

ZONING BOARD OF APPEALS MINUTES OF FEBRUARY 12, 2008

Meeting called to order by Chairman Markwardt at 4:47 p.m. in the Executive Conference Room, City Hall Plaza.

PRESENT: Dean Markwardt, Don Wink, Karl Zimmermann and 1st Alternate Donald Schnitzler

EXCUSED: Marvin Duerr

ABSENT: Wallace Reek

ALSO PRESENT: Planner/Zoning Administrator Curtiss, Deputy Clerk Panzer, Francis J. Lang, Dominick Lang and Ashley Fritsch

ZB08-001 Motion by Wink, second by Schnitzler to approve the minutes of December 11, 2007 as submitted. All Ayes.

Motion carried

Deputy Clerk read the variance request from Francis J. Lang to construct a two-family dwelling on part of Outlot 1 of Wood County CSM #5141, a 6-acre parcel located on the east side of North Hume Avenue, south of East McMillan Street, zoned "R-4" Low Density Single and Two-Family District. Municipal Code Sec. 18-62 (5) (e) requires a minimum lot width of 80-ft for two-family dwellings. The existing frontage of the outlot is 60-ft wide. Applicant requests a 20-ft frontage variance to create a lot for a proposed two-family dwelling.

Background

The applicant has an offer to purchase the property with the intent to construct one (1) two-family dwelling. The property is 6+ acres in size with only 60-ft of lot frontage on North Hume Avenue. The R-4 District requires a minimum lot width of 80-ft for two-family dwellings.

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

1. The property consists of a 6.28-acre parcel of land, zoned "R-4" Low-Density Single and Two-Family Residential.
2. The property is recorded as Outlot 1 of Wood County Certified Survey Map No. 5141. The Subdivision & Platting Code provides that "outlots cannot be used for development purposes until platted by means of a major or minor subdivision."
A minor subdivision can be accomplished by a certified survey map.
3. The minimum lot size of the "R-4" Residential District for a two-family dwelling is 10,800-sq. ft.; minimum lot width is 80-ft.
4. The property has only 60-ft of frontage on North Hume Avenue. This 60-ft was originally reserved for future road right-of-way to provide alignment with Debra Lane and eventual connection with Brookfield Parkway and aid in the further development of large tracts of lands. Brookfield Parkway is present right-of-way; however, it is unlikely to be opened due to the presence of wetlands and the environmentally sensitive Northeast Greenway corridor. Wetlands are present on the property and believed to cover almost 90% of the area, but have not been delineated.
5. A storm sewer line is located within the 60-ft frontage of the outlot. The sewer line runs into a storm water discharge point approximately 300-ft into the property. A 30-ft easement exists over the storm water line.
6. No structures can be built over the storm water easement. A dwelling would have to be built on the larger back part of the lot on either the north or south sides of the easement.

7. The outlot is not a typical lot configuration. It more resembles a “backlot” or “flaglot” configuration with the 60-ft serving as access to a proposed building site located behind other lots fronting on N. Hume Avenue.
8. General provisions of the zoning ordinance allow frontage modifications for non-typical lots on curvilinear or cul-de-sac streets; but, not for this scenario.
9. The general purpose for additional lot width for two-family dwellings is to allow for a larger building footprint and side setbacks on typical lot configurations in the R-4 District.
10. Lot width for a proposed building line at the rear of the other lots fronting on N. Hume would not be an issue. A more likely issue would be adequate setback & orientation of the dwelling from the rear property line of the existing lots on Hume to ensure privacy of those dwellings fronting on Hume.

Planner/Zoning Administrator Curtiss recommended attaching the following conditions if the Board approves the variance:

- 1) Provide a minimum 25-ft setback from the rear property line of existing lots on Hume Avenue & orient the front of the dwelling facing north, to help ensure privacy.
- 2) Complete a wetland delineation to determine a buildable area of the lot.
- 3) Submit a Certified Survey Map to create a development lot and record the wetland delineation.
- 4) Driveway shall be hard-surfaced within one year of occupancy.

Planner/Zoning Administrator Curtiss said that what the buildable area of the lot is would have to be a condition of approval and a condition of development. This is typically done with a Certified Survey Map. The two-family dwelling may have to be located to the north or south of the 30-ft storm water easement. Even though the storm sewer pipe stops short of Brookfield, the easement covers the entire distance to the Brookfield Parkway to allow the City to maintain an open channel off the end of the storm sewer. It may be understood that structures can not be located within the easement; however Director of Public Works Knoeck would like to see a statement to that effect added to one of the conditions if the variance is approved.

