

MINUTES

ZONING BOARD OF APPEALS

July 29, 2015

COUNCIL CHAMBERS, CITY HALL

CALL TO ORDER:

Chairman Dutcher called the Zoning Board of Appeals to order at 5:00 p.m.

ROLL CALL:

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

Absent: None

Public Hearing of Case ZBA15-06

Adam Poll, Planning and Development Director presented the zoning request as follows: Robert Garant on behalf of Frances Garant, 146 E. Hueber Street, is requesting a use variance in the B-1 Local Business District to legalize an existing legal non-conforming home located at 146 E. Hueber Street. Article 5.16B

Property Address: 146 E. Hueber Street

To authorize a use 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 four conditions relative to this petition is as follows:

1. Strict compliance with the regulations would not allow for a house a standalone dwelling at this location. However, the home is legal non-conforming and no significant changes are planned for the dwelling.
2. The request is unique in the fact it is a legal non-conforming home, located in a small B-1 Zoning District surrounded by R-2 One Family Residential. This district is there to allow for the potential expansion of Nowicki's Sausage Shoppe. The applicants are trying to sell the property and in order to get a mortgage, the new owner needs to legalize the zoning status of the property.
3. The proposed use would not appear to alter the essential character of the neighborhood. The home has been in existence for a long time and no changes to the home are planned.
4. The variance request is not self-created. The building was legally constructed in 1918 and is considered legal non-conforming. Some mortgage companies require that this status be changed to allow a residence as a legal use prior to closing on the property which appears to be the case here.

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.

Due to the fact the existing home is a legal non-conforming home and no significant changes are proposed, and the uniqueness of being next to a majority of other standalone residential family homes, staff would recommend **approval** of the variance request.

PUBLIC COMMENT:

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

Member Lamble asked Mr. Poll if they had any idea of the history of when it became a B-1 district. Mr. Poll said he knows it was prior to 2010.

Donald Gilmet, Building Official addressed the board on this. He said because of the old Corner Bar that was on the opposite corner of Ford Avenue and Hueber Street and the old Coca Cola plant across from McRae Park, which is now Nowicki's Sausage Shoppe, they have always been a

business. In the middle you had all these houses of all the people that worked at the cement plant. Prior to the 2010 change in the zoning ordinance, we thought that would allow for expansion of businesses all the way along that street. It's been long enough that is probably not going to happen. On the other side of Mr. Garant's house, Mr. Piper bought the house on a foreclosure, he is doing remodeling of the house, and planning to sell it. Then there is a Mr. Werda on the other side. All the houses are in good shape and none of them are going anywhere. None of them had any issues with the use variance. Mr. Piper might run into the same problem when he tries to sell the house, unless someone buys the house for cash. Trying to rezone that area residential through the Planning Commission, Mr. Gilmet said he does not know how good that would actually work right now, because there is a business use on the corner that was the Corner Bar. Tim Carr bought the old Corner Bar building, and he is going to want that for a business or store something there. The other side of Hueber Street, the odd numbered side, is all houses too.

Member Lewis asked Mr. Gilmet, how big does a spot area need to be not to be a spot area anymore.

Mr. Gilmet told the board that you can't spot zone. You can't pick one lot and make it something that is not adjoining.

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 5:10 p.m. to deliberate for case ZBA15-06.

Member Lewis made a motion to approve the use variance with the conditions stated by the city.

Member Anderson seconded the motion.

DISCUSSION BY BOARD MEMBERS:

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

ROLL:

Ayes: Anderson, Bray, Dutcher, Guest, Lambly, Lewis, Polluch

Nays: None

The use variance to legalize an existing legal non-conforming home located at 146 E. Hueber Street has been granted.

Let the record show 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).

OLD BUSINESS:

Adam Poll told the board that Sunrise Mission is exploring a smaller footprint on their addition with some additional paperwork to justify their means on their programs. They will need approval from the Planning Commission as well as the Zoning Board of Appeals on this.

NEW BUSINESS:

The minutes of the June 24, 2015 meeting were approved as printed.

ADJOURNMENT:

With no other business, Chairman Dutcher adjourned the meeting at 5:15 p.m.

Alan Guest, Secretary

Norman Dutcher, Chairman