## **ZONING BOARD OF APPEALS MINUTES OF AUGUST 9, 2005**

Meeting called to order by Vice Chairman Reek at 4:46 p.m. in the Executive Conference Room, City Hall Plaza.

**PRESENT:** Harry Blackwood, Dean Markwardt, Wallace Reek, Don Wink and 1st Alternate Marvin

Duerr

**EXCUSED:** Karl Zimmermann

**Also Present:** Planner/Zoning Administrator Curtiss, Deputy Clerk Panzer, John Kinning, Megan Kinning, Gary Kosmiki and Duane Schutz

Deputy Clerk read the variance request from Joseph & Kristen Ledger for a 9' x 12' deck attached to the front of the house at 1012 S. Adams Avenue, zoned 'R-3' Single Family Residential. Section 18-62(4)(f) requires a minimum 25' front yard setback. The applicant requests a 3' front yard setback variance from S. Adams Avenue.

Planner/Zoning Administrator Curtiss stated that this item was published incorrectly. She didn't realize that South Adams Avenue was a major street until after the notice was published. She explained that a greater variance is necessary and that this item should be postponed and republished next month. Applicants have been notified of this error.

**ZB05-20** Motion by Wink, second by Markwardt to postpone the variance request from Joseph and Kristen Ledger until the September meeting in order to republish the item correctly. All Ayes. **Motion carried** 

Deputy Clerk read the variance request from John & Megan Kinning to attach a 12' x 48' garage addition on the house at 1008 W. Laird Street, zoned 'R-2' Large Lot Single Family Residential. Section 18-62(3)(f) requires a minimum 10' side yard setback. The applicant requests a 4' side yard setback variance from the west lot line.

Planner/Zoning Administrator Curtiss presented a statement of facts regarding the variance request. She recommended that if the variance is granted that the 12' x 14' storage shed be removed.

Megan Kinning stated that the shed is sold and should be gone within a couple of days.

Duerr pointed out that the written statement from the neighbor to the west states that they would prefer that about 4 feet of easement remain. According to the plan, there will be 6 feet there, so this will be well within the requirements that the neighbor wishes to have.

**ZB05-21** Motion by Duerr, second by Wink to grant a 4' side yard setback variance from the west lot line. All Ayes.

## Motion carried

The Zoning Board of Appeals considered the following issues in granting the variance.

- 1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.
- 2. The single-family residence is located 18' from the west lot line.
- 3. The minimum side setback for a single-family dwelling is 10 feet.

- 4. Accessory structures, when attached to the main building, must meet the minimum setbacks of the main building.
- 5. The attached garage addition would only be located 6' from the west lot line.
- 6. A concrete parking pad is located where the garage addition would be attached. This parking pad is currently being used for outdoor storage of a travel trailer.
- 7. The edge of the concrete parking pad is approximately 6' from the west lot line.
- 8. Approximately 18' would be located between the neighbor's house to the west and the new garage addition.
- 9. The new garage would provide additional covered storage space on the lot.
- 10. Existing accessory structures on the lot include a 547-square foot attached garage and a 12' x 14' storage shed.
- 11. The size of accessory structures, with the existing garage, shed and new addition, would total 1,291-square feet. The total allowable accessory structure size in the 'R-2' district is 1,200 square feet.
- 12. Public notice has been published and neighbors have been notified. A written statement of no objection from the neighbor to the west is on file.

Deputy Clerk read the variance request from Gary Kosmiki to attach a 6' x 8' deck onto the front of the house at 803 E. Blodgett Street, zoned 'R-5' Medium Low-Density Single and Two-Family Residential. Section 18-62(6)(f) requires a minimum 25' front yard setback. Section 18-04(6) requires a special 50' setback from major streets. Applicant requests a 22.5' variance from the major street setback requirement from Blodgett Street.

Planner/Zoning Administrator Curtiss presented a statement of facts regarding the variance request.

**ZB05-22** Motion by Blackwood, second by Duerr to grant a 22.5' variance from the major street setback requirement from Blodgett Street.

Duerr questioned when East Blodgett Street became a major street.

Planner/Zoning Administrator Curtiss responded since at least 1994. Major streets are identified in the transportation component of the existing Comprehensive Plan and that was prepared in 1994.

Gary Kosmiski questioned how the 50' rule is arrived at, because 50' would take him back to the back of almost every single house in the neighborhood.

Planner/Zoning Administrator Curtiss explained that that is why there is an averaging provision in the code acknowledging the existing development patterns.

Markwardt mentioned that there are some homes in the area that were built recently that are closer than 50' from the sidewalk.

Planner/Zoning Administrator Curtiss said that that is probably true, and specifically their situation average may have allowed them to get a little bit closer. She explained how the average is derived and stated that she wasn't here or involved in the permitting process when these homes were constructed.

Vote on motion **ZB05-22**; All Ayes.

