

## **Minutes**

### **City of Huntington Board of Zoning Appeals**

**September 20, 2022**

A meeting of the City of Huntington Board of Zoning Appeals was held on September 20, 2022 at 5:30 p.m. in the City Hall Council Chambers. *Mr. Dolin* called the meeting to order.

Members present: C.W. Dolin, Jacqueline Proctor, Dan Earl

Members Absent: Howard Anderson, Lee Canup

Staff Present: Breanna Shell, Planning Director

Janney Lockman, Planner

Ericka Hernandez, Assistant Attorney

Hearing no corrections or objections, *Mr. Dolin* approved the August Minutes.

Hearing no corrections or objections, *Mr. Dolin* approved the Orders.

#### **BZA 22-V-39**

A petition for a variance to the requirement that the parking occur in the rear or the side yard of the residence to install parking in the front yard of a residence in a C-1 District. The property is located at 525 6<sup>th</sup> Ave.

#### **BZA 22-V-40**

A petition for a variance to access a parking area from 6<sup>th</sup> Avenue on a property with alley access. The property is located at 525 6<sup>th</sup> Ave.

*Petitioner/Property Owner:* Eddie and Laura Napier, 525 6<sup>th</sup> Avenue. Huntington, WV

*Ms. Lockman* Presented the Staff Report.

*Mr. Dolin* requests the petitioner to come forward.

*Mrs. Napier* gave some updates on the situation regarding their parking. They contacted the concrete worker, if the entry way would be removed from 6<sup>th</sup> Ave then they would no longer be driving over sidewalk. They would then no longer be entering or exiting from 6<sup>th</sup> Ave and they proposed replacing the curb. They are requesting a variance on the parking pad located at the front of their house, wanting to park near their door and cameras for safety. Placed down river rock so that when you enter from the alley you can have the ability to turn around, moved gates up and did landscaping to smooth out the yard.

*Ms. Proctor* – Thanked petitioners for working with City to come up with a resolution.

*Ms. Proctor* – I did want to ask did I hear you say that you will be leaving the gate open.

Mrs. Napier said that they will be opening and closing the gate as they need to.

*Ms. Proctor* – Did think about having the gate automated?

Mrs. Napier thought about it but after some research it was found that this would be too expensive.

Mrs. Napier talked about how they went through the process of consolidating the property next to theirs to make it one large property, so there was some confusion on what was considered there side yard and there front yard.

Ms. Lockman clarified by talking about how the zoning ordinance defines what is considered to be a properties front yard, which is anything in front or passed the house towards the road is considered to be the front yard even if parking is offset and not directly in front of the house itself.

*Mr. Earl* asked if *Mrs. Napier* had come back into the planning office with a new site plan and if that was approved.

*Ms. Lockman* confirmed this and said that the petitioners had come into the office and had a new site plan drawn up with pending approval depending on the Boards decision.

*Mr. Earl* – in your opinion do you think that the entry from 6<sup>th</sup> Avenue and the parking in the front of the house would cause harm to the public?

Ms. Lockman – In my opinion the variance 22-V-40, which is the access from 6<sup>th</sup> Avenue, allowing that would have more potential harm for the general community than the other variance.

*Mr. Earl* asked if the new site plan had changed *Ms. Lockman's* opinion on the entry and parking off of 6<sup>th</sup> Avenue.

Ms. Lockman said that her opinion overall has not changed, she does think less strongly for the variance for the front yard parking.

*Mr. Earl* asked if they could see the difference between the new and old site plan.

Ms. Lockman showed and compared the new and old site plan with the Board.

*Ms. Proctor* – who has the responsibility of putting back in the curb?

Ms. Lockman said that would be the responsibility of the petitioners.

Mrs. Napier – we had agreed to take the entry way out and replace the curb so that they would not need to replace the sidewalk and they would be entering from the alley.

*Mr. Earl* – Why did you not just put the pad in the back?

