

Zoning Board of Appeals Meeting

1467 Elm St., Ken & Deb Stoldt SBL #108.19-7-18

1475 Elm St., KDS Apartments, LLC, SBL #108.19-7-19

December 21, 2021

The Zoning Board meeting was called to order by Brian Schumacher at 6:30 pm.

Present: Herbert Schmidt III, Tom Kirszenstein, Brian Schumacher, Attorney Chris Trapp, CEO Czechowski, Ken & Deb Stoldt.

Absent - Michael DeWitt and Charlie Gaffney

The purpose of this public hearing: There is one area variance being addressed at this meeting.

This is an area variance request for inadequate lot width at the multi-family property at 1475 Elms St. the request is to reduce the lot width of the property at 1467 Ems St. from 80 to 71 feet wide and adding 9 feet to 1467 Elms St., in contradiction of the code requirements that the minimum lot width required in 110 feet wide.

At this point member Schumacher opened the Public Hearing to the audience.

Ken and Deb Stoldt addressed the board: They purchased and rehabilitated the adjoining property 6 years ago, that had been in disrepair for 17 years prior to their purchase. This 4 unit has a horseshoe driveway which goes around the house and become a shared driveway with theirs. This causes them to have a very narrow driveway at their person residence (1467 Elm). This not only affects the access to the back porch but were considering selling the 4 unit in the future. In the lease agreement for the apartments the tenants cannot use the south side of the horseshoe driveway. The variance would not change anything esthetically or logistically. The u-shaped driveway was pre-existing to the rental.

CEO Czechowski – there was not recommendation from the EC Dept. of Planning and no reply from the 9 neighboring residents that were notified.

Attorney Trapp –would like the board to review and analyze the criteria carefully. On criteria #2 Whether the benefit sought by the applicant can be achieved by some other method. They can get an easement that will run with the land and give access to the property. With the prospect of selling the property they would want to keep as much property for themselves as possible. #3 Whether the requested area variance is substantial? It is not substantial when you think it is only 9 feet, however it is 71 feet from the required 110 feet set by the code and Master Plan. These are two non-conforming lots. #5 Whether the alleged difficulty was self-created: it is self-created. They can remove 3 feet of blacktop and put-up barriers as a way to get around parking

on the south side of the driveway. #6 Whether it will create a hazard to health, safety or general welfare? Yes it is safer for them not to have them park in the driveway. This variance violates the ZBA and Master Plan. There are other methods available without granting this variance. Please review the standards, cannot recommend granting form a legal standard.

Ken Stoldt – barriers do not make any sense; it looks like an easement is the only way to go.

MOTION by Kirszenstein, seconded by Schmidt to close the Public Hearing. 6:46 pm, Carried.

At this time Schumacher proceeded to review the six criteria for the requested area Variance

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the requested area variance? **No, not conforming to Master Plan** – What is sought is a further reduction in the size of what is, in essence, a separate piece of property which will have the effect of ultimately creating two non-conforming lots. Alterations to lots which are already non-conforming are contrary to the Master plan. One of the basic reasons for the request is to not only allegedly promote the safety of the driveway for one of the houses, but also, as presented by the applicant to make it easier to sell off the apartments and maximize their profit.
2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue other than an area variance? Yes, the property owners could remove the blacktop to prevent residents in the apartments from exiting on the side where the single family home exists (the apartment dwellers would still have full access via the other driveway); they could obtain an easement to allow the homeowners to continue to use the additional parking and driveway for their own purposes; and they could install a fence or other barrier to prevent the apartment dwellers from gaining access to the driveway near the house. Without putting up a barrier or removing some of the blacktop, there would be nothing to prevent the apartment dwellers from using the driveway even if the variance was granted.
3. Whether the requested area variance is substantial? **Yes, the lot is not up to code, and you would be reducing it more.** Lots are required to be 110' wide and the variance, while seeking only a change of 9', it would still result in only 71' of frontage which is significant considering what is required in the code. A further reduction in the property for the apartment would not make the land on which the single family home exists a conforming lot. The change could thus be considered significant when compared to what is required.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district? **No**, all properties would remain purely residential.
5. Whether the alleged difficulty was self-created: which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude

the granting of the area variance? **No. driveway was pre-existing** at the time of acquisition by the applicant.

6. Whether it will create a hazard to health, safety or general welfare? **No.** The safety concern raised by the applicant can be achieved through a rather inexpensive alternative method.

4 no's and 2 yes, the board has made the following motion.

MOTION by Tom Kirszenstein and seconded by _____, to grant this variance.

The board was asked 2 more times for a second, but none was forthcoming.

At this point Kirszenstein withdrew his motion, and the motion failed for lack of a second

Motion by Schumacher and seconded by Schmidt to deny the variance.

Vote – Schumacher and Schmidt – ayes, Kirszenstein – nay, DeWitt and Gaffney – absent.

MOTION by Tom Kirszenstein and seconded by Herbert Schmidt, to adjourn the meeting, Unanimous, Carried. 6:57 pm.

Respectfully submitted,

Sue Galbraith, ZBA Secretary