

## ZONING BOARD OF APPEALS MINUTES OF NOVEMBER 6, 2012

Meeting called to order by Chairperson Gerl at 5:00 p.m. in the 1<sup>st</sup> Floor Conference Room, Suite 108, City Hall Plaza.

**PRESENT:** Ken Bargender, Ed Gerl, Richard Kenyon, Robert Lewerenz, and 1<sup>st</sup> Alternate Todd Zieglmeier

**ABSENT:** Dean Markwardt

**ALSO PRESENT:** Planner/Zoning Administrator Miller, and Applicant Pat Schreiner

**ZB12-09** Motion by Kenyon, second by Zieglmeier to approve the minutes of September 11, 2012 as submitted.

### **Motion carried**

Deputy Clerk read the variance request from Pat Schreiner for property located at 106 East 4<sup>th</sup> Street, zoned "B-5" Downtown Central Business District for a variance to the rear yard setback. Section 18-63(6)(f) requires a minimum 20 foot rear yard setback. The existing building is setback 7 feet, 11 inches from the rear yard property line to the east, along the alley. The Applicant is requesting 17 foot, 6 inch rear yard variance to replace a previously established egress platform with a new, expanded egress platform and accessible ramp on the east side of the building 2 feet 6 inches from the rear property line to the east, along the alley.

### Background

The Applicant is requesting to install an egress platform and accessible ramp for the rear entrance to his property at 106 East 4<sup>th</sup> Street. The property used to have a small egress platform located in the back of the building. The Applicant and previous owner have stated that in 1977, the previous owner received permission from the City to place an egress platform for the rear door exit. Staff wasn't able to locate a record of the variance granted to the previous property owner, however, that was prior to our current zoning code and before we started keeping summaries of variances granted, so it would be challenging to find.

When the alley was reconstructed, the egress platform and steps were removed and so was the concrete that was next to the building. The concrete has been replaced and now slopes away from the building towards the alley. The slope next to the doorway is steep enough where it could present a hazard for customers and employees exiting the building. The Applicant is requesting to put a larger egress platform than what was previously there and would also like to install an accessible ramp, connecting the egress platform to the parcel to the north.

The variance is needed because the proposed egress platform is larger than the original, doesn't meet the required rear yard setback, and the Applicant wants to include an accessible ramp.

Based on the proposed zoning code rewrite, staff is anticipating that the variance for the ramp would not be needed next year. Additionally, the current code allows for a 5 foot by 5 foot platform and steps for any required egress in residential development, but does not allow for the same accommodations in commercial development. Staff is proposing to allow for that encroachment in all development. The primary reason for the variance is the Applicant wants to make the egress platform larger than the allowable 5 x 5 square foot area to avoid a slope in the concrete next to the building and would like to construct it yet this year before winter.

Planner/Zoning Administrator's statement of facts regarding the variance request:

1. The property is located at 106 East 4<sup>th</sup> Street.
2. The structure is a commercial building.

3. The property consists of two lots, one of which is a corner lot. Both lots together, have a total area of 6,908 square feet. The two lots together have a frontage of 44 feet and are approximately 157 feet deep.
4. The business is located in the back of both buildings.
5. The property is zoned 'B-5' Downtown Central Business District where the minimum lot size for a commercial building is 3,000 square feet and the minimum lot width is 20 feet.
6. The structures (attached buildings) on both lots are setback from the rear yard property line 7 feet, 11 inches, encroaching on the required setback 12 feet, 1 inch.
7. The Applicant requests a 17 foot, 6 in variance to construct an egress platform 10 feet 9 inches wide by 5 feet 4 inches deep, as well as an accessible ramp on the adjacent lot to the north.
8. The proposed egress platform and ramp would place the structure 2 feet 6 inches from the rear yard property line.
9. Both lots meet the minimum lot size requirements for a commercial building in the 'B-5' Central Business District.
10. Section 18-63 (6)(f) requires a minimum 20 foot rear yard setback and a in the 'B-5' Central Business District.
11. The structure where the door is located was built in 1945. The adjacent structure on the corner was built in 1891.
12. The existing structure predates the current code and is considered a (legal) 'nonconforming structure' and was not developed according to the current setback restrictions of the 'B-5' district.
13. Staff spoke to the City Engineer regarding the proposed variance and he found no apparent safety issues with the structure being close to the alley.
14. In 2003, the adjacent property owner to the south, Rogers Cinema Inc., was granted a variance to construct an addition at a 0 foot rear yard setback from the alley.

Planner/Zoning Administrator Miller went through the Applicant's demonstration of meeting the variance criteria. Miller added that the adjacent building as well as other buildings along the alley have already been built at a 0 foot rear yard setback. The accessibility to the building is a challenge for customers with a disability as they have to go around to the front. The ramp would allow them direct access to the store. Additionally, the new zoning code will allow a commercial ramp and 5' x 5' egress platform within the required setbacks. The ramp will only extend 5'4" beyond the edge of the building which is only 4" further than the new code will allow.

Pat Schreiner, the Applicant said that this is a safety issue and a matter of convenience with the ramp for those with a disability.

Bargender asked when the alley was reconstructed and Schreiner said they just got done with it a couple of months ago. There was a concrete step there before.

Lewerenz asked if the platform is a tall step right off the side towards alley and asked if there will be a pipe rail. The Applicant stated they will have a removable type of rail to allow for deliveries. The ramp will go towards Fourth Street.

Miller added that there was some type of variance or approval that was granted in 1977, but staff was unable to find it in the records.

#### **Summary Responses from Applicant**

**(Unnecessary Hardship)** "The back of the building and access doorway is too close to the alley. An egress platform is required, but would encroach even further into the required setback. If the property owner is required to meet the setback, an egress platform would not be possible and the current situation would present a hazard to patrons."

**(Unique Property Circumstances)** “The existing building is already within the required setback. An egress platform is needed to allow for access to the rear entrance. The concrete near the door is slanted towards the alley. The applicant would like to construct a platform to extend beyond the slanted portion, making the landing safer. Additionally, the applicant would like to include an accessible ramp coming from 4th Street.”

**(No Harm to Public Interests)** “The platform and ramp will not obstruct vision for alleyway traffic. The proposed project will make it easier for everyone to enter the building. Limiting to a five foot by five foot platform would not be as safe of an option.”

**ZB12-010** Motion by Lewerenz, second by Kenyon to grant the variance request from Pat Schreiner for a 17 foot, 6 inch rear yard variance to replace a previously established egress platform with a new, expanded egress platform and accessible ramp on the east side of the building 2 feet 6 inches from the rear property line to the east, along the alley.

**Motion carried**

The new Zoning Code changes regarding variances were discussed. Miller explained that the changes were primarily due to statutory changes regarding the variance criteria.

Motion by Bargender, second by Kenyon to adjourn at 5:30 p.m.

**Motion carried**

Josh Miller  
Planner/Zoning Administrator