Mrs. Napier explained that the property is very long and they would have difficulties walking from the pad to the front door. She also mentioned that they used to park on the street and their vehicle was struck and caused substantial damage.

There were no further questions or comments for Mrs. Napier



Tia Rumbaugh, 529 6<sup>th</sup> Avenue

The neighboring property, mentioned that prior to Mr. Napier owning the property it was a source of trouble, and since the Napier's have purchased and invested in this property it has given her property and the overall block a very positive outlook.

Ms. Rumbaugh had also mentioned that a lot of the Community members are not familiar or don't always understand how the City works.

Ms. Rumbaugh was also happy to hear that the Napier's were going to reinstate the curb so that there would no longer be any traffic driving off of 6<sup>th</sup> Avenue onto the pad, she also mentioned that Mr. Napier had just fixed the back gate.

Ms. Rumbaugh approached the Board members showing them pictures of the Napier's property specifically the front yard area. She briefly mentions that when the cars are parked on the pad that they only stick out about three feet into what is considered the front yard. *M. Rumbaugh* believes that once the curb is put back in that there will be a clear delineation that this is a designated parking space.

*Ms. Proctor* asked for clarification on what Ms. Rumbaugh meant when she said the cars stick out.

Ms. Rumbaugh clarified what she meant by "sticking out", meaning the cars pass the line of the house by a couple feet technically placing them a couple of feet in the front yard.

Ms. Rumbaugh supports the idea of denying the variance to enter the parking area from 6<sup>th</sup> Avenue, and variance to park in the front yard be approved.

*Mr. Earl* – how would you feel if everyone on the block did this?

Ms. Rumbaugh – That is actually a great question and our neighbors actually do. She then proceeds to show the Board Members pictures of their neighbor's properties.

*Mr. Earl* – Does everyone that has this situation of entering their parking from 6<sup>th</sup> Avenue have to receive a variance?

Ms. Lockman talks about the differences between commercial and residential driveways and parking. Commercial is a little less strict than residential, but these other properties in question may have been done before the regulations it is hard to say without looking into them.

*Mr. Earl* – If we let everyone start building their driveways in the front of their properties simply because some places have already done it can lead to many people possibly coming in "saying if you let them do it why can't I do it?" then this can lead to the creation of a strange looking neighborhood that was not a part of the plan.

Ms. Rumbaugh – speaks on the comment of it looking like a strange neighborhood. I think 6<sup>th</sup> Avenue between 5<sup>th</sup> street and 4<sup>th</sup> street is a really unique blend of eclectic housing, we have 120 year old buildings with a business on the first floor and the owners would live on the second and third floor. The neighborhood and community is a very unique and eclectic

assortment of businesses and houses, and I do not think that the driveway that Mr. Napier installed does not detract and I think that it will increase the aesthetic and value of our neighborhood. It is important to have people wanting to invest positively into our communities and neighborhoods and I believe that is what he is doing.

Paula Harbor steps, address is 531 6<sup>th</sup> Ave. - 540 6<sup>th</sup> Ave,

The Napier's have really cleaned up the neighborhood and that a lot of the neighbors really appreciate it. The driveway is a safer place for them to get out of their vehicles and makes it easier for them and in my opinion improves the look of the neighborhood. They have also really cleaned that house up.

*Mr. Dolin* closes public comment on this matter.

*Mr. Dolin* asks the board if they have any thoughts regarding their criteria to consider.

*Ms. Proctor* – 22-V-39 does not necessarily comply with everything in terms of our criteria, however in conjunction with the other it is much more permissible in my opinion. This is a personal preference, I do have an issue since it is in the front looking so bare, if it were me I would probably put some sort of fencing as wide as the pad to make the distinction because it looks gaping to me, and again this is a personal opinion. Though our bigger concern was access over the sidewalk, so I am good with it.

*Mr. Dolin* – the parking in the front/side yard is a much less impact in regards to pedestrians on the street, oncoming traffic and etc.

