

MINUTES

ZONING BOARD OF APPEALS

January 28, 2015

COUNCIL CHAMBERS, CITY HALL

CALL TO ORDER:

Chairman Dutcher called the Zoning Board of Appeals to order at 500 p.m.

ROLL CALL:

Present: Anderson, Dutcher, Guest, Lamble, Lewis, Polluch

Absent: Martindale

Chairman Dutcher opened the public hearing and explained the procedures for the hearing.

Public Hearing of Case ZBA15-01

Adam Poll, Planning and Development Director presented the zoning request as follows: Gerald Arbuckle, P. O. Box 184, Alpena, MI 49707 is requesting a use variance in the Central Business District to allow him to convert a single family home to a duplex. Article 5.12B.

Property address: 223 Sable Street

Notices were sent to all adjoining property owners within 300 feet of the subject property. Adam said he did not receive any communications either for or against this variance.

To authorize a variance, the board shall find that all of the following conditions are met:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by a special use permit in the zoning district in which it is located.
2. The need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water or topography, and is not due to the applicant's personal or economic hardship.
3. The proposed use will not alter the essential character of the neighborhood.
4. The immediate hardship causing the need for the use variance was not created by the property owner or the previous property owners (self-created).

CONDITIONS: The Zoning Board of Appeals may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in Section 9.9.

FINDING OF FACT: In granting or denying a variance, the board shall state in a written statement of findings of fact, which you can do verbally, the grounds upon which it justifies the granting of the variance.

Staff evaluation of the four conditions relative to this petition is as follows:

1. The building was a legal non-conforming duplex when the applicant purchased the property in 2012. In mid-2013 the applicant began repairs on the property and converted the building into a single family home by removing the kitchen from the upper level with the thought that it would make the home. As the applicant was not increasing the non-conformity no additional special action was required, and the applicant registered the rental as a single family dwelling but has continued to attempt to sell the dwelling. The applicant has subsequently discovered that the property is not selling as a single family home and is requesting permission to once again convert the unit back into a duplex as he believes it would make the property more desirable. Other duplexes in the area include 214 Lockwood, 203 S. Third Avenue, 211 S. Third Avenue, 215 Sable Street, and 316 Sable Street.
2. The location of the property is unique in that it is located just a half a block away from the commercial area of the downtown on a block that is primarily residential with dwelling structures very close together. By ordinance, multiple family dwellings (three or more units) are allowed in the Central Business District by special permit. Although the structure was switched from a duplex to a single family dwelling and it has always qualified as a standalone residential structure. However, neither single family homes nor duplexes are allowed in the Central Business District.
3. The proposed use would not appear to alter the essential character of the neighborhood. The house in question is located on a block made up of residences, with several other duplexes in the immediate area. Also, the structure was a duplex till last year without any known incidents. The home does appear to have off-street parking that would be required for a duplex, although the drive does only appear to be one lane wide.
4. The property is currently a legal non-conforming use, as single family homes are not allowed in the Central Business District. The property owner purchased the property as a duplex which it was for years. Converting the property back to a duplex would not appear to increase the non-conformity as it was previously a duplex and there are several other duplexes in the vicinity.

In granting a variance, the board may attach conditions regarding the location, character and other features of the proposed structure as it may deem reasonable in furtherance of the purpose of this Ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of said variance.

Allowing the home to convert back to a duplex would not appear to alter the character of the neighborhood as there are many duplexes in the area. The non-conforming status was not created by the owner, as it was non-conforming when he purchased the property, along with all the surrounding single family homes and duplexes.

Therefore, staff would recommend approval of the variance request to allow the existing legal non-conforming single family home at 223 Sable Street to be converted to a duplex.

Member Polluch asked if they have to have two parking spaces per apartment.

Donald Gilmet, Building Official said he is familiar with this property and it will have enough parking spaces, because there also is access to the property from the alley for parking. If you built a new apartment house, you might even have to have three parking spaces.

Adam Poll said it depends on the number of bedrooms. If it is a one bedroom apartment, they need one parking space. If there are two or more bedrooms, the property would need 1.5 parking spaces.

PUBLIC COMMENT:

Chairman Dutcher asked if there was anyone who desired to speak either for or against this variance.

Since no one wished to speak on this case, either for or against, Chairman Dutcher closed the public comment portion of the meeting at 5:10 p.m. to deliberate for case ZBA15-01.

