

ZONING BOARD OF APPEALS
TUESDAY, NOVEMBER 20, 2012 @ 7:00 P.M.

CALL TO ORDER: 7:07 p.m.

COMMISSIONERS: Chairperson Laurie Slade
Mr. Sam Anderson, Jr.
Mr. Carlos Bueno
Ms. Patricia Hollis
Ms. Debra Monroe
Mr. Ahmad Taylor (Excused)
Mr. Lee Todd

CHAIRPERSON SLADE: I will call the meeting to order. Roll call, please.

MR. SABO: Bueno?
MR. BUENO: Here.

MR. SABO: Todd?
MR. TODD: Here.

MR. SABO: Monroe?
MS. MONROE: Present.

MR. SABO: Hollis?
MS. HOLLIS: Present.

MR. SABO: Anderson?
MR. ANDERSON: Here.

MR. SABO: Slade?
MS. SLADE: Present.

EXCUSED: Taylor.
ABSENT: None.

ALSO PRESENT: Mr. James Sabo, Professional Planner
Mr. Gordon Bowdell

COMMUNICATIONS: None.

ADOPTION OF MINUTES: September 18, 2012.

Deletion: Delete Ms. Taylor-Burks name from commissioners because she has resigned from the Planning Commission.

Addition: Add Mr. Sam Anderson, Jr. to the names of commissioners.

COMM. MONROE MADE A MOTION FOR APPROVAL OF THE MINUTES FOR SEPTEMBER 18, 2012 AS AMENDED AND COMM. HOLLIS SUPPORTED.

CHAIRPERSON SLADE: Roll call, please.

VOTE: AYES: Monroe, Hollis, Anderson, Todd, Slade.
NAYS: None.
ABSTAIN: Bueno.

Vote 5-0-1 for approval of the September 18, 2012 Minutes.

OLD BUSINESS: None.

NEW BUSINESS: 6.1 ZBA-12-20.

Finding of Facts presented by Mr. Sabo.

MR. SABO: Property Description: 764-772 Wing Street, Sidwell# 14-20-254-028; 14-20-254-033

Variance Request: Variances for Dimension requested as follows:

Dimensional Variance for Section 2.304(F)(2) Maximum Floor Area for Accessory Structures.

The request is for dimensional variances as follows:

Section 2.304(F)(2) states "The aggregate area of accessory buildings on any lot shall not exceed fifteen percent (15%) of the total lot area, the floor area of the first floor of the principal dwelling, or 800 square feet in R-1/900 square feet in R-1A and R-1B districts, whichever is least.

Currently, there is an existing 1-story residential house on the lot at 764 Wing Street. The existing residential building measures 26' x 42' or 1092 square feet in area. The applicant is proposing to convert the existing residential building into a detached accessory structure (garage) that would consist of the same measurements 26' x 42' or 1092 square feet.

However, the interior space will be reconfigured to accommodate the proposed garage changes. The three existing bedrooms at 764

Wing will be converted to garage space and a rear entry door will be installed to accommodate the garage use.

The existing residential building will remain mostly unchanged in exterior appearance.

Additionally, the applicant intends to combine the lot with his existing property, which consists of three platted lots. The intent is to create a single tax parcel. However, the applicant is currently prohibited from combining the residential lots because each residential lot can contain only one principal building. If he wishes to combine the lots, he would be required to tear down one of the houses (772 or 764 Wing) or maintain two separate houses and two separate lots.

As stated, the finished size of the proposed accessory structure (garage) would be 1092 square feet. A variance of 292 square feet is requested.

CLAIMED UNDUE HARDSHIP: (Dimensional Variance) The applicant has stated that the Zoning Ordinance does not grant him the ability to convert an existing home into an accessory structure/garage. He has stated that the Zoning ordinance has a minimum floor area standard of 1200 square feet for residential buildings in the R-1 district. The applicant claims that the minimum floor area would forever prohibit conversion of any existing house into a garage because most houses in the R-1 district would have been required to meet the minimum 1200 square foot requirement. He states that the Zoning Ordinance further adds to his practical difficulty because it does not provide any flexibility for his particular situation.

The applicant states that an additional difficulty is the inability to creatively use an existing building/home. Specifically, the applicant wishes to conserve raw material resources and use the existing structure instead of tearing it down and building a garage that conforms to the ordinance.

He states that there are no ordinance provisions that seek to prevent demolition of a perfectly good building, which could be readily converted to an accessory use. He claims this is an added practical difficulty because he would rather use the house and not tear it down.

In support of his request, the applicant has stated that he would maintain the existing Wing Street front façade of the

house and not change the view from the street. The house would still look like a house from the Wing Street side because the garage door would be at the back (east elevation) of the house. Also, he stated that he would use the existing driveway to access the garage door side of the proposed structure. The request is a dimensional variance of 292 square feet to allow an accessory structure that is greater than 800 square feet in area.

