

BEFORE THE BOROUGH OF MILLERSVILLE ZONING HEARING BOARD

IN RE: :
: :
APPLICATION OF : Case No. 16-01
JAGGED DEVELOPMENT, LLC :

DECISION OF THE ZONING HEARING BOARD

A. FINDINGS OF FACT

1. Applicant is Jagged Development, LLC, 1741 Hempstead Road, Lancaster, Pennsylvania 17601.
2. The property which is the subject of this application is located at 340 North George Street in Millersville Borough, Lancaster County, Pennsylvania 17557.
3. Applicant is the authorized agent of the owner of the property.
4. The owner of the property is Edward Boornazian.
5. On April 5, 2016, Applicant filed a request for a special exception to demolish a historic building and a variance to put apartments in a new building.
6. The Application was advertised, the property was posted, and adjoining property owners were notified.
7. A zoning hearing was held April 28, 2016.
8. The hearing was stenographically recorded.
9. Chairman, Lindsay Gerner, was absent. Alternate, David Fisher, served in her place.
10. Prior to the start of testimony, the solicitor announced that the Board had conducted an executive session.

11. Testifying as witnesses at the hearing were Zoning Officer, Mike Tuscan, and Keith Good from Calabrese Good Associates, the architects for the project.

12. Also present and asking questions was an adjoining property owner, Ivan Engle.

13. The subject property is a long and narrow lot with frontage on North George Street to the west, and reverse frontage on an alley running behind the property to the east known as High School Avenue. Another alley, Brenneman Avenue, runs along the southern boundary of the property.

14. The property is currently improved with three structures: a residential dwelling in the front, a deteriorated chicken coop in the center, and a deteriorated barn in the rear.

15. Applicant's intention is to remove the deteriorated chicken coop and the barn, and to replace the barn with a new structure on the same footprint.

16. Mr. Good testified that Applicant had originally been attempting to simply remodel the barn. However, in the course of preparing construction estimates, it was discovered that a number of the foundation timbers are rotted. Mr. Good testified that it would be necessary to raze the building and replace it.

17. Applicant intends to reuse the existing site. It will be of the same height. It will have the same general appearance as the existing building in that it will feature a barn-like appearance with vertical siding and shutters similar to the present shutters. Applicant intends to reuse as many timbers as possible from the original structure.

18. Applicant submitted photographs of the existing barn, as well as drawings of the proposed replacement structure.

19. At present the barn is essentially unused, except for some storage.

20. The barn is in a deteriorated condition and is structurally unsound.

21. Mr. Good reviewed, on the record, the criteria for a special exception for demolishing a historic building.

22. The building will be used for two apartments and a small commercial use. One of the apartments, and the commercial use, will be on the lower level, and one apartment will be upstairs. Applicant desires to rent the downstairs apartment to the tenant who would be utilizing the commercial space.

23. Although a specific tenant has not been determined for the commercial space, Applicant is interested in a tenant who will operate a massage business, and artist studio, or a similar low-impact use.

24. Five parking spaces will be provided, two for each of the apartments and one for the commercial use.

25. Mr. Tuscan, the Zoning Officer, stated that the proposal met the requirements of the Borough parking ordinance.

26. Mr. Engle raised a number of concerns regarding parking by the existing tenants on the property.

27. Regarding the pace of the project, Mr. Good stated that, as soon as the Board made its decision, they were prepared to obtain building permits and proceed with the work.

28. Following the conclusion of testimony, the Board deliberated in public session and voted unanimously to grant the requested special exception for the demolition as well as the variance to allow apartments in a new building.

B. CONCLUSIONS OF LAW

1. The property is located in the RP Zone.
2. The barn structure is a Class II Historic Structure due to its age.
3. Historic Structures can only be demolished pursuant to a special exception granted by the Zoning Hearing Board.
4. The Millersville Borough Zoning Ordinance allows apartments in the RP Zone only in existing buildings, not in new construction.

C. DISCUSSION

Regarding the special exception, the Board has listened carefully to the testimony and finds that Applicant has met its burden of proof in establishing its right to a special exception to demolish the existing structure. The present condition of the structure is the result of gradual deterioration over a number of years and is not the fault of the Applicant. Repairing the structure is not practical. The proposed reuse of the property will minimize the impact of the demolition in that, as far as possible, the new building will be a replica of the old. Indeed, insofar as it is possible to salvage usable timbers from the old structure, the new building will preserve much of the old structure.

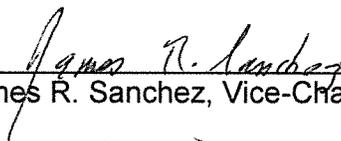
Turning to the question of the variance, the issue before the Board is a narrow one. If Applicant could rebuild the barn, he would be entitled to create apartment uses as a matter of right. The difference is that this structure will be new, even though it will be of the same size, height, shape and location. We see no reason why apartments should be forbidden in a structure so similar to the existing structure. Further, as Mr. Good pointed out, variances are properly granted in cases where the property labors under unique physical circumstances that were not the result of the actions of the land

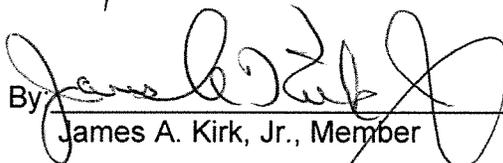
owner. The barn has been on the site for many years. Its size, shape, and location constitute a unique physical circumstance justifying variance relief.

D. DECISION

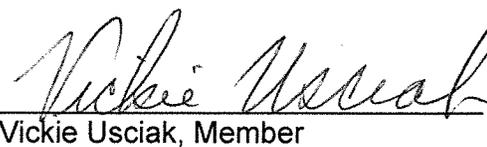
AND NOW, this 28th day of April, 2016, Applicant's requests for a special exception to demolish the existing barn and for a variance to allow two apartments and office space in the new structure are hereby granted.

THE MILLERSVILLE BOROUGH
ZONING HEARING BOARD

By: 
James R. Sanchez, Vice-Chairman

By: 
James A. Kirk, Jr., Member

By: 
Karen Eckert, Member

By: 
Vickie Usciak, Member

By: 
David R. Fisher, Alternate

Chairman, Lindsay Gerner, did not participate in this decision.