**Motion carried** 

The Zoning Board of Appeals considered the following issues in granting the variance.

- 1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.
- 2. Properties in this block of E. Blodgett Street have been developed with setbacks less than 50 feet.
- 3. Section 18-04(6)(a) allows the required 50' depth of the front yard to be modified to not less than the average depth of existing front yards.
- 4. The two lots adjacent to this property are developed with 33' and 36' setbacks from E. Blodgett Street, allowing a 34.5' averaged front setback for this lot.
- 5. The house is setback 33.5' from the front lot line.
- 6. The proposed deck would extend 5' into the 34.5' averaged setback.
- 7. Based on the stricter requirements of Section 18-04(6), a 22.5' variance would be necessary to construct the deck 27.5' from E. Blodgett Street.
- 8. While a 22.5' variance is substantial, a 5' extension beyond the averaged setback is minimal.
- 9. Public notice has been published and neighbors have been notified. To date, no comments have been received from any neighbors.

Deputy Clerk read the variance request from Duane Schutz to construct an addition onto the existing commercial building at 809 S. Central Avenue, zoned 'B-4' General Commercial District. Section 18-63(5)(f) requires a minimum 20' corner yard setback. Section 18-89 requires off-street parking. Applicant requests a 15' corner yard setback variance from E. 8th Street and a variance to the number off-street parking stalls required for the use.

Planner/Zoning Administrator Curtiss presented a statement of facts regarding the variance request.

Duane Schutz expressed his concerns with having to stripe the parking lot. If he stripes the parking lot, he will have to have two handicap stalls and this will decrease his stalls by two because the handicap stalls won't be used.

Duerr wondered why Mr. Schutz would have to stripe when we already know that there is adequate parking for 20 stalls.

Planner/Zoning Administrator Curtiss clarified her reference to stripping. Currently, there is no delineation of stalls on the property. It is a requirement to delineate those stalls by the measurements that are indicated in the code. How else do you ensure the orderly parking and facilitation of those stalls as they would be designed?

**ZB05-23** Motion by Markwardt, second by Wink to grant a 15' corner yard setback variance from E. 8th Street and a variance to the number off-street parking stalls required for the use with the conditions listed in the Planner/Zoning Administrator's memorandum regarding snow removal and stripping of parking stalls. (1) Snow removal shall be conducted so as to maintain 20 on-site parking spaces; if removal cannot be handled on site, the snow shall be trucked off-site. 2) All parking stalls shall be stripped.) All Ayes.

## **Motion carried**

The Zoning Board of Appeals considered the following issues in granting the variance.

- 1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.
- 2. The lot is developed typical to the characteristics of the nearby 'B-5' downtown district, where the lots are small and buildings are built to 'zero' yard setbacks.

- 3. The property is zoned 'B-4' General Commercial District, however, and the minimum corner yard setback from 8<sup>th</sup> Street is 20-feet.
- 4. The existing structure is nonconforming with a zero front yard and corner yard setback.
- 5. Alteration or extension of a nonconforming structure, as proposed, requires Zoning Board approval.
- 6. The addition should not impact vision clearance as alley provides entrance to the parking lot of the establishment.
- 7. The proposed addition would decrease the area of the off-street parking available on site.
- 8. Section 18-89 of the Municipal Code requires that parking needs generated by development or use to be accommodated on-site. Section 18-89A requires 1 parking stall per every 4 seats for 'restaurant, club' uses and 1.5 stalls per apartment dwelling unit. The facility will be designed for 100 seats. Two existing apartment units are located above the establishment. Based on existing and new development, a total of 28 off-street parking stalls are required.
- 9. As shown on the site plan, a total of 20 parking stalls can be provided on the site.
- 10. The code provides that 'B-5' properties can be granted parking exceptions by the Plan Commission based on recognition of urban or historic characteristics. This property exhibits some of the same characteristics. However, the property is included in a 'B-4' commercial district and the Zoning Board of Appeals must grant any variation to the parking requirements.
- 11. The Municipal Code requires off-street parking and loading to ensure that all developments within the City provide adequate and reasonable parking on-site necessary to serve the development or use. Additional purposes of minimum off-street parking requirements is to reduce traffic congestion, reduce the crowding of on-street parking spaces, enhance traffic and pedestrian safety, and protect adjacent properties from the adverse impacts of uses with inadequate off-street parking.
- 12. On-street parking stalls are present on South Central Avenue and East 8th Street.
- 13. Two other nighttime businesses, Potsies and the microbrewery pub and restaurant, could potentially compete for use of the same on-street parking stalls in the vicinity.
- 14. Public notice has been published and neighbors have been notified. To date, no comments have been received from any neighbors.

Motion by Duerr, second by Wink to adjourn at 5:09 p.m. **Motion carried** 

Lori A. Panzer Deputy City Clerk

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