STAFF FINDINGS:

1. The subject site is zoned R-1. The existing residential structure at 764 Wing Street is 1092 square feet in area.
2. The Zoning Ordinance limits the floor area of accessory structures to 800 square feet for the residential lots along Owens and Wing Streets.
3. It appears that the Zoning Ordinance does not have provisions for conversion of a residential building/home into an accessory structure or garage.
4. The Zoning Ordinance appears to regulate area and size of accessory structures (i.e. garages or sheds) that are added to a residential lot that already have an existing principal structure (i.e. house).
5. As proposed, the appearance of the street frontage along Wing Street will remain unchanged.

AUTHORIZATION:

Section 6.407 Dimensional Variance

Authority-The Zoning Board of Appeals may grant a dimensional (non-use) variance to provide relief from a specific standard in this ordinance relating to an area, a dimension or a construction requirement or limitation, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

Practical Difficulty - A non-use variance shall not be granted unless the Zoning Board of Appeals finds that there is a practical difficulty in the way of carrying out the strict letter of this ordinance.

In determining whether a practical difficulty exists, the Zoning Board of Appeals must find that:

1. Compliance with the strict letter of the restrictions governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will

unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.

Meets the standard, strict letter of the ordinance will unreasonably prevent the property from converting an existing house to a garage.

2. A grant of the variance will do substantial justice to the applicant as well as to other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.

Meets the standard, a variance in this case will not adversely affect the other property owners and granting a lesser variance does not provide relief. Grant a variance would provide substantial justice.

3. The plight of the applicant is due to the unique circumstances of the property.

Meets the standard, the house and lot are an existing condition.

4. The problem is not self-created.

May meet the standard, the problem is only self-created to the extent the property owner wishes to convert the home to a garage. The effect of the ordinance on the subject parcel is not self-created.

5. The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.

Meets the standard, a variance in this case is reasonable.

6. There is compliance with the standards set forth in Section 6.401.B.

Meets the standard.

7. Compliance with any standards for discretionary decisions contained in Section 6.303.

N/A

RECOMMENDATION:

To approve the dimensional variance request of 292 square feet for an accessory structure addition for ZBA 12-20, 764 Wing Street subject to:

1. The 764 Wing Street house front façade shall remain intact and shall continue to face Wing Street to maintain the existing street line.

Applicant appeared and had no additional comments.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

None.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

Comm. Anderson inquired if this was just a re-do of the facility. Applicant indicated yes and it will be used for recreation and storage.

Comm. Anderson warned applicant before he digs to call MISS DIGGS. Applicant reassured commissioners no digging will be needed.

Comm. Monroe commented this would be an easy conversion in the future and it seems appropriate.

Comm. Bueno inquired if the building would have water and gas. Applicant indicated yes. Comm. Bueno commented he has not seen an accessory building like this before and the approval goes with the property. In his opinion, this building does not classify as an accessory building, but a smaller living structure and could be a rental unit.

Comm. Todd inquired of the location of the driveway. Applicant indicated it is between the two houses on the south end.

Comm. Monroe inquired if the garage was enclosed. Applicant indicated no, it is not; similar to an overhead door.

Chairperson Slade indicated under the ordinance without a bedroom it is not a legal rental. Mr. Sabo agreed.

Chairperson Slade inquired if the pool room could be considered a bedroom. Mr. Sabo will research for a more definitive answer.

Comm. Monroe inquired if the address 764 would be combined with 772. Mr. Sabo indicated yes.

COMM. TODD MADE A MOTION TO APPROVE THE DIMENSIONAL VARIANCE REQUEST OF 292 SQUARE FEET FOR AN ACCESSORY STRUCTURE ADDITION FOR ZBA 12-120, 764-772 WING STREET AND COMM. HOLLIS SUPPORTED SUBJECT TO:

1. The 764 Wing Street house front façade shall remain intact and shall continue to face Wing Street to maintain the existing street line.

CHAIRPERSON SLADE: Roll call, please.

VOTE: AYES: Todd, Hollis, Anderson, Monroe, Slade.
 NAYS: Bueno.
 ABSTAIN: None.

Vote 5-1-0 for approval of the Dimensional Variance.

PUBLIC COMMENT: None.

MISCELLANEOUS: Comm. Anderson inquired if the City was still under the administration of the Financial Manager. Ms. Pietila indicated currently that is the status quo, although Public Act 4 has been repealed and Public Act 72 is being brought back and there is an upcoming court date for December 3, 2012 in Ingham County.

Ms. Pietila also thanked the commissioners for approving 764 Wing Street and indicated if it was a rental, it would cost additional funds to the applicant.

ADJOURNMENT: 7:30 p.m.

