ZONING BOARD OF APPEALS MINUTES OF JUNE 13, 2006

Meeting called to order by Chairman Zimmermann at 4:46 p.m. in the Executive Conference Room, City Hall Plaza.
PRESENT: Marvin Duerr, Dean Markwardt, Don Wink, Karl Zimmermann, 1st Alternate Jim Asplin and 2nd Alternate Donald Schnitzler
EXCUSED: Wallace Reek
ALSO PRESENT: Planner/Zoning Administrator Curtiss, Director of Planning and Economic Development Miller, Building Services Supervisor Donath, Deputy Clerk Panzer, Peter Chrouser, David Sawicky, Brad Werger, Christopher Meadows, Dale Anderson, Jerry Meissner and Harold Kohlbeck

ZB06-012 Motion by Wink, second by Duerr to approve the minutes of May 9, 2006 as submitted. All Ayes.
Motion carried

Deputy Clerk read the variance request from David & Patti Sawicky to construct a single-family home with attached garage on Lot 59 of Machtan Subdivision 2nd Addition, located on the north side of W. Blodgett Street and east side of Lincoln Avenue, zoned "R-3" Standard Single-Family Residential. Section 18-04 (6) of the Municipal Code requires a minimum 50-ft major street setback from Lincoln Avenue. Applicant requests a 4-ft setback variance in order to build the residence 46-feet from the Lincoln Avenue right-of-way.

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

1. This property is platted as Lot 59 of Machtan Subdivision, 2nd addition.
2. The lot was originally purchased by the owner of the residence on the abutting lot at 1227 W. Blodgett Street and used as extra yard space.
3. The lot is 31,808-square feet in size, with 112-feet of lot frontage.
4. The property is zoned R-3 Residential. The R-3 district minimum lot size is 10,000-square feet and minimum 60-ft lot width.
5. The property is almost 3-times the minimum lot area and almost 2 times the lot width of a standard R-3 lot.
6. Section 18-04 (6) requires a 50' major street setback from Lincoln Avenue.
7. Section 18-04 (6) (a) allows reduction of the 50' special setback from major streets to the averaged setback of the two lots nearest to the lot in question. The homes to the north and south were developed with 50' or greater setbacks from Lincoln Avenue. Therefore, the "averaging clause" does not apply to this property.
8. The lot could be developed with a smaller or different building footprint that would not require any variances.

Planner/Zoning Administrator Curtiss asked if the proposed home would be a two-story or one-story home.

David Sawicky responded a two-story home.

Planner/Zoning Administrator Curtiss said that in that case an additional 2' would be needed. There is a different setback for a two-story home on the side yard to the east.

Zimmermann said that the request would have to change from a 4-ft variance to a 6-ft variance.

Planner/Zoning Administrator Curtiss said that it would have to be re-advertised. She pointed out that the lot can be developed with a smaller or different building footprint that would not require any variances. The lot is not unbuildable under the zoning district. It does carry a greater setback requirement because of the major street classification.

David Sawicky said that he would like to go ahead with the 4-ft variance, so he can get things started on. He didn't want to hold off for another month.

Duerr asked Mr. Sawicky if there was a particular reason that he wants 46' instead of 50' on the offset of Lincoln Avenue.

David Sawicky mentioned the following reasons:

1) We are required to come in off of Blodgett Street. There is no access off of Lincoln Avenue.
2) The lot is longer the other way. It is 268', but I need that width to fit that style of home that is fitting within the neighborhood in there.
3) There is existing landscaping on the lot that I would like to utilize.

Duerr said that since we haven't received any notification from the DOT that Lincoln Avenue is going to be downgraded from a major arterial street and since Lincoln Avenue will be a cross street in years to come he is reluctant to move from the 50' setback.

David Sawicky said that there are houses that are closer than 50'. There are some that are as close as 30'. It is not consistent at all throughout the whole Lincoln Avenue.

Planner/Zoning Administrator Curtiss pointed out that the owner of the adjacent property to the east line of Blodgett Street did use this lot and kept it as a separate lot but used it as yard area. It has remained undeveloped and it is almost three times the size of the standard 'R-3' lot.

Director of Planning and Economic Development Miller added that the functional classification for our street system was last updated this year and this still is a major arterial.

ZB06-013 Motion by Duerr, second by Markwardt to deny the variance request from David and Patti Sawicky. All Ayes.
Motion carried

Deputy Clerk read the variance request from Ronald Konopa to construct a screened porch addition on the east side of the existing residence at 1501 S. Cherry Avenue, zoned "R-7" High Density Multi-Family Residential. Section 18-62(8) (f) of the Municipal Code requires a minimum 10' side yard setback. Applicant requests a 5' side yard setback variance in order to build the addition 5' from the north lot line.

