

MINUTES

ZONING BOARD OF APPEALS

March 29, 2017

COUNCIL CHAMBERS, CITY HALL

CALL TO ORDER:

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

ROLL CALL:

Present: Anderson, Bray, Guest, Lamble, Lewis

Absent: Polluch

Acting Chairman Anderson opened the public hearing and explained the procedures for the hearing.

Public Hearing of Case ZBA17-01

Adam Poll, Planning and Development Director presented the zoning use variance request as follows: Kristen Misiak, 326 Long Lake Avenue, is requesting a use variance in the B-1 Local Business District to allow her to convert a single family home to a duplex located at **405 Long Lake Avenue**. Article 5.12B

Property Address: 405 Long Lake Avenue

Notices were sent to all adjoining property owners within 300 feet of the subject property.

Kristen Misiak was not at the meeting so the board allowed the city to present her case.

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 existing structure is a legal non-conforming single family home in a B-1 Local Business zoning district. It is located between two vacant commercial properties, with a gas station and another duplex across the street. The house is located on the same parcel as the former Tuskie's Bar and the structure is about eight feet away from that building.

A residence is only allowed in the B-1 district when it is located above commercial space, which would not appear to be practical due to the design of the existing home.

A new residence or duplex requires a paved parking surface that provides parking for two vehicles per unit on either concrete, asphalt, brick, or similar surface. As this change would increase the number of units, four hard surfaced parking stalls would be required.

2. The property is unique due to its proximity to adjoining commercial uses, with the former Tuskie's bar located only eight feet to the south. Another vacant commercial use is located to the north. It is also unique in that it is located on the same lot as a commercial use, and its rear yard appears to be utilized for parking for the former Tuskie's building. Parking would appear to be adequate for both uses as there would appear to be enough spaces behind the existing buildings and north of the property in question. There is also a gas station across the street on the southwest corner of the intersection of Long Lake Avenue and Walnut Street, and a legal non-conforming duplex across Long Lake Avenue.
3. The proposed use would not appear to alter the essential character of the neighborhood. Surrounding buildings are mostly commercial in nature and there are a number of legal non-conforming duplexes in the area. Utilizing the house as a single family home could be difficult as its rear yard appears to be utilized for parking for the surrounding commercial uses.
4. The hardship was not caused by the current owners. The commercial buildings existing have been present long before the current owners purchased the properties and existing zoning was present.

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.

Staff observations:

The property would appear to be unique as it is a legal non-conforming single family home located among other commercial uses in a B-1 Local Business district. The property is also located on the same parcel as an existing (although for the moment vacant) commercial use formally known as Tuskie's Bar and portions of the rear yard appear to be utilized as parking for the commercial use. The commercial use to the south is located approximately eight feet from the existing legal non-conforming residence. There also appears to be a number of legal non-conforming duplexes in the area. Allowing the home to convert to a duplex would not appear to alter the character of the neighborhood as there are many duplexes in the area, and due to the proximity of commercial uses to the north, south and west. The existing non-conforming status and proximity to commercial uses was not created by the owner.

Therefore, staff would recommend **approval** of the variance request to allow the existing legal non-conforming single family home at 405 Long Lake Avenue to be converted into a duplex.

Member Lamble asked if it is common ownership of the house and Tuskie's. Both Adam and Donald Gilmet, Building Official said yes.

Donald Gilmet, Building Official said the owner's plans were going to remodel the bar into a small wine bar, something like that, and their contractor started looking at the building and said they were throwing good money away, because the bar is a block bar and in bad shape. They have someone working on a set of drawings right now to put a new structure there and raze the current bar.

Member Lamble asked if the bar would be on the same footprint as the duplex. Mr. Gilmet said yes, and it will meet zoning whatever it is.

Member Lamble also asked if there is an issue in terms of setbacks from this proposed duplex to where the commercial property would be.

Donald Gilmet said no, and the proposed duplex is sitting on commercial property. It is all one lot.

Adam Poll said when they do construct the new bar, they are going to be required to hard surface the parking for that.

Donald Gilmet said the contractor is putting an entrance in the side of the duplex. He would have done it whether the duplex was granted or not going toward the north. Don told the contractor

to make sure Kristen knows the bar parking lot has to be paved. If the contractor gets the duplex ready for occupancy prior to the bar project being completed, we do not have any problem with him paving everything all at once. We would not want to make him come in and put in four paved parking spots and have him come back and do the bar later. Obviously, if they do it all at once, it will be cheaper. Their plans are to get the bar done this year also.

PUBLIC COMMENT:

Because there was no one present to speak either for or against this variance, Acting Chairman Anderson closed the public comment portion of the meeting at 5:20 p.m. to deliberate for Case ZBA17-01.

DISCUSSION BY BOARD MEMBERS:

Acting Chairman Anderson said he would like to go through the various authorizations of the four conditions:

Is it unique, and he said it looks like it and the information they have says it is. It does not alter the essential character of the neighborhood, it would improve it. The immediate hardship is not self-created.

He would like to call for a vote to approve or disapprove the variance based on the information of the criteria.

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

Member Lamble made a motion the request be granted subject to the four conditions indicated by the city and the hard surface paving be done for the duplex when the new bar is constructed and completed.

Member Bray seconded the motion.

ROLL:

Ayes: Anderson, Bray, Guest, Lamble, Lewis

Nays: None

The use variance to allow Kristen Misiak to convert a single family home into a duplex located at 405 Long Lake Avenue has been granted.

Let the record show 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 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).

OLD BUSINESS:

There was not any old business per Adam Poll.

NEW BUSINESS:

Acting Chairman Anderson said they need to approve the minutes from the June 29, 2016 meeting.

Member Lamble moved to approve the minutes. The minutes were seconded and approved as printed.

Election of officers:

Member Lamble made a motion to elect Acting Chairman Elwood Anderson as the new Chairman of the Zoning Board of Appeals. Member Guest seconded the motion.

Member Guest made a motion to elect Member Mike Lamble as the Vice-Chairman of the Zoning Board of Appeals. Member Lewis seconded the motion.

Member Lamble moved the current Secretary Alan Guest be re-elected to the current position.

ROLL:

Ayes: Anderson, Bray, Guest, Lamble, Lewis

Nays: None

The new Zoning Board of Appeals officers are:

Chairman: Elwood Anderson

Vice-Chairman: Mike Lamble

Secretary: Alan Guest

ADJOURNMENT:

With no other business to discuss, Acting Chairman Elwood Anderson adjourned the meeting at 5:30 p.m.

Alan Guest, Secretary

Elwood Anderson, Acting Chairman