

October 23rd, 2014

HMA-14:255

Mary-Lou Mota, Joao Mota & Jordon Mota
25 Barnesdale Ave. S., Hamilton

Appearances were:

N. DeFilippis, agent on behalf of the owner. Interested parties were: nil

Those members present for the hearing of this application were: M. Dudzic (Chairman), D. Drury, D. Serwatuk, L. Gaddy, D. Smith, I. Dunlop, W. Pearce

This application was previously tabled at the October 2nd, 2014 Committee of Adjustment hearing to allow the Committee members to conduct a site inspection

N. DeFilippis

- here to correct a problem

Letters were entered into the record from: Andrew McGrath
16 Barnesdale Ave. S., Hamilton, ON L8M 2V2; N. DeFilippis
Design687 Barton St. Suite 201, Stoney Creek, ON L8E 5L6

Following discussion it was moved by Mr. Drury and seconded by Mr. Dunlop that the relief requested be **DENIED** for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the relief requested is beyond that of a minor nature.
2. The relief requested is undesirable for the appropriate development of the land and building and is inconsistent with the general intent and purpose of the By-law and of the Official Plan as referred to in Section 45 of The Planning Act, 1990.
3. The Committee having regard to the intensity of use of the subject parcel of land is of the opinion that such development would not be appropriate for the lands.

L. Gaddy & W. Pearce were opposed to the motion for denial

CARRIED.

October 2nd, 2014

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Mary-Lou Mota, Joao Mota & Jordon Mota
25 Barnesdale Avenue South, Hamilton

Appearances were:

Nick DeFilippis, Agent on behalf of the applicants. Interested parties were: Amanda MacKenzie, 23 Barnesdale Avenue South, Hamilton, ON L8M 2V1; Brother of the property owner of 31 Carrick Avenue.

Those members present for the hearing of this application were: M. Dudzic (Chairman), W. Pearce, D. Drury, D. Serwatak, L. Gaddy, D. Smith, I. Dunlop.

A summary comment from the Planning and Economic Development Division together with comments from other departments and agencies were entered into the record.

An e-mail together with pictures was entered into the record from: Amanda MacKenzie & Santiago Ramirez, 23 Barnesdale Avenue South, Hamilton, ON L8M 2V1; Andrew & Arlette McGrath, 16 Barnesdale Avenue South, Hamilton, ON L8M 2V2; Tony & Marilyn Canning, 18 Barnesdale Avenue South, Hamilton, ON L8M 2V2; Adam Lamont & Kelly Burke, 21 Barnesdale Avenue South, Hamilton, ON L8M 2V1

A. MacKenzie

- see attached letter regarding her objections and concerns
- she has lived here for two years
- thru a Ministry relocation she was moved here and prior to purchasing her property she investigated the area with the City and was told this area was zoned for single family dwellings
- next door use to be a drug house and police did surveillance from her house
- she has no issue with rentals and no problem with diversity
- the woman who owned the property lost the house and her father took over; he apologized for everything they had been thru and asked them to come thru the house before he sold it; it was a single family dwelling at that time
- the owner said that he thought the proposed purchasers knew that it was a single family dwelling but he heard they might want to duplex it

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- she continued to watch at night; there are now walls separating the first and second floors, there are two kitchens and two mailboxes

- N. DeFilippis
 - he was told by his client that it has been a duplex for 16 years; he is not disputing or agreeing
 - there has been two hydro metres since the beginning
 - the MPAC listing is showing it as a duplex
 - there is a conversion policy
 - he agrees with staffs comments
 - the property has to be properly zoned and then everything else will be done correctly and with permits

- A. MacKenzie
 - if everything was done in good faith then she questions why they circumvented the process
 - she also questions why they didn't get the proper permits when they had the opportunity

- D. Beck (staff)
 - this is a "C" district
 - the permitted use is a single family home
 - the By-law has conversion policies and the owner has the right to convert

- A. MacKenzie
 - it seems like this was done thru the back door
 - she was told that this was common
 - do we get rid of the By-laws or do we enforce them
 - she does have an issue when the sole reason is financial
 - she has zero issue with who's there but she does have issues with them blatantly lying to an inspector

- D. Beck (staff)
 - there are 55,000 residents in Hamilton and 20 inspectors
 - some people don't know the process and some people are circumventing the process
 - the applicant paid extra for their application because it was "after the fact" so they are not being rewarded in any sense
 - the City is doing the best we can with what we have

- W. Pearce (Committee Member)
 - the Committee's job is to assess the variances
 - we have to separate how or why they got here

- A. MacKenzie
 - she thought the Committee would look at it as a big picture

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- W. Pearce
(Committee Member) - the Committee's job isn't to punish someone
- A. MacKenzie - she doesn't expect punishment but she does expect enforcement
- I. Dunlop
(Committee Member) - he has a problem with the configuration of the units and the size of the units
- he can't support the application as it stands
- D. Drury
(Committee Member) - he agrees with Mr. Dunlop regarding the size of the units because variance #1 is a pretty big reduction
- he also doesn't like the layout of the units
- W. Pearce
(Committee Member) - he would like to go and have a look at it

In answer to questions from the Committee Mr. DeFilippis stated as follows:

- N. DeFilippis - they haven't gone for a permit yet
- before this can be legalized they need a building permit
- he wants the Building Department to be able to review a permit without there being any zoning issues
- he has to believe what his client says
- his clients obviously didn't know they needed permits
- his client's family is in the area but his client doesn't live there
- there is adequate parking
- most of the variances are dealing with the building and property as it currently exists
- this is not a 100% single family neighbourhood
- the building code review will deal with all the compliance issues
- it's obvious that the second floor needs a fire escape
- they were told that nothing could be built on the back porch until this was dealt with
- he doesn't think there will be any issue with getting the smoke detectors up and running
- read aloud a letter from the owners in response to the letter of objection from Mrs. MacKenzie (see attached)
- the owners are willing to do whatever they need to do as stated in their letter the safety of their tenants is their foremost concern

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Following discussion it was moved by Mr. Gaddy and seconded by Mr. Smith that the application be **TABLED** for site inspection.

CARRIED.

The Secretary-Treasurer advised that the application will be re-scheduled for the meeting of October 23rd, 2014 at 1:05 p.m.