ZONING BOARD OF APPEALS MINUTES OF APRIL 13, 2004

Meeting called to order by Chairman Zimmermann at 4:46 p.m. in the Executive Conference Room, City Hall Plaza.
PRESENT: Harry Blackwood, Dean Markwardt, Wallace Reek, Don Wink and Karl Zimmermann
Also Present: Planner/Zoning Administrator Curtiss, Deputy Clerk Panzer, Alan Bedwanic and Pam Loveland

Deputy Clerk read the request from Jean Grambow for a zoning variance to construct a 12' x 14' deck at 308 North Hinman Avenue in the 'R-5' Medium Low Density Residential District. Section 18-62(6)(f) of the Municipal Code requires a minimum 25' rear yard setback. Applicant is requesting a 10' variance to construct the proposed deck 15' from the rear lot line.

Planner/Zoning Administrator Curtiss mentioned that she received objections from a couple of neighbors. Roger Schultz of 1104 East Cleveland Street indicated that he was unable to make it to the meeting. Due to the height of the rear of the house he feels that it is a little excessive as it would abut the rear of his property and effect his privacy. Dan Price of 1100 East Cleveland Street feels that the proposed deck would be too close to the lot line and that the residents at 308 North Hinman Avenue would be able to look down from the deck into his neighbor's house.

Planner/Zoning Administrator mentioned that this is a sizeable request and said that as noted in her statement of facts of her memorandum she would not recommend approval if there were objections from the neighbors. This is not a true hardship.

Markwardt pointed out that the applicant's house sits higher than the neighbors and with a deck they could look down into the neighbor's house. He felt that a deck would make it more evasive.

Reek said that he looked at the property and felt that this variance wouldn't be a problem because when looking down from the deck from both streets the applicant would see the neighbor's garages. He referred to the Planner/Zoning Administrator's memorandum and pointed out that a 12' x 5' deck was approved, so a deck would be built regardless. This variance would just make it larger.

Planner/Zoning Administrator Curtiss read a section out of the zoning ordinance regarding provisions.

ZB04-006 Motion by Wink, second by Markwardt to disallow the request of Jean Grambow and not grant the variance.

Blackwood said that this is an old neighborhood and he can't see where it would detract from the neighbors. If the neighbors are afraid of having someone peek in their windows, they should close their drapes.

Vote on motion **ZB04-006**; Roll call: Blackwood and Reek voted Naye, Markwardt, Wink and Zimmermann voted Aye.
Motion carried

Planner/Zoning Administrator Curtiss indicated that the applicant might come back before this board again if something as far as the placement of the house is not consistent with the initial site plan. Initially they showed 25' in the front which would give them the 30' in the rear which would allow the 5' deck. She said that she may need some clarification on their final plan, because they may have to come back before this committee to even get the 5' deck if something happened in the placement of the home in the yard area.

Deputy Clerk read the request from Alan Bedwanic for a zoning variance to reconfigure an existing nonconforming lot at 307 West 4th Street in the 'R-8' Very High Density Multifamily Residential District. Sections 18-62(9)(d) & (e) of the Municipal Code require a minimum lot size of 30,000 square feet and a 150 feet minimum lot width. Applicant is requesting a variance to create a new resulting nonconforming lot that is 7,918 square feet in size and 74 feet wide.

Deputy Clerk also read the second request from Alan Bedwanic for a zoning variance to reconfigure an existing nonconforming lot at 308 South Walnut Avenue in the 'R-8' Very High Density Multifamily Residential District. Sections 18-62(9)(d) & (e) of the Municipal Code require a minimum lot size of 30,000 square feet and a 150 feet minimum lot width. Applicant is requesting a variance to create a new resulting nonconforming lot that is 3,060 square feet in size and 30 feet wide.

Planner/Zoning Administrator Curtiss explained that this is in a zoning district within the city where we are dealing with nonconforming lots and nonconforming use as single family residences there. Something that the City may want to look at eventually down the road is rezoning to a more appropriate zone. As the zoning code would allow these nonconforming lots to continue based on their existence previous to the code, any modification of those lots would require performance to the current code. They fall short of it as the rest of those do. In dealing with net gain and net loss, some of the additional space would be transferred at the rear of the one on Walnut to the 4th Street address. One of the lots would be substantially smaller, but eliminating an undesirable design where the lot length would extend several times the width of that property.

ZB04-007 Motion by Markwardt, second by Wink to grant a variance to create a new resulting nonconforming lot that is 7,918 square feet in size and 74 feet wide at 307 West 4th Street and to grant a variance to create a new resulting nonconforming lot that is 3,060 square feet in size and 30 feet wide at 308 South Walnut Avenue.

Reek pointed out that nothing conforms now and if approved still nothing is going to conform. We aren't gaining anything and we are not losing anything. We are just helping him out so he may be able to sell this property.

Markwardt felt that approval of the requests would be a logical correction to the lots.

Planner/Zoning Administrator Curtiss pointed out that under the 'R-8' provisions for nonconforming uses if there is a fire, the applicant would not be able to rebuild.

Vote on motion **ZB04-007**; All Ayes.
Motion carried

The Zoning Board of Appeals considered the following issues in granting the variance for the property located at 307 West 4th Street.

1. The rear yard of this property would be extended to the parking area of Calvary Bible Church. The new rear lot line would not be abutting a residential side lot line.
2. The 2,000+ sq. ft. area is already fenced and being used as the rear yard for this property.
3. All the residential lots in the block are nonconforming under current 'R-8' zoning requirements.
4. While the lot size would increase from 5,698 sq. ft. to 7,918 sq. ft. for this lot, the other affected property at 308 South Walnut Avenue would decrease in size from 5,280 sq. ft. to 3,060 sq. ft.
5. The lot width of 77ft would remain the same. This lot width, while nonconforming with the 150ft-lot width requirement of the 'R-8' district, is wider than most of the other 44' wide lots in the block.
6. Neighbors have been notified of this request. To date, there have been no objections to this variance request.

The Zoning Board of Appeals considered the following issues in granting the variance for the property located at 308 South Walnut Avenue.

1. The rear yard area would be shortened and aligned with the rear lot line of the neighboring lot to the south at 312 South Walnut Avenue.
2. All the residential lots in the block are nonconforming under current 'R-8' zoning requirements.
3. The current lot size would be significantly decreased from 5,280 sq. ft. to 3060 sq. ft. in size.
4. While significantly decreasing the size of the lot, this proposed reconfiguration of the lot would eliminate an undesirable lot design, with the depth of the narrow lot almost six times the lot width.
5. The lot width of 30 ft would remain the same. Most lots in the block are 44' wide.
6. Neighbors have been notified of this request. To date, there have been no objections to this variance request

Motion by Blackwood, second by Wink to adjourn at 5:05 p.m.
Motion carried

Lori A. Panzer
Deputy City Clerk