Harold Kohlbeck, neighbor to the north, said that Ronald Konopa couldn't be present because he left for a trip to Mexico City today, because his son is getting married. He mentioned that no one seems to know where our lot line is up in that neighborhood, so how could we go along with something like this. He explained that this started when they widened 14th Street 3'. They never took it off of 14th Street's property owners. They have attempted to move it into the alley, the neighbors north of me didn't seem to

like this for some reason and it got shoved over 28 or 30 inches all the way down the line and into the fairgrounds. This has been 5-10 years ago and we still don't know where are lot line is. He doesn't have an objection to Mr. Konopa building he is just objecting to where it is being built.

Planner/Zoning Administrator Curtiss said that this is not just a matter of the neighbor having an objection or not it is where that lot line is. In most cases, we don't require a survey because it is in most cases known to the property owner where those ends are or they have had it verified. In this case there is a question of what is the variable item. We don't know what the variance request is. The applicant isn't here. The property itself under the 'R-7' High Density Multi-family District is a non-conforming lot and from the information that has been represented to us it is a nonconforming structure and there is some very limited area on extending that nonconformity, whether it be encroaching more into the side yard or whether it be enlarging the structure more into the yard area. There are some pretty limitations there. Since this information was brought forward and the applicant was not present, she recommended holding this item over to get more specific information regarding the actual lot boundaries and the variable here involved.

Zimmermann asked if this could be resolved with a survey.

Planner/Zoning Administrator said that we can get more specific information to bring forward to the board. Right now it is uncertain of where the boundaries apparently are. The applicant is not here to speak for himself.

Duerr said that it would be in the parties' best interest to get a certified survey done.

ZB06-000 Motion by Duerr, second by Asplin to deny the variance request from Ronald Konopa.

It was questioned whether they were denying the variance or holding it over.

Duerr said denying the variance.

Asplin withdrew his second.

ZB06-014 Motion by Duerr, second by Asplin to hold over the variance request from Ronald Konopa until the next meeting. All Ayes.
Motion carried

Deputy Clerk read the appeal of Peter C. & Sally M. Chrouser and their insurer Acuity Mutual Insurance Company of Sheboygan. Appealing a building repair order issued by the City of Marshfield to repair a fire damaged building wall remaining after the building was razed at 216 South Central Avenue, Marshfield, WI 54449. The order requires various repairs to a masonry wall pursuant to Section 15-51 of the Municipal Code and various Subsections of the Wisconsin Administrative Building Code.

Building Services Supervisor Donath gave an update. He said that the only new information that he has is a letter dated June 6, 2006 from Acuity's attorney and some pages behind it that they would like the Zoning Board of Appeals to consider and sign as a document. This information was obtained rather late. He turned the entire file over to the City Attorney and late this afternoon he did come up with a

recommendation or opinion on what should happen in this particular case which was distributed right before the meeting started.

ZB06-00 Motion by Duerr to deny the appeal of Peter C. & Sally M. Chrouser and their insurer Acuity Mutual Insurance Company of Sheboygan.

Christopher Meadows explained that when they turned in an appeal of the order two months ago, they didn't understand that there was the other order issued to Mr. Anderson which they now have received confirmation of and that has been issued, so they are not necessarily appealing the order issued to their insurers, they are simply seeking how they can resolve this.

Zimmermann said that the two parties were going to attempt to get together, because they hadn't met previous to the last meeting and at this point evidently nothing has been resolved.

Brad Werger said that they have been waiting for Dale Anderson to submit estimates. They haven't had any formal discussions since the past 30 days and that prompted their letter to try to get things moving so they could get it resolved.

Dale Anderson explained that he has not been doing nothing and that he is at the mercy of contractors. He tried to get the contractors to have the bids back by May 26th, but he didn't' get any of them back by then. He got one at 6:00 a.m. this morning and he still is missing one.

ZB06-15 Motion by Duerr, second by Asplin to deny the appeal of Peter C. & Sally M. Chrouser and their insurer Acuity Mutual Insurance Company of Sheboygan. All Ayes.
Motion carried

The following items were reviewed:
Proposed variance application
Proposed appeal application
Proposed rules of procedure
Proposed revision to Section 18-35 (2) Variances. Findings required

Zimmermann and Asplin left meeting at 5:38 p.m.

Motion by Wink, second by Markwardt to adjourn at 5:39 p.m.
Motion carried

Lori A. Panzer
Deputy City Clerk