

VILLAGE OF CHATHAM
ZONING BOARD OF APPEALS MEETING
October 28th, 2015
Approved Minutes

Board Present

Joanne DelRossi – Chairperson
Brin Quell
Stephen Gitto – Absentia
Jon Morrell
Ken Dow – Village Attorney

Public Present

Aaron Gaylord
Eric Valdina
Lael Locke
Marietta Millet

Call to Order: The meeting of October 28th, was called to order at 7:33 PM.

1. **Application, #2015-037, 7 Line St.; Marietta Millet; Applicant;** site plan review to inhabit studio apartment over garage. Chairperson DelRossi states the application is for a use variance for Marietta Millet. Marietta Millet, the Applicant introduces herself to the Board. Chairperson DelRossi then introduces Zoning Board Member, Aaron Gaylord who has recused himself, as the contractor for Ms. Millett. Chairperson DelRossi reads aloud the letter from Walt Simonsmeier, the Building Inspector to Ms. Millett regarding the plans received for the garage and studio only had a bath with a sink and toilet not the full-bath that was seen being delivered. Chairperson DelRossi reads aloud a follow up letter dated 9/16/15 from Mr. Simonsmeier to Ms. Millett stating she needed to fill out an Application for a Use Variance before she could install a full-bath and kitchen to live on an undersized lot.

Public Member, Eric Valdina asks what the date of the Application is, Chairperson DelRossi states it is 9/13/15. Ms. Millett adds that the original Application and site plan were submitted on 5/12/15 along with the changes. Chairperson DelRossi reads aloud the letter from an abutting neighbor that states he has no problems with the Application. Ken Dow, the Village Attorney states he was asked by the Board to come regarding the type of use variance being requested. Mr. Dow then states the code for a use variance states that no variance shall be granted unless a hardship can be proven and it must be unique, not alter the character of the neighborhood, must not be self-created and must be applied to the property when it was purchased. Mr. Gaylord states the undersized lot is pre-existing. Mr. Dow states he also brought examples of other cases where the Applicant created their hardships and variances could not be granted regardless of whether or not the purchaser is aware of the codes. Mr. Dow adds that once the Building Inspector makes the decision it is prohibited the ZBA can overrule the decision and grant a variance if they feel the hardship is within the code or they can agree with the Building Inspectors decision, other than that, there is not much else that can be done.

Chairperson DelRossi reads aloud the Application and states the property was originally acquired on February 1st, 2008. Chairperson DelRossi states the meeting is now open to the public for comment. Ms. Millett asks what the reason was that the Building Inspector gave for denying her Application. Chairperson DelRossi states Mr. Simonsmeier states the building was a garage originally, therefore it must stay a garage. Mr. Gaylord states basically they can't have two living

spaces on this lot. Mr. Valdina states that he was told and believes Ms. Millett was also told by the previous owner, who is deceased, that there was a condition with this lot that no house could be built on it. Mr. Valdina adds that the old garage was in bad shape and was able to rebuild because she was using the same footprint, but that the permit should not have been issued even for the garage and studio because that should've been a change of use, if it was storage space that would've been the same use. Public Member, Lael Locke asks if the permit was issued for a garage with studio space; Chairperson DelRossi states the permit was granted for a residential garage. Ms. Locke asks if the height was permitted; Chairperson DelRossi states the Building Inspector said the height was within the allowable limit, therefore no variance was needed. Mr. Valdina adds there is no way a residence should be permitted on this lot. Mr. Dow states unless there is something written in the zoning that no residence can be built on this lot, then it shouldn't be a problem to build a separate residence if this is a separate parcel. Mr. Gaylord asks to get back to the use variance, he adds that the house may or may not be built, therefore this would be the only dwelling on this lot, also in Section 110-47 paragraph two it states the minimum square footage for a dwelling is 5,000 on an undersized lot and this is 6,000. Mr. Dow reads aloud the paragraph and adds that a dwelling by itself the minimum is 5,000sq. ft. and that according to what the Building Inspector wrote whether it is permissible to build a house on this lot is not the issue with this Application. Chairperson DelRossi adds that the Building Permit was issued for a garage with studio space above and a bathroom with a toilet and sink. Mr. Gaylord adds that the variance for the side yard setback was granted for the garage and the Building Permit has not yet been issued for the house, essentially would be asking for two bathrooms on the lot. Mr. Dow states it cannot be broken up like that, the Building Inspector has denied the garage as a dwelling. Mr. Morrell asks if the shower and kitchen are on the current plans here and Mr. Gaylord states that they are not. Chairperson DelRossi adds that eventually there will be a house built and there will be two dwellings on an undersized lot. Ms. Millett states there are houses all over Chatham that have apartments above their garage. Chairperson DelRossi states that is not the issue.

Mr. Dow states the Building Permit was to rebuild a garage on the original footprint. Ms. Quell states that from the plans it looks as though eventually a house will be built onto the garage and in the meantime the garage was rebuilt on the original footprint and the plans which included the full-bath, kitchen and living space were not submitted to the Building Inspector.

Mr. Dow reiterates that the denial was to put a living space in a garage and the Building Permit was issued to rebuild what was there originally, the code was in effect prior to the purchase of the property therefore you can't put a new use on the garage unless the code is changed. Ms. Millett states that she was unaware of the code until she spoke with Mr. Simonsmeier the other day. Mr. Dow adds the plans that were submitted and granted a Building Permit were not what was being built.

Chairperson DelRossi states Ms. Millett should sit down with the Building Inspector and discuss what could be done, and at this point the Public Hearing will be closed and the Board will take their vote.

Motion to deny Application, #2015-037, 7 Line St.; Marietta Millet; Applicant; site plan review to inhabit studio apartment over garage on the basis the hardship was self-imposed was made by Mr. Morrell, seconded by Ms. Quell.

Mr. Morrell - Nay

Ms. Quell - Nay

Chairperson DelRossi – Nay

Chairperson DelRossi states that all Board Members present have done a site visit for this Application.

The Minutes from July 21st, 2015 were tabled due to not having a quorum from that meeting.

The Minutes from February 23rd, 2015 were tabled due to not having a quorum from that meeting.

The Minutes from November 24th, 2014 were tabled due to not having a quorum from that meeting.

Adjournment: Zoning Board of Appeals meeting of October 28th, 2015 was adjourned at 8:39PM by motion made by Mr. Morrell, seconded by Ms. Quell.

Respectfully Submitted,

Erin Reis-Costa
Secretary