

HAMILTON ZONING BOARD OF APPEALS

MINUTES

Memorial Room 299 Bay Road.

October 4, 2017

Members Present: Bill Bowler (Chairman), Kim Dietel, and John Rodenhizer.

Others Present: Bruce Gingrich (Associate Member)

This meeting was called to order by Bill Bowler at 7:00 pm with a quorum established.

Continuation of the Public Hearing for application submitted for 10 Maple St. Section 4.1.2. Dimensional Requirement Relief for a Building Addition.

Bill Bowler reviewed the previous meeting when the Board had asked the applicant to abide by the existing rear and side yard setbacks in a future design as the requisite hardship was difficult to establish. The Board suggested a redesign that would keep the building addition 12.4' from the rear lot line, which was the existing set back of the garage and no closer than 11.9' from the side line.

There was a discussion between members of the Board and the applicant and her representative Ann Ricker about other feasible designs.

Bill Bowler asked if the addition would be handicapped accessible. Ada Spencer said the doorway would be 36" for handicapped accessibility. Mr. Bowler asked if it were to be a non handicapped accessible door, would the size of the room be the same. John Rodenhizer said nothing changed. Mr. Bowler noted that handicapped accessibility was exempt from zoning so if there were a ramp proposed, the ramp could encroach, but this was not under that criteria.

John Rodenhizer asked to include a condition that the foundation have a certified as built, which would be presented to the Building Inspector before a building permit was issued. The approval would be an extension of a non-conforming use rather than a variance.

Motion made by John Rodenhizer to grant the extension of a non-conforming use for an addition at 10 Maple St. with the understanding that the addition would not be closer than 11.9' to the side lot line or 12.4' from the rear lot line with the condition that a certified as built be presented to the Building Inspector before a building permit was issued.

Seconded by Kim Dietel.

Vote: Unanimous in favor.

Public Hearing for the application submitted for 52 Bridge St. under By-law 3.6 to convert an existing finished living space into an accessory apartment.

Currently there was a temporary living area on the property, which was one of the first permitted when the By-law went into effect. Once the in-law moved on, the area should have reverted to a

non-apartment status, but the applicant wanted to have it converted to a permanent apartment. The apartment was originally permitted under what is now Section 3.4, temporary additional living area.

The applicant said he bought the property in August and was told that if the permit was not granted, the stove and sink had to be removed. The applicant stated that there would be no material changes, the apartment is part of the main dwelling, and parking existed, in accordance with the By-law. The applicant was trying to ease the financial burden and provide a different style of housing in Hamilton.

Bill Bowler described the provisions of the accessory apartment By-law. The unlocked doors would be the second egress. The home was owner occupied. It was a single family dwelling at least ten years old. The apartment was located within in single family dwelling and was less than 900 sf. It was the only accessory apartment on the lot. There was only one bedroom and at least one additional off street parking space was provided. The exterior appearance remained unchanged. The total dwelling space was 1,500 sf. The apartment was 434 sf.

The ZBA had previously approved a temporary apartment, but the section under which the applicant is applying has a different ratio of apartment to main dwelling. Mr. Rodenhizer noted the By-law penalized smaller homes from obtaining accessory apartments as having 15% of a larger home might not pose a problem. While the previously approved temporary apartment had met the By-law, Kim Dietel noted that when there was a change of owners, the permit would expire. The Board has not issued more than 10 permits for accessory apartments in the last 12 months.

Motion made by John Rodenhizer to grant the petition to convert the existing additional living area to an accessory apartment under Section 3.6 of the Hamilton Zoning By-law with the exception that all other parts of the Zoning By-law be adhered to for the duration of the permit other than the additional square footage.

Bill Bowler seconded.

Vote: Majority carried with Kim Dietel voting nay. (2:1)

Public Hearing for the application submitted for 42 Woodbury St. under By-law 3. To convert an existing finished living space into an accessory apartment.

The applicant said the garage was made into an au pair apartment in 1991 with no change in the outline of the house. The interior changed. Bill Bowler asked if the previous owners had a permit for the accessory apartment. The applicant responded that the previous owners were told that as long as an au pair lived there, they did not need a special permit. The previous owners applied for a two family permit, which was granted by the ZBA but conditioned on the approval of the Board of Health who conditioned their approval upon having a separate septic system. Due to the condition, the project was not completed. Family had lived in the apartment, but the applicant would like non family members to rent it.

Bill Bowler asked if the Board of Health approved the current proposal and the applicant responded that a brand new septic system was installed in November of 2014. The system was for the four bedrooms, which included the apartment. The square footage of the existing house was 7,327, which included the apartment space. The apartment was 815 sf. The office was part of the main house. Egresses would be determined by the Building Department. It was noted that the Board of Appeals has not issued more than 10 special permits for apartments in the past 12 months.

Motion to grant the special permit for an accessory apartment at 42 Woodbury St. was made by John Rodenhizer.

Kim Dietel seconded.

Vote: Unanimous in favor.

Adjournment.

Motion to adjourn made by Kim Dietel.

Seconded by John Rodenhizer.

Vote Unanimous to adjourn at 8:08 pm.

Prepared by:

Marcie Ricker

Attest

Date