Zimmermann asked Francis Lang if he had contacted the Corps of Engineers to delineate the wetlands.

Francis Lang said no. He thought this process would be cheaper and faster.

Zimmermann said that the Corps of Engineers does it free. He felt that it might be better to postpone this request until Mr. Lang gets the Corps of Engineers in to delineate it and then gives us a better idea of exactly where he is going to place it according to that.

Planner/Zoning Administrator Curtiss said that she did mention those same concerns to Mr. Lang, but he decided to go forward with this variance request.

Chairman Markwardt asked if Planner/Zoning Administrator Curtiss was absolutely sure that the Brookfield Parkway will not be developed.

Planner/Zoning Administrator Curtiss said that she was almost 100% sure that it will not be developed. We don't have it within any Capital Improvement projects and it is right-of-way as has been dedicated and will probably be left as right-of-way to protect the sewer through there and also because of the wetlands. The idea of placing a street on a map and then worrying about correcting the environmental conditions is an old idea that has gone away.

Zimmermann explained a similar situation, the Northeast Greenway where Jefferson Street was suppose to follow that Greenway. The City eventually vacated that land back to the owners, because there was no sense of developing a street along there and you couldn't have sold any lots off of the other side anyways. But here where they have the sewer in already they are going to want to protect that.

Planner/Zoning Administrator Curtiss explained that when it is delineated a lot can be divided to define the building lot area and then also redefine the outlots that might be entirely wetlands that are left with the property. The survey can just help distinguish what is the developable area.

ZB08-000 Motion by Zimmermann to approve the variance request based on the building site being available outside the wetlands area.

Motion died for lack of a second.

Chairman Markwardt asked if there was anyone else that wanted to present more information.

Ashley Fritsch, owner of adjacent property, 1709 Debra Lane said that he would prefer to see it undeveloped. We have enough duplexes around there on both sides of the road. If developed, it will remove access to the snowmobile trails for a dozen or so people.

Francis Lang said that Ron Meyers has been trying to sell his lot for quite awhile. It is a difficult lot to build on for obvious reasons. He feels this is a win, win, win situation except for possibly someone that wants a snowmobile trail. He would get to build a condo where he wouldn't otherwise, because there are no other lots available in the City. The City is going to get a bigger tax base, because they are obviously going to have another building up in the City which isn't happening real productively lately. And Ron Meyers will be happy, because he will finally get rid of his property that he has been paying taxes on for quite awhile. There isn't going to be a lot of people that can build on it.

Zimmermann asked Francis Lang what he would do with the balance of the land.

Francis Lang said that he could make trails with wood chips, but he will probably just sell it to the condo unit individuals like he has done in the past.

Planner/Zoning Administrator Curtiss pointed out that there is an option for an owner of this property to donate to the City the wetland portion to be preserved for green space.

Chairman Markwardt asked if Ron Meyers owned other property around here besides this 6-acre piece.

Zimmermann said that at one time he owned the whole area on the east side of Hume Avenue.

Planner/Zoning Administrator Curtiss said that the most recent parcels that he sold off were just north of here. 1705 and 1707 North Hume, which at one point his plan was to develop a small subdivision there, but the cost of the infrastructure and feasibility just didn't work out for him at that point. But those lots were purchased and developed into two-family dwellings by Mr. Lang. This is a similar situation as far as the back of the property having some wetlands and not able to be further developed into residential lots.

Zimmermann asked if it was legal to run a snowmobile across the road in town through there.

Ashley Fritsch replied yes, within three miles of a county trail.

Zimmermann felt that something could probably be worked out with the property owner to run snowmobiles down one side or the other.

ZB08-000 Motion by Zimmermann to approve the variance subject to recommended conditions in addition to the Director of Public Works recommended condition.
Motion died for lack of a second.

Zimmermann said that he would like to see a delineation of the wetlands.

Chairman Markwardt agreed with Zimmermann. We would then have a better idea of how it is going to impact the neighborhood.

Chairman Markwardt said that he wanted a real answer on the snowmobile access issue. Is that going to be a property owner determination or is it an easement that the City can take advantage of?

Planner/Zoning Administrator Curtiss said that she would check with the City Attorney and get his opinion on the snowmobile access trail issue.

ZB08-002 Motion by Zimmermann, second by Schnitzler to postpone the decision of the variance request from Francis J. Lang until further information is available regarding the wetlands delineation. All Ayes.

Motion carried

Motion by Zimmermann, second by Wink to adjourn at 5:15 p.m.

Motion carried

Lori A. Panzer
Deputy City Clerk