Member Lamble made a motion that the variance be approved as requested with the reasons stated by city staff.

Member Anderson seconded the motion.

DISCUSSION BY BOARD MEMBERS:

There was no further discussion on this variance from the board members.

ROLL:

Ayes: Anderson, Dutcher, Lamble, Lewis, Polluch

Nays: Guest

The use variance to allow Mr. Arbuckle to convert a single family home to a duplex located in the Central Business District at 223 Sable Street has been granted.

Let the record show to authorize a variance, the board shall find that all of the following criteria has been met for Case ZBA15-01.

1. The building was a legal non-conforming duplex when the applicant purchased the property in 2012. In mid-2013 the applicant began repairs on the property and converted the building into a single family home by removing the kitchen from the upper level with the thought that it would make the home. As the applicant was not increasing the non-conformity no additional special action was required, and the applicant registered the rental as a single family dwelling but has continued to attempt to sell the dwelling. The applicant has subsequently discovered that the property is not selling as a single family home and is requesting permission to once again convert the unit back into a duplex as he believes it would make the property more desirable. Other duplexes in the area include 214 Lockwood, 203 S. Third Avenue, 211 S. Third Avenue, 215 Sable Street, and 316 Sable Street.
2. The location of the property is unique in that it is located just a half a block away from the commercial area of the downtown on a block that is primarily residential with dwelling structures very close together. By ordinance, multiple family dwellings (three or more units) are allowed in the Central Business District by special permit. Although the structure was switched from a duplex to a single family dwelling and it has always qualified as a standalone residential structure. However, neither single family homes nor duplexes are allowed in the Central Business District.
3. The proposed use would not appear to alter the essential character of the neighborhood. The house in question is located on a block made up of residences, with several other duplexes in the immediate area. Also, the structure was a duplex till last year without any known incidents. The home does appear to have off-street parking that would be required for a duplex, although the drive does only appear to be one lane wide.
4. The property is currently a legal non-conforming use, as single family homes are not allowed in the Central Business District. The property owner purchased the property as a duplex which it was for years. Converting the property back to a duplex would not appear to increase the non-conformity as it was previously a duplex and there are several other duplexes in the vicinity.

Public Hearing of Case ZBA15-02

Adam Poll, Planning and development Director presented the zoning request as follows: Friends Together, 105 Prentiss Street, Alpena, MI 49707 is requesting a use variance in the Central Business District to allow a 32 square foot (4' x 8') off-premise sign for the purpose of acknowledging their sponsors. Article 4.8A2.

Property address: 105 Prentiss Street

To authorize a variance, the board shall find that all of the following conditions are met:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.
2. The need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
3. The proposed use will not alter the essential character of the neighborhood.
4. The immediate hardship causing the need for the use variance was not created by the property owner or previous property owners (self-created).

CONDITIONS: The Zoning Board of Appeals may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in Section 9.9.

FINDING OF FACT: In granting or denying a variance, the board shall state in a written statement of findings of fact, which you can do verbally, the grounds upon which it justifies the granting of the variance.

Staff evaluation of the five conditions relative to this petition is as follows:

1. Strict compliance with the ordinance still allows the use of the lot for its principal purpose as an office. The requested use would appear to be a secondary use which is not allowed in the Central Business District. Friends Together has operated out of this space for quite some time, and not allowing this request would not appear to affect their ability to continue operations.
2. The request would not appear to be unique. The organization wishes to recognize supporters of their programs, and do so by allowing off premises advertising at their Prentiss location. The applicants could purchase a billboard at another location with the appropriate zoning, and have in the past. Allowing off premises advertising at this

location, would appear to allow more funding to be directed to the applicant's programs, but would not appear to be affected by the physical aspects of the lot itself.

3. The request would not necessarily alter the essential character of the neighborhood. State Avenue does have a great deal of signage present. However, in this area there is very little off-premises signage with only the digital message board on the Harborside Mall being utilized for limited off-premises signage, which has a number of regulations on the type of advertising allowed per the Zoning Ordinance.
4. There would not appear to be an immediate hardship as the proposed signage is for fundraising purposes and would be allowed on existing billboards outside the Central Business District.

In granting a variance, the board may attach conditions regarding the location, character and other features of the proposed structure as it may deem reasonable in furtherance of the purpose of this Ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of said variance.

