



Department of Planning, Housing, & Community Development

Mayor, Matthew T. Ryan
Director, Tarik Abdelazim

STAFF REPORT

TO: Zoning Board of Appeals Members
FROM: Planning, Housing and Community Development
DATE: December 10, 2013
SUBJECT: 13 Way Street; Area Variance
TAX ID #: 160.25-2-3
CASE: 2013-30
COPIES: A. Sosa, T. Costello, L. Webb (District 4), File

A. REVIEW REQUESTED

This application would provide for the construction of a single-family dwelling with a ground level garage and an upper-story, 2 bedroom dwelling unit. The proposed site plan shows the structure with a 10 foot rear setback and 5 foot side setbacks on each side. The minimum allowed rear and side setbacks are 25 feet and 25 total feet (with a minimum of 10 feet on one side), respectively, in the R-3, Multi-Unit Dwelling District. An area variance is required to allow the construction of the structure with the proposed setbacks.

In granting an area variance, the Zoning Board of Appeals must weigh the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such a grant. The following must also be considered:

- (a). **Undesirable change**: Whether an undesirable change will be produced in the character of the neighborhood, or whether a detriment to nearby properties will be created;
- (b). **Reasonable alternative**: Whether the Applicant can achieve his goals via a reasonable alternative that does not involve the necessity of an area variance;
- (c). **Substantial request**: Whether the variance requested is substantial;
- (d). **Physical and Environmental Conditions**: Whether the requested variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district;
- (e). **Self-created hardship**: Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

B. SITE REVIEW

The subject site is located on the west side of Way Street, between Eldredge Street and Prospect Avenue, on a 4,100 square foot lot. The structure currently on the lot is slated for demolition. The applicant has stated that it is not financially feasible to move the proposed structure east, thereby meeting the rear setback requirement, because of the presence of the foundation of the currently existing structure. The side setbacks are required because the proposed structure—which is the minimum size allowable by law—only allows for <10 feet on either side.

The applicant has been awarded 9-11 Way Street through the Healthy Homes Initiative and is currently under contract to purchase the lots from the City. The lots will be merged and the two-story, single-family dwelling at 11 Way Street will be rehabilitated and serve as the applicant's primary residence on the new merged lot. 9 Way Street will be demolished by the City and will remain as green space on the applicant's property.

Land uses in the vicinity of the site consist primarily of renter occupied single-family and multifamily dwellings. There is some industrial and commercial land use along Eldredge Street to the South. Several of the detached homes in the vicinity of the site have large accessory buildings similar in appearance to the applicant's proposed project, including the applicant's neighbor to the South.

C. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

None.

D. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **Unlisted** Action. The Planning Commission may be the lead agency to determine any environmental significance.

1. Motion to determine what type of action:
 - a. Type I
 - b. Type II
 - c. Unlisted**
2. Determine Lead Agency and other involved agencies.
3. Motion to schedule a public hearing.
4. After the Public Hearing, Determination of Significance based on:

Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems?	Aesthetic, agricultural, archaeological, historic or other natural or cultural resources; or community or neighborhood character?	Vegetation of fauna, fish, shellfish, or wildlife species, significant habitats, or threatened or endangered species?	A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?	Growth, subsequent development, or related activities likely to be induced by the proposed action?	Long term, short term, cumulative, or other effects not identified in C1-C5?	Other impacts (including changes in use of either quantity or type of energy)?

E. STAFF FINDINGS

Planning Staff recommend that the application for area variances be approved, based on the following findings:

1. The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood.

The proposed project would not produce an undesirable change in the neighborhood. The new structure will be replacing the currently existing blighted property. The proposed project is part of a larger project involving the demolition and rehabilitation of 9 Way Street and 11 Way Street, respectively. Overall, this project will have a desirable effect on the character of the neighborhood.

2. The Zoning Board of Appeals must determine if there are any reasonable alternatives to the proposed variances.

There is no reasonable alternative that would allow the side setback requirement to be met. The only alternative to meet the rear setback requirement would be to construct the proposed structure further east on the lot, which is not financially feasible for the applicant.

3. The Zoning Board of Appeals must determine if the proposed area variances are substantial.

Staff does not consider the requested area variance substantial. The applicant has made an effort to keep the structure as small as possible in order to minimize the substantiality of the variance and meet

all other bulk requirements.

4. The Zoning Board of Appeals must determine whether the alleged difficulty was self created.

The alleged difficulty could be considered self created. However this should not preclude the granting of the variance given the fact that the City, via the Healthy Homes Initiative, sold the property to the applicant after accepting a proposal to construct the proposed project.

F. ENCLOSURES

Enclosed is a copy of the plans and site photographs.