

ZONING BOARD OF APPEALS MINUTES OF OCTOBER 14, 2008

Meeting called to order by Chairman Markwardt at 4:48 p.m. in the 1st Floor Conference Room, Suite 108, City Hall Plaza.

PRESENT: Dean Markwardt, Wallace Reek, Don Schnitzler, Karl Zimmermann, 1st Alternate Ed Gerl and 2nd Alternate Todd Zieglmeier

ALSO PRESENT: Planner/Zoning Administrator Curtiss, Director of Planning and Economic Development Angell, Deputy Clerk Panzer, Richard Kenyon, Keith Polster, Rory Retterath, Lyman Smith and Peter Horvath

ZB08-019 Motion by Reek, second by Gerl to approve the minutes of July 8, 2008 as submitted.

Planner/Zoning Administrator Curtiss reported that the topic about the detached/attached accessory structures and the distance separation was referred to the Plan Commission and the Plan Commission discussed it at the September meeting and felt that there was some need for clarity, effectiveness and to redo the ordinance and this month she has a revision in that would give definitions for both of those and provide an exception process to anything less than 5' as opposed to the 6'. This revision hasn't been approved yet, but is scheduled for the October 21st Plan Commission meeting.

Vote on motion **ZB08-019**; All Ayes.

Motion carried

Deputy Clerk read the variance request from Keith Polster, owner of Lefty's Bar, to construct an addition onto the rear of the commercial building at 107 S. Central Avenue, located in the "B-5" Downtown Central Business District. Section 18-63 (6) (f) of the Municipal Code requires a minimum 20-ft rear yard setback. The structure is already non-conforming with only a 12-ft rear yard setback. The applicant requested Zoning Board approval to enlarge/alter the non-conforming structure and requested an 18-ft rear yard setback variance to build the addition 2-ft from the rear lot line.

Background

The proposed addition would be 10-ft x 10-ft and would be constructed onto the southeast side of the building. The proposed development conforms to minimum front and side yard setbacks, but it does not meet the rear yard setback requirement and cannot be administratively approved. The applicant appealed the decision by filing a request for a variance to the specific requirement of the Municipal Zoning Code.

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

1. The property is 2,972-S.F. in size consisting of 25ft of frontage on S Central Avenue.
2. The property is a non-conforming lot in the "B-5" District.
3. The minimum lot area in the "B-5" Central Business District is 3,000-sq. ft; minimum lot width is 20-ft.
4. The property is developed with a 4,429-S.F. Building, built in 1900, according to assessor records.
5. The existing building is a non-conforming structure, not constructed according to the current setback requirements of the "B-5" District.
6. Section 18-63(5)(f) requires no minimum front, side, or corner yard setback; yet requires a 20ft rear yard setback.
7. The structure was built with a 12ft setback from the lot line, pre-existing any zoning regulations.
8. The proposed addition would match the rear elevation and also be 2ft from the rear lot line, inconsistent with the 20ft rear setback requirement.
9. The smoking shelter addition would add 10-additional feet of structure on the southeast end of the building in the required "rear yard" area.

10. Section 18-33(4)(b) of the Municipal Code prohibits enlargement or alteration of a non-conforming structure in any way which increases its non-conformity, except as permitted by the Zoning Board of Appeals.
11. In commercial districts, the general purpose of the rear yard setback requirement is to allow adequate space for “servicing” and accessibility around the building for such purpose. More specifically, downtown rear yards, provide parking and pedestrian access.
12. No servicing function is performed from the rear of the building. The 100 block has an existing shared dumpster agreement in effect. Public parking is not feasible in this or the adjacent rear yards. The public parking lots provide ample parking for the downtown businesses. This addition will not alter the existing pedestrian access. There is an alley that provides a 16ft wide access around the rear of this and adjacent buildings.
13. Granting the variance should not materially impair the purpose of the general regulation or public purposes nor should it be detrimental to the adjacent properties. There is questionable compliance with all six conditions necessary to obtain a variance as specified in section 18-35(2) of the Municipal Code.
14. Section 18-35(3) of the Municipal Zoning Code states that the board may designate conditional requirements to be placed upon a granted variance regarding the character of the neighborhood.
15. If the board should grant this variance, it is recommended that the addition reflect the character of the surrounding businesses, the goals of the Downtown Master Plan, and the Main Street Marshfield design guidelines.

