

## ZONING BOARD OF APPEALS MINUTES OF SEPTEMBER 12, 2006

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

**PRESENT:** Dean Markwardt, Wallace Reek, Don Wink, Karl Zimmermann, 1<sup>st</sup> Alternate Jim Asplin and 2<sup>nd</sup> Alternate Donald Schnitzler

**EXCUSED:** Marvin Duerr

**ALSO PRESENT:** Planner/Zoning Administrator Curtiss, Deputy Clerk Panzer, Bill Mueller, Nathan Mueller, Mary Miller and Bud Suckow

Markwardt explained that motion ZB06-24 of the August 8, 2006 minutes was not correct. The 15' setback variance should be a 5' setback variance.

**ZB06-025** Motion by Markwardt, second by Wink to change the wording of motion ZB06-24 to read Motion by Reek, second by Markwardt to grant a 5' setback variance to Chris DeLeske with a condition that no vehicle will be left on the existing driveway except for loading and unloading. If the driveway is violated by parking consistently, the driveway will have to be removed. All Ayes.

**Motion carried**

**ZB06-026** Motion by Reek, second by Wink to approve the minutes of August 8, 2006 as amended. All Ayes.

**Motion carried**

Deputy Clerk read the variance request from Mueller Investment Properties LLC to convert the existing single-family dwelling residence at 114 W. Arnold Street into a two-family residence, zoned "R-6" Medium High Density Residential. Section 18-62 (7)(d) of the Municipal Code requires a 12,000-s.f. minimum lot size for a new two-family dwelling. Applicant requests a 5,092-s.f. lot size variance to establish a two-family residence on the 6,908-s.f. lot.

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

1. The property is located in the R-6 District; on a lot 6,908-sq. ft. in size and 44-feet wide.
2. The minimum lot size in the R-6 District for existing single and two-family residences is 6,000-square feet. New dwellings require a lot size of 12,000-square feet. Minimum lot width in the R-6 District is 80-feet.
3. The property is a corner lot, with street frontages on W. Arnold Street and N. Chestnut Avenue.
4. The majority of the residential lots on W. Arnold Street and in the immediate neighborhood are similar in size as the subject property.
5. The neighborhood contains a mix of single-family, two-family and multi-family residential uses.
6. The Zoning Ordinance identifies the R-6 district as a medium high density district intended to encourage the gradual succession of land use in the older areas of the community and to encourage redevelopment of blighted or underutilized parcels. A combining of platted lots is desired as density increases because of small size of the lots.
7. The proposed development does not meet the density requirement of the R-6 District which is 4,300-sq. ft. per dwelling unit. A two-family dwelling requires 8,600-square feet.
8. The property currently has driveway access from N. Chestnut Avenue. A public alley abuts the property.
9. The current driveway & garage do not provide adequate off-street parking for a two-family residential use. A two-family residential use requires a total of four (4) parking spaces. The garage is basically a 1-car structure. The existing driveway is approximately 18-ft wide and only

10-ft long. Two cars may be able to park side-by-side on the drive, but would extend over the public sidewalk.

10. The structure is non-conforming for required setbacks and is covered under non-conforming provisions of the code. The owner indicates no exterior alteration of the structure is necessary for the conversion to a two-family dwelling.
11. The variance request is substantial, almost half the required lot size in the R-6 District.
12. If the variance is approved, a condition should be attached that the required number of off-street parking spaces be provided on the lot.

Asplin asked if they could put in another parking area in the back off of the alley.

Zimmermann felt that the existing garage is not feasible and something will have to be done.

The Muellers indicated that they plan to demolish the garage and have a platform there for people to park in from the alley.

Reek asked what kind of work they would be doing to the home.

The Muellers responded new electric, plumbing, furnace and paint.

Markwardt mentioned that he noticed a for sale sign in the yard.

The Muellers explained that they were going to try to sell it as is, but there wasn't much out there for prospects for properties like theirs.

Markwardt referred to item number 6 of the Administrator's Statement of Facts and was concerned about going against the zoning ordinance.

Planner/Zoning Administrator Curtiss explained that while the general intent is to encourage redevelopment of blighted or underutilized parcels, we need to look at the neighborhood also. Is there opportunity to combine parcels or utilize parcels? There are properties to the east that she wouldn't consider blighted or underutilized.

Zimmermann pointed out the fact that if the home is destroyed by fire and the owners wanted to rebuild, they wouldn't be able to rebuild it as a two family dwelling.

