

**Zoning Board of Appeals
City Hall
January 11, 2011**

The meeting was called to order at 7:00 P.M.
A quorum was present.

1. Roll Call

In Attendance: Ed Ramsdell, Duncan LaBay, Rob Ciampitti, Charles Ciovacco, Jamie Pennington, and Sean Leonard

Absent: Nat Coughlin

2. Business Meeting

a) Approval of Minutes

Minutes of the November 23, 2010 meeting

The minutes have not been submitted to the board.

b) January 25, 2011 ZBA meeting

There are no hearings scheduled for the January 25, 2011 meeting.

Mr. LaBay made a motion to cancel the meeting of January 25, 2011.

Mr. Ciovacco seconded the motion.

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Rob Ciampitti – approve

Charles Ciovacco - approve

Jamie Pennington – approve

Sean Leonard - approve

3. Public Hearings

a) Robert J. Leanna

41 Green Street

Special Permit for Non-Conformities: construct a one-story 12' x 16' addition to a pre-existing, non-conforming multi-family structure

The addition would provide more space for the applicant's family.

Chairman Ramsdell opened the hearing to public comment.

In Favor:

Bob Nolan, 45 Green Street: He is a direct abutter to the property and will have the clearest view of the addition. He supports the application. He has been a long time neighbor of the applicants and they are good neighbors. He sees no reason that the board would not approve the application. This is a necessary addition to their home.

No one spoke in opposition.

Chairman Ramsdell closed the hearing to public comment.

Questions:

Chairman Ramsdell asked if the applicant was required to come before the board because the front and rear dimensions on the existing structure are non-conforming. **Yes. The setbacks will not be changed by the addition.**

Deliberation:

Mr. LaBay stated that this is a minimal change. The proposed plan will just enclose an area within the existing footprint and does not increase the existing non-conformities.

Mr. Pennington made a motion to approve the special permit for non-conformities.

Mr. LaBay seconded the motion.

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Rob Ciampitti – approve

Charles Ciovacco - approve

Jamie Pennington – approve

Sean Leonard - approve

c) Hayward Thompson Adams

18 Olive Street

Dimensional Variance: reduce the size of the pre-existing non-conforming lot by 151 square feet to convey that portion to an abutter

The proposed plan would reduce the square footage of the applicant's property by giving 151 square feet of land to his abutter. The goal is to resolve a common boundary dispute. The applicant is seeking relief from the R2 zoning district requirements. Lot coverage and existing non-conformity will increase. The use will not change on either lot. The hardship is due to the unique shape of the lot and the existing structure.

Chairman Ramsdell opened the hearing to public comment.

In Favor:

Diane Drake, 20 Olive Street: She is the owner of the abutting property. The plan would make the location of the fence between the two properties the actual property line. The fence has been there for 20 years.

No one spoke in opposition.

Chairman Ramsdell closed the hearing to public comment.

Questions:

Mr. LaBay asked how the fence came to be placed in its current location. **It is a deeded half house. The fence has been in place for over 22 years even though there is an iron rod in place. Both the applicant and the abutting neighbor want to be able to sell their property without any question as to where the property line is located.**

Mr. Ciampitti asked if the issue of the property line came up at the time that the applicant purchased the property. **No, there was not a full property plot plan.** Mr. Ciampitti asked what precipitated this issue coming up now. **The applicant had an engineering drawing done and he felt that the fence was reflective of where he and the abutting neighbor believed the property line to be located. He wants to honor that and not have any question if he wanted to sell his property.** Mr. Ciampitti asked if there is anything along either side of the fence line that would prevent the fence from being moved. **There is an established garden, a tree, and a shed.**

Chairman Ramsdell asked what is the width from the fence to where the property line is actually located. **There is a 1.13 feet to 1.16 feet difference.**

Deliberation:

Mr. LaBay stated that a large percentage of fences in the City are probably not accurate indicators of property lines. He is looking for a reason for the board to make a change when the only problem seems to be that the fence goes around a tree. He has not heard a reason for a dimensional variance. The applicant is not proposing to move the fence. If they want to establish the fence as the property line then they should move the fence. They have moved a section of the fence when it was replaced last year. This provides an unobstructed view of the applicant's kitchen window.

Chairman Ramsdell noted that all of the offset is on one side but he is also concerned with the board getting into "fence fixing". Hardship is defined by state law.

Mr. Pennington knows people that are going through this same issue and it is not a pleasant experience. He feels that if two abutters come before the board and have agreed to a solution, he

thinks the board should approve it. He is comfortable with approving it. He believes that the hardship could be met by the unique shape of the lot. He does not worry about setting precedent but if that is a concern of the board, then he wonders if the board would be setting a precedent by not approving this application. It would provide an aggrieved abutter with more ammunition.

Mr. Ciampitti stated that the board has to find a legal basis that supports the applicant's request. The issue of hardship needs to be met and has not been. The hardship argument needs to be made for the board, not by the board. The applicant's legal representation should make the argument.

Ms. Drake could lay claim to the particular piece of the property through adverse possession.

Mr. Ciovacco noted that a financial hardship seems to be the leading issue in this matter.

The board would like Mark Janos, the applicant's attorney, to articulate the hardship in this case.

Mr. LaBay made a motion to continue the hearing to the February 22, 2011.

Mr. Ciovacco seconded the motion.

The motion passed by a 4-1 vote.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Rob Ciampitti – approve

Charles Ciovacco - approve

Jamie Pennington – deny

Sean Leonard - approve

d) Eric and Pandora Hoover

15 Horton Street

Special Permit: allow a home occupation (use #417b)

The applicants are requesting a special permit for home occupation. The building is a two family home and the applicants live in a one bedroom apartment on the first floor. They would like to rent out the second floor apartment and use it as a business office. They wrote a letter to the neighbors and held an open house so that they could inform their neighbors of their situation. The neighbors were extremely gracious. The applicants see this as a way to consolidate their home and business. It will provide Mr. Hoover with an art studio and an office for Mrs. Hoover.

Chairman Ramsdell opened the hearing to public comment.

In Favor:

Ben Twombly, Horton Street: He is the property manager and he has no problem with the proposed plan. The property owner has given the applicants two months to get the situation worked out. The owners are very interested in seeing this approved. They would rather deal with one tenant than two tenants.

No one spoke in opposition.

Chairman Ramsdell closed the hearing to public comment.

Deliberation:

Chairman Ramsdell stated that one of the requirements of 417b is that there be parking for applicable residential use plus two spaces. The parking is currently tandem. Technically, they need six spaces for a home occupation. Parking cannot be such that one vehicle would have to be moved to move another vehicle. The board could condition the decision that during this home occupation the building can only be occupied by a single family which would require that there be only 4 parking spaces. Chairman Ramsdell noted that the board would need a letter from the building owner stating that they are amenable to the proposed home occupation.

Mr. LaBay stated that the ordinance probably does not assume that one family would be occupying the entire home in a home occupation. He does not see the parking as an issue at all.

Mr. Ciampitti made a motion to approve the special permit with the following conditions; that the owner submit a letter to the Planning Office that verifies their assent to the application, that there shall be no active second residence on the premises, and that the home occupation will be attached to the individuals and not to the property.

Mr. LaBay seconded the motion.

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Rob Ciampitti – approve

Charles Ciovacco - approve

Jamie Pennington – approve

Sean Leonard - approve

4. Adjournment

Motion made to adjourn.

Motion seconded.

Motion unanimously approved.

Meeting adjourned at 8:26 P.M.

Respectfully submitted, Jennifer Stone - Note Taker