Rory Retterath, local builder and carpenter said that he would be doing the work and will try to match everything as close as possible to what Mr. Smith has done in the back of the Thomas House. The addition is just going to be a simple structure with three pylons and a roof to keep rain and snow off of the heads of Lefty’s customers who smoke.

Discussion was held as to whether or not the addition would have walls.

Rory Retterath said eventually they might want to enclose some of the walls, but they are restricted to enclosing only three sides. They would like Mr. Smith’s input on whether or not he would like them to put up any walls. They also plan on putting a rain gutter in, so they don’t have water dripping off of their roof onto Mr. Smith’s concrete.

Chairman Markwardt asked if there was a plan for a slab.

Rory Retterath responded no.

Reek asked if there were going to be any lights.

Rory Retterath said that there is a light back there already.

Reek asked if there would be any type of heating in the addition.

Rory Retterath said no.

Lyman Smith, Project Manager for the Thomas House and Central City Station said he has done a lot of work to clean up that back alley. He put in planters, flowers and a steel stairway to help make it feel comfortable for people to come into his buildings. His biggest concern is his tenants. Their clients have a hard enough time as it is to find the entrance into the elevator and if we enclose this little courtyard they will have a harder time finding the entrance. He wants his tenants to feel that this is a safe area. He

understands why Mr. Polster wants to do this. The smoking ban has put him in an imposition. Where should he put the smokers? It doesn't do much good to have them out on Central Avenue. That is not real attractive either. He doesn't want this addition to impact his building. He doesn't know what this addition is going to look like or what the recycled materials that they are going to use are. He said he would be happy to sit down with them and see if there is a better solution.

Reek asked how high this building would be.

Rory Retterath responded 11' 4". The lowest point of the roof will be 8'.

Gerl pointed out that the drawing is 8' off.

Planner/Zoning Administrator Curtiss said the Zoning Board could postpone this variance request and ask for additional information.

Zimmermann said that Mr. Smith has done a good job with the Thomas House. The stairway and ramp in the back was done in good taste and he doesn't want to see that detracted by putting this in. He would like to see them get together and come up with some consensus as to what could be in there.

Lyman Smith said a lot of people use his handicap access. He is concerned with the lack of visibility this addition could cause. People might have a sense of being trapped back there with the creation of this little tunnel. He doesn't feel that this is the appropriate solution. He offered to work with them on an alternative. He said they could perhaps brick in his little plaza and put a gable roof over it out in the open where people could sit and smoke. The apartments could use it, the bar could use it and if the Thomas House ever gets a restaurant in they could use it. This wouldn't require any land swaps.

Planner/Zoning Administrator Curtiss said that she did get proper authorization from Mr. Geldernick, the owner of the building to go ahead with this request. There are other options.

Reek said this is a very minor adjustment and he would like to see something worked out. Mr. Smith has made things look very nice back there, but the bar is between a rock and a hard place.

Gerl said that he was not comfortable with the variance request as it is right now. He suggested both parties look at it and bring something back to the Zoning Board.

Chairman Markwardt asked if a variance would be needed if this was built on the other area that Mr. Smith talked about.

Planner/Zoning Administrator Curtiss said no as long as the 20' rear yard setback and 0' side yard setback are maintained.

ZB08-020 Motion by Zimmermann, second by Gerl to postpone the variance request from Keith Polster to allow the interested parties time to discuss alternatives.

Gerl said that he would like to see a better drawing if this variance comes back to the Zoning Board of Appeals.

Vote on motion **ZB08-020**; All Ayes.

Motion carried

Motion by Reek, second by Schnitzler to adjourn at 5:22 p.m.

Motion carried

Lori A. Panzer
Deputy City Clerk