

MINUTES

The Salisbury Board of Zoning Appeals met in regular session on November 5, 2009, in Room 301, Government Office Building at 7:00 p.m. with attendance as follows:

BOARD MEMBERS:

Patricia Layton, Chairman
Dave Rainey, Vice Chairman
Daniel Baker
Edgar Williams (Absent)
Dave Nemazie (Absent)

CITY OFFICIALS:

Henry Eure, Building, Permits & Inspections Dept.

PLANNING STAFF:

Gary Pusey, Planner
Beverly Tull, Recording Secretary



Mrs. Layton, Chairman, called the meeting to order at 6:58 p.m.

**MINUTES:**

The Board unanimously approved the minutes of the October 1, 2009 meeting.

**#SA-0904**

Irene Lynch – Lot Size Variance of 748 sq. ft. and 708 sq. ft. and Lot Width Variance of 7.2 sq. ft. to Resubdivide Three Existing Lots into Three Newly Configured Lots – 907-911 Vaden Avenue – R-5 Residential District.

Ms. Irene Lynch came forward. Mr. Gary Pusey presented and entered the Staff Report and all accompanying documentation into the record. Mr. Pusey summarized the Staff Report explaining that the Applicant proposes to subdivide three existing lots into three newly-configured lots. One of the proposed new lots contains an existing residence and will require a lot width variance. The other two proposed new lots will each require a lot size variance, as each is below the minimum 5,000 sq. ft. of land area required for a lot in the R-5 Residential District.

Mr. Eure stated that he agreed with the Staff argument as to why the variances should be denied. Although there are similar sized lots in the area, there is an ability to make two (2) legal conforming lots without needing a variance. The Building Department recommended denial of the requested variances.

Ms. Lynch stated that she was able to find other lots in the area that were created more recently that didn't meet the 5,000 sq. ft. minimum. She displayed those tax assessment sheets stating that the lots ranged from 2,800 sq. ft. to 4,400 sq. ft. She stated that her family was trying to maintain their three (3) lot status and make the lots align with the three (3) properties behind them to create a balanced neighborhood. The 65 ft. frontage for the corner lot matches the lot on the other corner and maintains the neighborhood. She requested the variances in order to maintain the three (3) lot status.

Mr. Rainey questioned why she was requesting the variances. Ms. Lynch responded that the lots were nonconforming and that her family wouldn't be able to utilize the property. Mr. Rainey questioned if she had plans to build two (2) additional houses. S. Lynch responded that at this time they didn't have plans to develop the property but as it is currently, the lots are nonconforming. Mr. Rainey questioned why Ms. Lynch would want to resubdivide the lots if she wasn't going to do something with the property. He added that the Board couldn't grant a variance because it would set a precedence. Ms. Lynch responded that there was no option to develop the property because of the current configuration of the lots. Mr. Rainey stated that there was no hardship and no reason to grant the variance.

Mr. Baker stated that if the Board were to grant the variances, the lots would be nonconforming and should she try to develop the properties that she would need to come back to the Board for additional variances. He stated that if she was looking to develop the lots that she should resubdivide to make two (2) conforming lots that wouldn't need any variances. Ms. Lynch reiterated that her family didn't want to downgrade from three (3) lots to two (2) lots.

Mr. Rainey stated that the current home is on two (2) lots as it sits now.

Mr. Eure corrected Ms. Lynch's statement that she had found additional lots that had been created recently that were nonconforming by stating that the tax assessment sheets noted the year that the houses were built, not the year that the lots were created.

Mrs. Layton stated that the third lot as it exists now is unbuildable.

Ms. Lynch requested the Board grant her variances to align the surrounding properties and maintain her three (3) lot status.

Upon a motion by Mr. Rainey, seconded by Mr. Baker, and duly carried, the Board **DENIED** the requested variances to allow the applicant to resubdivide three (3) existing lots into three (3) newly configured lots, based on the criteria listed in Section V(c) of the Staff Report.

Thanksgiving

#SA-8504-09A AT & T Corporate Real Estate – 35.1 ft. Front Yard Setback Variance to Allow for a Proposed 800 sq. ft. Addition that will Extend to 14.9 ft. from an Unnamed Alley – 613 Calloway Street – Light Industrial District.

Mr. John Andrews, Mr. Bob Erickson, and Mr. Joe Walsh came forward. Mr. Gary Pusey presented and entered the Staff Report and all accompanying documentation into the record. Mr. Pusey summarized the Staff Report explaining that the Applicant proposes to construct an 800 sq. ft. addition to an equipment building that will extend to 14.9 ft. from Williams Alley, a 20 ft. wide right-of-way. The Salisbury Zoning Code requires a front yard setback of 50 ft. Board approval of a 35.1 ft. front yard setback variance is requested

Mr. Eure stated that the Building Department agreed with the Staff Report and suggested deleting the proposed condition listed in the Staff Report. He clarified for Mr. Rainey that the request was for a 35.1 ft. front yard setback variance.

Mr. Andrews stated that they were in agreement with the Staff Report.

Mr. Walsh displayed some photographs of the existing building and the proposed addition. He added that they would be increasing the amount of lighting around the building.

Mr. Erickson stated that the neighbors had requested additional lighting due to the area being frequented by vagrants.

Mr. Andrews added that there are existing shrubs around the fence line.

Mr. Erickson stated that the existing building is full and in order to continue to provide service to the area, they need the addition to add additional cabinets to hold the wires.

Upon a motion by Mr. Rainey, seconded by Mr. Baker, and duly carried, the Board **APPROVED** the 35.1 ft. front yard setback variance, based on the criteria listed in Section V(c) of the Staff Report.



Mr. Pusey noted that the Board would be reviewing the Findings of Fact for the Crockett case at the December meeting and questioned if the record would remain closed for any further testimony. Mrs. Layton stated that there would be no further testimony allowed in the case and that the Board would vote on the Findings of Fact.



ADJOURNMENT

With no further business, the meeting was adjourned at 7:30p.m.



This is a summary of the proceedings of this meeting. Detailed information is in the permanent files of each case as presented and filed in the Salisbury-Wicomico County Department of Planning, Zoning and Community Development.

Patricia Layton, Chairman

John F. Lenox, Secretary to the Board

Beverly Tull, Recording Secretary