

MEETING RECORD

NAME OF GROUP: CITY BOARD OF ZONING APPEALS

DATE, TIME AND PLACE OF MEETING: Friday, March 31, 2017, 1:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Andrew Budell, Tim Francis, Chris Hove, Annette McRoy, and Scott Sandquist; Tim Sieh of the Law Department; Ron Rehtus of the Building and Safety Department; Steve Henrichsen, Brian Will, and Amy Huffman of the Planning Department.

STATED PURPOSE OF MEETING: Regular Board of Zoning Appeals meeting

Chair Hove called the meeting to order and acknowledged the Open Meetings Act posted at the back of the room.

Hove called for a motion approving the minutes of the City Board of Zoning Appeals hearing of January 27, 2017. Motion for approval made by Sandquist, seconded by Budell and carried 5-0: Budell, Francis, McRoy, Sandquist, and Hove voting 'yes'.

APPEAL NO. 17002 - REQUESTED BY JIM AND MARY FREDERICK FOR BETTER FUTURITY 4 ALL, FOR A VARIANCE TO THE SIDE YARD SETBACK FROM 20 FEET TO 19.2 FEET ON THE EAST SIDE AND TO 9.8 FEET ON THE WEST SIDE, GENERALLY LOCATED AT 6120 AND 6130 SUMNER STREET.

PUBLIC HEARING:

March 31, 2017

There were no ex parte communications disclosed.

Jim Frederick, 6325 O Street, #310, came forward as applicant. Granting this variance would allow them to proceed with the goal of turning this house into a beautiful 2-family dwelling and to increase the value of the property. The variance would also relieve on-street parking needs. He explained that he and his wife spent several years coming up with this plan. All City rules have been followed and over \$130,000 of retirement money has already been invested in the renovation of the west side (6120 Sumner) and on the construction of a fire wall. Each dwelling would eventually be owner-occupied and this will be one of the nicer 2-family dwelling units in the neighborhood. It has been very easy to collect the signatures of many neighbors because residents in the neighborhood are extremely supportive of rehabilitating this property.

Francis asked if this would function as a 2-home association. Frederick replied that was considered, but was found to be too complicated, so this will be two residences with a common wall.

Hove asked for more details about the history of the home. Frederick said there is ample evidence that the home was used as a marijuana growing operation. Neighbors have noted that 6120 was separated out into a residence and party location where massive parties were held. The 6130 side shows that extreme efforts were made to hide a growing operation. Greenhouses on the property concealed the high volume of water and electricity used so it would not be suspicious. The next occupants rented 6130, which was in violation and that caused problems with neighbors. It appears as though they did not have money to properly fix up the place. Eventually the home was auctioned off and was in very bad shape.

Sandquist asked for clarification about the setbacks in relation to all the other neighbors. Frederick said that the zoning requires a 10-foot side yard setback. Because this is a 2-family structure, it requires 20 feet. Sandquist noted that the setback issue seems unique to this home and the circumstances were not caused by the new owners.

Hove asked if there are signatures of support from the adjacent neighbors. Frederick said yes. McRoy asked if neighbors are present at today's hearing. Frederick said they are and are relieved this structure is being converted back to a home they can be proud of.

Hoved called for anyone who wished to appear in support of this application.

Ardith Allison, 6200 Sumner, came forward to be counted in support.

Frederick said he learned much of the history of the house from the neighbors. Several others had tried to acquire the property for cheap with no intention of taking proper care of the house. The house had a bad reputation.

C.C. Smith, 1619 Crestline Drive, came forward in support. He has been through the newly renovated side of the house and the Fredericks are doing a very nice job. His family has been in the neighborhood for years and knows the house was not maintained as it should have been.

Frederick said when the house was assessed, the valuation decreased by half once it was discovered that it had been combined.

Ken Roeloffs, Golden Oak Renovations, 5418 S. 78th Street, came forward as contractor on the project. He described conditions in the house before renovations. The west side had mold in the basement all the way up to the ceiling. Brush had brown over the fence and the pool was hardly accessible due to overgrowth. There were squirrels living in the attic and it was filled with acorns. The Assessor described the house as "unlivable" when it was purchased.

The structure has separate basements, access and utilities. Building and Safety suggested we just work on one side at a time. They issued permits for the main level, basement and to build the firewall. We had the lot re-surveyed to locate the property line through the firewall and that is when alarm bells sounded about the setback issue and all construction was halted. Roeleffs said he has personally seen the owners go through the proper process to renovate the house. All of this investment was done with the understanding that the dwelling could be separated. He described some of the measures taken by the previous owner to conceal the marijuana growing operation.

Frederick said this is about viability. It is not possible to remove the atrium between the homes and go back to a single-family dwelling. Large portions of the house would have to be destroyed. Roeloffs added that the home wouldn't have a garage and it would be difficult to have legal parking. Frederick said the original permit said there was 12 feet, but that was incorrect, so they are asking for the offset on the west side so both sides of the structure can be viable.

Several images were presented to show the condition of the house at the start of renovation and after. Roeloffs said original architectural features were included in the renovation. The interior was opened up. A new garage is already framed and roofed. The driveway line was already moved before anyone was aware of the problem.

There was no testimony in opposition.

Sandquist commended the applicant and the contractor on the quality of work done so far and the extent they have gone to in notifying neighbors and getting their approval. The issue is obviously not the quality of work, but the setback. He asked Staff for clarification about the requirements.

Brian Will of the Planning Department came forward to say this particular case has a twist. This was originally two lots, typical for the area. Two single-family homes were built and met all of the requirements. Someone owned both homes and legally converted the homes into a single-family house, which still met all of the requirements as one house on two lots. What is occurring now is that by converting the home into a two-family attached dwelling, the required setbacks change. It goes from 10 feet for the single, to 20 feet.

The permit for the firewall was approved by the City at a time when the owner submitted a plan to create two lots. Only then did Staff notice this would not meet the setbacks and should not be divided into two dwellings. A common question is why the setback is greater for the two-family. The ordinance accounts for the fact that it is a larger house, occupying more of the property, so it is treated in a similar way to apartments in that the idea is to create more separation.

Hove asked if the setbacks were different when the property was built as two separate lots. Will said the difference is not much. If the middle connection were removed to make two houses, it may meet the requirements. Hove noted they were two separate

homes that met the setback from each other, but that space was filled in. Will agreed that was the case and that it was in compliance, at the time.

Francis said that this could still function as one big family home. Will said yes, it was converted to function that way. That is how it existed since 1973.

Sandquist said that despite the legal setback requirements in the code, requiring 20 feet for this structure is unique compared with every other dwelling in the entire neighborhood. For that reason, he moved approval of the variance.

Budell agreed that there are several peculiar circumstances, as evidenced by the testimony. He seconded the motion.

Motion for approval carried, 5-0: Budell, Francis, McRoy, Sandquist and Hove voting 'yes'.

There being no further business, the meeting was adjourned at 2:17 p.m.

Note: These minutes will not be formally approved by the City Board of Zoning Appeals until their next regular meeting.