**MEETING RECORD**

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| **NAME OF GROUP:** | CITY BOARD OF ZONING APPEALS |
| **DATE, TIME AND PLACE OF MEETING:** | Tuesday, January 31, 2014, 1:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska |
| **MEMBERS IN ATTENDANCE:** | Tim Francis, Annette McRoy, Scott Sandquist and Lynn Sunderman; (Andrew Budell absent). Tim Sieh of City Attorney; Todd Stutzman of Building and Safety; Marvin Krout, Steve Henrichsen, Brian Will and Teresa McKinstry of the Planning Department; and other interested citizens. |
| **STATED PURPOSE OF MEETING:** | Regular Board of Zoning Appeals meeting |

Scott Sandquist opened the meeting and acknowledged the posting of the open meetings act posted in the room. He then stated that the first item of business is for election of Chair and called for nominations. Sunderman nominated Sandquist, seconded by Francis and carried 4-0: Francis, McRoy, Sandquist and Sunderman voting 'yes'; Budell absent.

Sandquist then called for nominations for election of Vice-Chair. Sunderman nominated himself, seconded by Francis and carried 4-0: Francis, McRoy, Sandquist and Sunderman voting 'yes'; Budell absent.

Sandquist then called for a motion approving the minutes of the regular meeting held November 27, 2012. Motion for approval made by Francis, seconded by Sunderman and carried 4-0: Francis, McRoy, Sandquist and Sunderman voting 'yes'; Budell absent.

Sandquist then called for a motion approving the minutes of the special meeting held April 12, 2013. Motion for approval made by Sunderman, seconded by McRoy and carried 4-0: Francis, McRoy, Sandquist and Sunderman voting 'yes'; Budell absent.

**APPEAL NO. 14001**
**FOR VARIANCES TO THE MINIMUM LOT WIDTH AND MINIMUM LOT AREA IN THE R-2 ZONING DISTRICT TO ALLOW A DUPLEX, ON PROPERTY GENERALLY LOCATED AT S. 22ND ST. AND SUMNER ST. (1645 S. 22ND STREET)**
**PUBLIC HEARING:** January 31, 2014

Members present: Francis, McRoy, Sandquist and Sunderman; Budell absent.

**Sara Stephenson, 1727 S. 26th St., #2**, appeared as applicant. This house has 5,000 square feet of living space. That is a lot of space for a single family. There is gravel in the

area off the alley, so there is a lot of parking. She submitted a floor plan taken from an appraisal, from when she purchased the house. There are six bedrooms listed. Four bedrooms are on the upper floor and two on the main floor. This house was previously rented to students. They moved when she took over the house. She does not know when this house was made into a duplex. There are two gas meters outside this house. She contacted Black Hills Energy and was told that one meter was installed in 1987and the other one was installed in 2010. The meter installed in 2010 was an exchange because the old meter wasn't working. Jessica from Lincoln Electric System told her the electric meters were 30-40 years old, but had no definitive date of installation. She spoke with Ed who is the electrical inspector at Building and Safety. He believes there might have been an inspection around 1976, but there is no paperwork to confirm it. She showed a picture of the original furnace duct on the floor. The 2nd floor has an newer furnace duct higher on the wall. There are two water heaters in the basement. She presented pictures of the interior of the house. She also showed a map of duplexes in the immediate neighborhood. She believes that a duplex is the best use of this house.

Sunderman questioned if this house was used as a single dwelling when she purchased it. Stephenson replied yes. it was being used as a six room, rooming house, as far as she knows.

Stephenson believes a duplex is what is best for the house.

McRoy asked if there are six students in the property today. Stephenson replied no. The house is in no shape to be rented out at this time. She is currently making repairs.

Sandquist believes changes would have to be made to the interior to use it as a duplex. Stephenson agreed. There is no kitchen on the second floor. Stephenson has been spending money on repairs that need done. The first floor fireplace had to be removed.

McRoy wondered how much money it would take to redo the second floor into a duplex. Stephenson stated that she has already paid $15,000.00. She doesn't know how much more it would take. She has already done new wiring. There are still holes that need patched. The bathroom has been remodeled. This place has been rented in the past as a triplex.

There was no testimony in support.

Opposition

**Robert Engel, 1620 S. 22nd Street,** lives two doors down from this house. He looked at the property in the 1990's when it was for sale. At that time, it was a single family house. It wasn't good for a rooming house. He is not in favor of converting it to a duplex. With a

conversion, there would be eight multi-family properties in the neighborhood. It is a mixed neighborhood right now, but he would like to see more single family. He doesn't believe more multi-family is needed in the area.

Sunderman would like Tim Sieh to explain the role of this Board.

**Tim Sieh from City Attorney's office** stated that the Board's ruling today is on a variance. Variances are to be granted when there is some sort of a practical difficulty or hardship. This is a single family dwelling, which is a reasonable use of the property. The applicant needs to show that there is something unique about the property, that says the granting of these variances would be justified. There needs to be something unique about this lot or property.

Francis questioned if there was a continuous use of this property as a duplex, would it be grandfathered? Sieh replied that is a different question than what this Board determines.

Sandquist questioned if there was a zoning change that recently allowed multi-family.

**Brian Will with Planning Department** replied that there was a downzoning in this area, and this property was involved. The zoning went from R-4 to R-2. If it was still R-4, a duplex would meet the requirements. Due to the downzone, a duplex will not fit in R-2 zoning. That was one of the primary goals of the downzone was to prohibit conversion from single family to duplexes.

Sunderman wondered how long ago that was. Will replied it was in 2005. There were several neighborhoods in the period of a few years, that downzoned large portions of neighborhoods.

Sandquist believes the Near South Neighborhood was one that downzoned. Will confirmed.

Will stated that in reviewing the permit history for ths property back to 1922, there is no record of this property being legally converted into a duplex. In order to be grandfathered, you would have to prove it was legally converted. There is nothing to suggest this was ever done legally.

McRoy wondered about the two gas meters that were installed. Did they need proper permits from Building and Safety to do that? Will replied that someone could install two meters and two water heaters. That doesn't necessarily mean it was a duplex. He does not know that Black Hills Energy checks with Building and Safety to see if all permits are in order, before they install two meters. He does not know their procedures. He is guessing they are not required to check.

Sandquist asked if the meters could have been installed before permits were required for the conversion. Will has no way of knowing.

Stephenson acknowledges this house probably was illegal when it was turned into a duplex. She bought this in 2010 and it looked like a duplex to her. At the time, it was being used as a rooming house with six kids. She believes it was obviously meant to be a duplex with two furnaces, two water heaters and two gas meters.

Sunderman believes the Ordinance states the property can be grandfathered as a duplex if it has been used a duplex for the last two years. Sieh would caution that grandfathering something is not what this Board has the authority to do.

Will believes the question, was this property used as a duplex or not, doesn't matter. The question is if it was legally converted. There are no records of any permits to legally convert this to a duplex.

Sunderman is inclined to vote denial. It looks like it may have been used as a duplex in the past. But according to regulations, it is a case of what can be proved or documented. Nothing has been demonstrated to him that this was ever a legal duplex.

**ACTION:**

Francis moved denial, seconded by Sunderman.

Francis agrees with Sunderman. He doesn't believe there are any unique circumstances here.

Sunderman stated that there is a lack of anything that shows this property was legally converted to a duplex. It is a single family home.

Motion for denial carried 4-0: Francis, McRoy, Sandquist and Sunderman voting 'yes'; Budell absent.

There being no further business the meeting was adjourned at 2:05 p.m.