Friends Together has a great cause and plays a very important role in the community. They have many different programs and services that provide great benefits to not only the City of Alpena, but anyone touched by cancer. These programs are able to operate due to fundraisers including their annual FIVE 4 Friends campaign which utilizes a variety of different fundraising techniques to raise funds. The proposed sign would be a new method they are proposing to raise additional funding.

In order for the Zoning Board of Appeals to grant a use variance, the applicant must demonstrate that an unnecessary hardship exists by showing that the request meets all four standards as laid out in the Zoning Ordinance.

In this instance, the site can be and is reasonably used as an office for the organization. The requested use would appear to be an accessory use that would assist in raising funds, but is not necessary for the continued use as an office. The property in question is also not physically unique to require the presence of an off-premises sign, and the request would appear to be based on the applicant's economic needs. Although there are a large number of signs along State Avenue, there is very little off-premises signage. As this is a temporary use, it would not greatly alter the character of the neighborhood. Finally, the need for the use variance would appear to be self-created as the office can function without off-premises signage, and can utilize existing off-premises signage in other locations.

The request would appear to have a limited impact as the request is temporary in nature, with the applicant's requesting to display the off-premises sign three months a year. Temporary signage is allowed but they would be limited to an event, and only be a maximum of 20 square feet, limited to 14 days per calendar year. The sign proposed by the applicant is principally an off-premises sign. Temporary event signs are allowed to show event sponsors, but the event

must be the principal element of the sign. In addition, if the request is approved other non-profits may seek to utilize similar methods of fundraising.

Therefore, staff recommends denial of the request to allow off-premises signage located at 105 Prentiss Street.

PUBLIC COMMENT:

Chairman Dutcher asked if there was anyone who desired to speak either for or against this variance.

Aneka Wagner addressed the board. She works at Friends Together at 105 Prentiss Street. She said it is a campaign they do in order to raise the funds for everything that does take place within the building at 105 Prentiss Street. It is called the FIVE 4 Friends campaign. It is the major campaign they run throughout the year that pays for the majority of all the programs. They mainly run the campaign through the three month period of March, April and May. They would like to be able to offer a sponsorship. If someone wanted to do a billboard sponsorship, the sign would say that they support and sponsor Friends Together and the FIVE 4 Friends campaign with their business name on the billboard. The sign would still have the Friends Together name on it along with the sponsor's name.

Friends Together is a non-profit organization of caring people. We offer support and assistance so that no one in our community will have to deal with cancer alone. We strive to build partnerships, provide programs and services; encourage prevention, wellness, and support. The funds we receive help to supply gas cards and also help with lodging down state.

Member Guest asked, an alternative to a free-standing sign, which would require the variance, what about a sign affixed to the building? Now that would not require a sign variance.

Building Official Don Gilmet said it would be the same thing and require a variance.

Adam Poll said they went about this a number of ways to try and figure out how to avoid going before the Zoning Board of Appeals for a variance.

Ms. Wagner said she has been working with Rick Ferguson from MDOT on this sign variance. She said MDOT is already on board with them being able to do this, but is waiting for approval from the Zoning Board of Appeals first.

Member Polluch asked is this going to be a temporary sign used three months a year.

Ms. Wagner said that is our purpose for what we want it for. If it has things on it that is actually our events that we are doing right there we could still use it, because then it doesn't fall under the variance. What we really want it for is the three months that we can advertise for these sponsorships.

Member Lamble asked Don Gilmet do we have an issue concerning in terms with the parking lot where you have an ingress and an egress and the sign with its size blocking the view.

Don Gilmet said they could route the traffic off State in and out onto Prentiss. The edge of the sign has to be at least two feet back from the edge of the sidewalk. He does not know the width of the grass, but if it is eight feet, and they have a 4' x 8' sign, now it is in the parking lot.

Member Guest said the information they received is the sign will be a 4' x 8' professionally made sign and he asked on the details of what the sign would look like.

Ms. Wagner said the high school building trades program would make it out of either wood or metal. Huron Distributors in trade for a sponsorship, they would make the signs for them that would wrap around the wood or metal. Their plan is to put one on each side and be able to sell six sponsorships. It would say, proud sponsor of the Five 4 Friends campaign with the business name. The sign would be professionally made, it would not be hand painted.

Don Gilmet asked that basically they would make the nylon banners that would cover the sign.

