. He was looking for something that by adding this unit would so change the character of the neighborhood that we really tipped that balance. Having that said he said you are lucky to have a neighbor like Mr. Heiser and he encourages Mr. Walters to work with him because the reality is that a single-family unit owner is simply more invested in the neighborhood and it is not a business for him. It does not discount or diminish what you are doing but it is important for you to work with him. He hopes this is the last case remanded back to them in this fashion because it is not a respectful use of their resources.

Mr. Briggs stated before he voted that during the first hearing we based the decision that with the variances to increase the parking he was actually enhancing the impact in the neighborhood, now nothing changed and this just reconfirmed it.

Mrs. Meek stated before she voted that she would like to agree with what Robert and Dick said.

Chairman Ireland explained that we will send a positive recommendation to the City Council and it is up to them to grant the special use permit.

SP-05-12 Z-16-12 Public Hearing and Review on the petition submitted by Elizabeth Reeder to allow construction of a screened porch to an existing house and a variance to reduce the rear yard setback for the property located at 1201 S. Clayton. Zoned R-1C, Single-Family Residence District.

Chairman Ireland introduced the petition and asked for anyone who would like to speak in favor of the petition to come forward. Terry Worth Jr., of 1201 S. Clayton, was sworn in and stated they are wanting a porch where one was located and originally they thought the rear property line was at a fence and found that was not right but it is 16' to the property line and 25' before the railroad tracks. They cannot move it to the north because of a large tree and Ms. Reeder owns both properties to the south. The porch will be about one foot larger and they are trying to make an improvement.

Wavia Rheim, 1108 S. Clayton, was sworn in and stated it is up against the railroad tracks and she sees no reason why they cannot have the variance.

Elizabeth Reeder, 1201 S Clayton, was sworn in and stated when she bought the property she did not know the fence was not on the line and they have taken care of the fence.

Roger Curtis, 907 S. Clayton, was sworn in and stated he is glad to see somebody fixing up the house and that this is such a minor difference from what they already had. The railroad does not take care of the fence or anything and the railroad has been the worse neighbor. He is in favor of the petition.

Chairman Ireland asked for anyone who would like to speak against the petition and no one spoke.

Mr. Woolard explained the property has the railroad to the west and with them owning the southern property staff did not see any negative impacts on the neighbors. There also is a tree worth saving presenting a hardship and the porch is a replacement except for one foot. Thus staff supports the request.

The vote on the variance was approved with six (6) voting in favor and none (0) against.

Other Business: There was a brief discussion on the Council requiring comment cards for the

public comment period. Mr. Woolard explained the number of people desiring to speak here is much less than at the Council meetings.

Public Comment: None

New Business: There was discussion on having alternate board members, having the Board vacancies filled and two Boards being combined into one board. Board members emphasized how they do not want to have to rehear cases because that is a disrespectful use of their time.

Adjournment was at 5:15.

Respectfully;

Mark Woolard
Acting Secretary