*Ms. Proctor* – I would like to go on record and say just because someone else did it does not mean that everybody can do it, that is not an excuse to me I do not care what you know about the city, if you have a question you come ask.

*Mr. Earl* agrees with all of *Ms. Proctor's* previous comments. He also goes on to say that Variance 39 meets the criteria and does not believe that variance 40 does.

*Mr. Dolin* agrees that variance 40 is the one that they have been having the most issues with last month.

*Mr. Earl* made a motion to **approve** BZA 22-V-39, *Ms. Proctor* seconded the motion.

Roll Call BZA: Ms. Proctor, Yes; Mr. Earl, Yes; Mr. Dolin, Yes

BZA petition for a Variance was **APPROVED** with a vote of 3 Yes to 0 No.

*Mr. Earl* made a motion to **approve** BZA 22-V-40; *Ms. Proctor* seconded the motion.

Roll Call BZA: Ms. Proctor, No; Mr. Earl, No; Mr. Dolin, No

BZA petition for a Variance was **DENIED** with a vote of 0 Yes to 3 No.



**BZA 22-V-41**

A petition for a variance to the requirement that the main entrance for non-residential uses must be on the front façade in a C-3 Central Business District, in order to locate the main entrance on the side instead of the 3<sup>rd</sup> Avenue. The property is located at 1513 3<sup>rd</sup> Avenue f/k/a/ 1509-11-13 3<sup>rd</sup> Avenue.

*Petitioner/Property Owner:* Third Avenue Investments, Clint Artrip, organizer, 1 Albemarle Lane, Barboursville, WV

Ms. Lockman presents staff report.

Ms. Lockman noted that the building inspector did not think that removing the door from the 3<sup>rd</sup> Avenue side violated building code, however the Fire Marshal thought that removing the 3<sup>rd</sup> Avenue door did violate fire code. The Fire Marshal did talk to the petitioner and let them know that fire code could be met if a door was installed on the western side of the building if the Board approves the variance.

Clint Artrip presented the petition, and passed around pictures to the Board members, showing the newly paved parking lot and the proposed door that the Fire Marshal said would bring them up to fire code. He continues by talking about a porch that will be built on the parking lot side as well as handicap accessible, he is wanting to let people enter from the parking side because he believes it is safer and it is where people will already be parking.

*Mr. Earl* mentioned that it looked good to him.

Tia Rumbaugh steps forward to speak in favor. Talks about being excited seeing the new restaurant being built on 3<sup>rd</sup> Avenue. She mentions how the old bar that used to be there was an eye sore but when she found out that it would be a new restaurant she has become excited because she likes what they have done with the Calamity J's restaurant. She thinks that logistically it makes more sense to put the main door on the side of the building facing the parking lot so that the sidewalk doesn't get packed, so she is in favor of the variance.

*Mr. Dolin* closes public comment.

*Mr. Earl* – Thinks that each one of the criteria has been met that the Board needs to consider before making a decision.

*Ms. Proctor* – Says the point is to make sure petitioners know that there is code but she is not overly bothered by this variance, likes to see new development in the City.

*Mr. Earl* made a motion to **approve** BZA 22-V-41; *Ms. Proctor* seconded the motion.

Roll Call BZA: Ms. Proctor, Yes; Mr. Earl, Yes; Mr. Dolin, Yes.

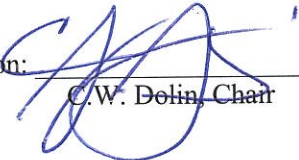
BZA petition for a Variance was **Approved** with a vote of 3 Yes to 0 No.

Ms. Lockman declares that Howard Anderson is off of the Board as of this September and reaches out to the current Board members for any recommendations on new members.

*Ms. Proctor* would like to go on record and official thank *Mr. Anderson* for his service and time served on the Board of Zoning Appeals.

*Mr. Dolin* adjourns the meeting at 6:35 p.m.

Date approved: 11-2-22

Chairperson:   
C.W. Dolin, Chair

Prepared by:   
Nathaniel Crum, Planning Technician