Member Lamble asked how this sign is affixed to the ground. Are there permanent posts that are going in that this sign is attached to?

Ms. Wagner said it is a 4' x 8' piece of wood with a stand with legs. It is a temporary sign that she can store on her property until next year for the three month campaign.

Member Anderson asked does it have to be a standardized fixed sign or is it possible to get one that is movable. She said it will be a temporary movable sign.

Don Gilmet, Building Official said that if they approve this variance he asked that they attach a condition that it is only approved for this occupant for that building. If you decide to approve, do it specifically for Friends Together. If there should be any change, that variance goes away.

Since no one else wished to speak on this case, either for or against, Chairman Dutcher closed the public comment portion of the meeting at 5:35 p.m. to deliberate for Case ZBA15-02.

DISCUSSION BY BOARD MEMBERS:

Member Lamble said we are allowing a buck pole to be advertised. We're dealing with a situation with the Friends organization where they are providing a huge community service. Having lost his sister last year to Leukemia he knows how this affects family in terms of transportation and things that have to be accomplished. Sometimes in our terms of decision and wisdom we just need to look at this from a practical standpoint. He is not seeing anything that is being presented here tonight that would make him opposed to that temporary three

month use from March, April and May for what goal they want to accomplish for this community.

Member Lamble said he would like to make a motion to approve the variance, with the special conditions that are being placed by the city because he thinks they are reasonable.

Member Polluch said the reason he would second that is because it is the slowest three months of the year. There is nothing going on at the boat harbor. They have two driveways to get in and out. He does not think it would block your view to get in and out. He thinks the fundraising part they do is a great asset to the community.

Don Gilmet asked Mr. Lamble if he is also thinking along the lines the fact that this is a Not-for Profit 5013C status organization as opposed to just any business that wants this kind of variance.

Member Lewis said he is in favor of the sign for them, but he thinks they are close to stepping over a line where somebody else is going to come in and ask for a sign like this and they are going to have a hard time saying no, if they do not like it.

Member Anderson said this sign is very worthwhile, but also thinks they should put a three year review on it and come back in three years to find out what is what.

Member Lamble amended his motion to allow the temporary sign for March, April and May for three months, subject to review at the end of a three year period, with the condition that this three month period for the temporary sign to be allowed only for this particular 5013C Not-for-Profit status organization for Friends Together at that location.

Member Anderson seconded the motion.

There was no further discussion on this variance from the board members.

ROLL:

Ayes: Anderson, Dutcher, Lamble, Lewis, Polluch

Nays: Guest

The variance to use a temporary sign for three months March, April and May has been granted subject to the restrictions.

Let the record show to authorize a use variance, the board shall find that all of the following criteria has been met for Case ZBA15-02:

1. Strict compliance with the ordinance still allows the use of the lot for its principal purpose as an office. The requested use would appear to be a secondary use which is not allowed in the Central Business District. Friends Together has operated out of this space for quite some time, and not allowing this request would not appear to affect their ability to continue operations.
2. The request would not appear to be unique. The organization wishes to recognize supporters of their programs, and do so by allowing off premises advertising at their Prentiss location. The applicants could purchase a billboard at another location with the appropriate zoning, and have in the past. Allowing off premises advertising at this location, would appear to allow more funding to be directed to the applicants programs, but would not appear to be affected by the physical aspects of the lot itself.
3. The request would not necessarily alter the essential character of the neighborhood. State Avenue does have a great deal of signage present. However, in this area there is very little off-premises signage with only the digital message board on the Harborside Mall being utilized for limited off-premises signage, which has a number of regulations on the type of advertising allowed per the Zoning Ordinance.
4. There would not appear to be an immediate hardship as the proposed signage is for fundraising purposes and would be allowed on existing billboards outside the Central Business District.

OLD BUSINESS:

There was not any old business.

NEW BUSINESS:

Adam Poll told the board there will be another case in February for Sunrise Mission.

The minutes of the November 25, 2014 meeting were approved as printed.

Member Lewis made a motion to approve the 2015 Zoning Board of Appeals meeting schedule.

Member Lamble seconded the motion.

ROLL:

Ayes: All

Nays: None

ADJOURNMENT:

With no other business to discuss, Chairman Dutcher adjourned the meeting at 5:50 p.m.

Alan Guest, Secretary

Norman Dutcher, Chairman