

ZONING BOARD OF APPEALS MINUTES OF NOVEMBER 11, 2008

Meeting called to order by Chairman Markwardt at 4:45 p.m. in the 1st Floor Conference Room, Suite 108, City Hall Plaza.

PRESENT: Dean Markwardt, Don Schnitzler, Karl Zimmermann, 1st Alternate Todd Zieglmeier, 2nd Alternate Richard Kenyon and Ed Gerl (arrived at 5:03 p.m.)

EXCUSED: Wallace Reek

ALSO PRESENT: Planner/Zoning Administrator Curtiss, Deputy Clerk Panzer and Lyman Smith

ZB08-021 Motion by Zimmermann, second by Zieglmeier to approve the minutes of October 14, 2008 as submitted. All Ayes

Motion carried

The variance request from Keith Polster, owner of Lefty's Bar located at 107 South Central Avenue was postponed at the October 14th meeting to allow the applicant and adjoining property owner time to discuss alternative options to the proposed development.

According to Section 18-34 of the Municipal Code, the Board must act on all variance requests within 40 days after the required hearing.

Planner/Zoning Administrator Curtiss said that Mr. Polster was mailed a notice for this meeting. When she spoke with him he indicated that he and Mr. Smith were not able to come to an agreement. Mr. Polster does not have an alternative design to submit at this time and is still hopeful that he and Mr. Smith can work something out.

Lyman Smith asked the Board to deny the variance request. He explained that he has a plan for a gazebo that he has submitted to Mr. Polster. He would like to make this into more of a community space for smokers.

Planner/Zoning Administrator Curtiss said that it is hard to prove a hardship consistent with the criteria that we have within the code.

Zimmermann said that the Board has granted quite a few of these types of variances.

Planner/Zoning Administrator Curtiss reminded the Board that previous variances granted do not set a precedent for granting variances. Each variance should stand alone on its own merit based on how it compares with the statutory and the code outlined hardship criteria. It is good to include within your decision what the decision is based on to make the decision more defensible.

Zimmermann asked if this decision could be postponed for six months.

Planner/Zoning Administrator Curtiss said there is a 40-day time limit for Board actions. What Mr. Polster submitted was not accurate. He was notified and had opportunity to come back with a revised plan and he didn't.

ZB08-022 Motion by Zimmermann, second by Schnitzler to deny the variance request from Keith Polster with reference to the Administrator's Statement of Facts and because the variance request doesn't meet the requirements as outlined in Section 18-35 of the Municipal Code.

Gerl arrived at 5:03 p.m.

Zieglmeier felt that this addition could create a detriment to the property if the owner tries to sell it.

Gerl felt that the addition could cause a safety hazard. If the rain gutters ever plug up there will be water on the sidewalk that enters the Thomas House and if it is cold out the water on the sidewalk will freeze and then there will be ice on the sidewalk.

Vote on motion **ZB08-022**; All Ayes.

Motion carried

Gerl apologized for being late. His work hours have been changed and he now works until 4:30 and he is having difficulty making it to the Zoning Board of Appeals meetings on time. He asked the Board if they would consider changing the time of the meetings to 5:00 p.m. instead of 4:45 p.m. This consideration will be discussed at the next regular Zoning Board of Appeals meeting.

Deputy Clerk Panzer informed the Board members that there will be a regular meeting on December 9, 2008 for an appeal of a condemnation order for Kopf Plastering.

Motion by Zimmermann, second by Gerl to adjourn at 5:12 p.m.

Motion carried

Lori A. Panzer
Deputy City Clerk