Reek felt that it would be an advantage to the City and the neighborhood to get the home updated.

**ZB06-027** Motion by Reek, second by Wink to grant the variance request from Mueller Investment Properties LLC with the condition that 4 parking spaces are added off of the alleyway. All Ayes.

**Motion carried**

Deputy Clerk read the variance request from Mary L. Miller to construct a rear addition on the residence at 1421 E. 26<sup>th</sup> Street, zoned "R-3" Standard Single-Family Residential. Section 18-62 (4)(f) of the Municipal Code requires a 25-ft front yard setback from all streets. Applicant requests a 9-ft front setback variance from Butternut Parkway.

Background: The applicant proposes to attach a 4-seasons room on the rear of her residence facing Butternut Parkway right-of-way. The property boundary along the right-of-way was staked and measurements indicate the addition would encroach into the required 25-ft setback. It was also

discovered that the residence was laid out on the lot contrary to the site plan submitted with the original building permit.

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

1. The property is located in the R-3 District; on a lot 14,042-sq. ft. in size.
2. The minimum lot size in the R-3 District is 10,000-square feet. The minimum lot width is 60-feet.
3. The property is an irregular-shaped lot with street frontages on three sides; almost 200-ft frontage on E. 26<sup>th</sup> Street and almost 180-ft frontage on unopened Butternut Parkway.
4. For double-frontage and corner lots, the code requires that applicable "front yards" must be provided on all public streets.
5. Section 18-62 (4) (f) requires a minimum 25-ft front yard setback in the R-3 District.
6. The lot is developed with a 1,052-sq. ft. single-family home with attached garage.
7. A building permit application has been submitted for a 16' x 12' addition on the rear of the home.
8. In preparation of the site plan, the contractor requested the City mark the Butternut Parkway boundary. Measurements from this staked location confirmed that the proposed addition and the existing structure (southeast corner) do not meet the setbacks.
9. The "as-built" location of the home is different than the original site plan submitted with the building permit. The house was to be set on the lot with the closest perpendicular distance of the building footprint located 30-ft from E. 26<sup>th</sup> Street and 35-ft from Butternut Parkway. The southeast corner of the house is located 23-ft from the lot line. The proposed addition would be 16-ft from the lot line.
10. The proposed addition would require a 9-ft front setback variance. The existing house would require a 2-ft setback variance to make it a conforming structure.
11. The zoning code allows the setback of a residence to be averaged if other residences in the same block front were developed closer based on previous codes or predating the ordinances.
12. The "averaging provision" of the code does not apply to this property. Other homes developed in the block frontage between S. Washington Avenue and E. 26<sup>th</sup> Street appear to meet the 25-ft setback.
13. In the remainder of the unopened Butternut Parkway between E. 26<sup>th</sup> Street and E. 29<sup>th</sup> Street there are three older homes that are located between 10-15 feet from the right-of-way.
14. Butternut Parkway, between S. Washington Avenue and E. 29<sup>th</sup> Street, is included on the City's Master Street Map. The street is mapped as a "future street" and remains unopened. The purpose of maintaining a front setback from all public streets (existing and future) is to ensure adequate setbacks of structures should the streets be developed or widened.
15. The Director of Public Works indicates that this section of Butternut Parkway will remain on the Master Street Plan because of the presence of sanitary sewer mains in the right-of-way; however, it is very unlikely the street will be built due to presence of wetlands in the area.

**ZB06-28** Motion by Markwardt, second by Schnitzler to grant the variance request from Mary L. Miller. Markwardt, Reek, Wink, Asplin and Schnitzler voted Aye; Zimmermann abstained, because the Company that we works for built the home several years ago.

**Motion carried**

Planner/Zoning Administrator Curtiss pointed out that the fees for variance applications and appeal applications have increased. The Plan Commission adopted the fees for these applications. These fees have not been updated for 20 years. Most of the fee goes for the public notice.

Planner/Zoning Administrator Curtiss summarized the changes that have been suggested and discussed at the previous Zoning Board of Appeals meetings in regards to the variance application, appeal application,

and rules of procedure. Committee members felt that it would be good to use the Hearing Appearance Slip for all meetings. This will suffice as a sign in sheet. Planner/Zoning Administrator Curtiss will make the necessary changes for implementation.

Motion by Asplin, second by Reek to adjourn at 5:50 p.m.

**Motion carried**

Lori A. Panzer  
Deputy City Clerk