

Approved: 2/14/08  
Clerk: 3/18/08

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**MINUTES OF THE REGULAR MEETING  
BOARD OF ZONING APPEALS  
DECEMBER 13, 2007 7:30 P.M.  
CITY COUNCIL CHAMBERS, 10<sup>TH</sup> FLOOR CITY HALL**

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**I. ROLL CALL**

The meeting was called to order by Chairman Burgess at 7:30 p.m. Chairman Burgess read the BZA introduction. Roll call was taken.

**Present:**

B. Burgess      A. Frederick      E. Horne      G. Swix      B. McGrain      G. Hilts

M. Mayberry (Arrived at 7:45)

**Absent:**      None

**Staff:**      S. Stachowiak

A.      A quorum of at least five members was present, allowing voting action to be taken at the meeting.

**II APPROVAL OF AGENDA**

**A. Frederick moved, seconded by E. Horne to approve the agenda with the additions of "Ordinance Change" & "Excused Absence" under new business.**

**On a voice vote, the motion carried 6-0.**

**III. HEARINGS/ACTION**

**A. BZA-3920.07, 326 S. Foster Avenue**

This is a variance request by Rodolfo Gaytan to convert the building foundation on the northwest corner of Kalamazoo and Foster Avenue into a garage. Section 1248.03 of the Zoning Code permits one garage per parcel of land, requires a 60 foot front yard setback and requires that the size of a garage not exceed the floor area of the house. If approved, the subject property would be combined with the property to the north at 318 S. Foster which already has a 216 square foot garage and a house that is 748 square feet in area. The proposed garage would be approximately 818 square feet in area and would have a front yard setback of approximately 35 feet. Variances of 1 to the allowable number of garages, 25 feet to the required front yard setback and 70 square feet to the allowable size for a garage are therefore, being requested. Staff recommended denial of the requests on a finding that the variances would be inconsistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

**Belinda Fitzpatrick, 224 S. Holmes Street, spoke in support of the request. Ms. Fitzpatrick**

stated that she is helping her neighbor, Mr. Gaytan. She said that she took this matter on over a year ago and they have been before Judge Giddings on numerous occasions during that time. Most recently, the judge suggested that Mr. Gaytan explore the possibility of converting the foundation to a garage. She stated that the house that was moved from Wood Street was deemed unfit by the Lansing Building Safety Office to place on the foundation that was constructed. She said that if the variances are not approved to allow the conversion to a garage, the foundation will sit at this location for another year. Ms. Fitzpatrick showed pictures of surrounding properties to the Board and stated that the proposed garage is not inconsistent with the surrounding area.

Mr. Swix asked if Habitat for Humanity would be interested in building a house on the foundation.

Ms. Fitzpatrick said that they have explored this possibility and no one is interested in building on this property because it would take approximately \$60,000 to build the house and this is what houses are selling for in the area.

**Rudolfo Gaytan, 318 S. Foster Avenue**, spoke in support of his request. He said that the property in question was a mess for many years. He purchased it and cleaned it up so that it would not be a safety hazard to his children. Mr. Gaytan said that he purchased a house on Wood Street approximately 3-4 years ago which the city later determined to be unsafe and required that it be demolished. He said that now the city wants the foundation removed also and he cannot afford to keep putting money into this project.

Mr. McGrain asked about the intent of the garage. He said that the location, along with the size of the garage gives him cause for concern that it might be used for automobile repair at some time in the future.

Mr. Gaytan said that he would only use the garage to park cars.

Ms. Stachowiak stated that permits were issued for the foundation that is currently on the lot. She said that the structure that was moved from Wood Street sat on the lot for so long that by the time it was ready to be placed on the foundation, it was no longer in a safe condition.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. Frederick stated that the structure sat on this lot for a very long time. He said that this is a fragile neighborhood and the matter of the relocated house and the current foundation has gone on long enough. Mr. Frederick said that there are planning principles that dictate why this request is not appropriate. Most notably, it is improper to have a large, detached garage occupying a corner lot in what is largely a residential neighborhood.

Mr. Hilts stated that, other than financial issues, he has not heard anything that speaks to a practical difficulty or unnecessary hardship. He stated that without a demonstrated practical difficulty or non-financial hardship, the Board does not have the authority to approve the variances.

**A. Frederick moved to deny BZA-3920.07, variances of 1 to the allowable number of garages, 25 feet to the required front yard setback and 70 square feet to the allowable size for a garage at 326 S. Foster Avenue, on a finding that the variances would be inconsistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. Seconded by G. Hilts.**

VOTE	YEA	NAY
Burgess	X	
McGrain	X	
Swix	X	
Mayberry		X
Hilts	X	
Horne		X
Frederick	X	

Motion carried, 5-2, BZA-3920.07, was denied.

**B. BZA-3915.07, 720 N. Seymour Street**

This is a variance request by Diane Sanborn to erect a ground sign at 720 N. Seymour St. that would be 6.49 square feet in area, 6 feet in height and have a setback of 5 feet from the front property line. The property at 720 N. Seymour St. has a lot area of 10,890 square feet. Section 1442.12(h)(2) of the Sign Code prohibits ground signs on parcels in the "DM-4" Residential zoning district that contain less than 12,000 square feet of lot area. Variances of 1,110 square feet to the lot area requirement and 15 feet to the setback requirement to permit a ground sign at 720 N. Seymour Street are therefore, being requested. Staff recommended approval on a finding that the variances would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

**Diane Sanborn, 720 N. Seymour Street**, spoke in support of her request. She said that the IKEA representatives stayed at her Bed and Breakfasts recently and the need for some identification became even more clear. Ms. Sanborn stated that the sign cannot be moved back any further on the lot or it will not be visible to traffic. She also said that the proposed sign is large enough that it will be visible but will not detract from the residential character of the neighborhood.

**Bob Johnson, 316 N. Capitol Avenue**, spoke in support of the request. He said that Ms. Stachowiak and Ms. Sanborn have worked together to come up with a sign that is very appropriate for the proposed location. He said that it is appropriately scaled and will fit in nicely.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Ms. Horne stated that she supports the request but would like to see the motion restrict the sign to the Bed and Breakfasts only.

Mr. Frederick said that the Planning Board has been dealing with the issue of home occupations and what is appropriate in residential neighborhoods. He said that it is a hardship for a bed and breakfast to be denied any type of identification. He also said that he is supportive of the variance but believes that the ordinance dealing with allowable signs in residential neighborhoods needs to be revisited.

Mr. Hilts stated that this type of business likely was not considered when the sign code was being written.

Mr. McGrain stated that the sign is very appropriate and he is supportive of the variance.

**E. Horne moved to approve BZA-3915.07, variances of 1,110 square feet to the lot area requirement and 15 feet to the setback requirement to permit a 6.49 square foot, 6 foot high ground sign at 720 N. Seymour Street, on a finding that the variances would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application, with the condition that the sign is only permitted for the bed and breakfast use. Seconded by B. McGrain.**

VOTE	YEA	NAY
Swix	X	
McGrain	X	
Burgess	X	
Hilts	X	
Mayberry	X	
Horne	X	
Frederick	X	

Motion carried, 7-0, BZA-3915.07, was approved.

**VI. OLD BUSINESS**

- B. Rules of Procedure - No action
- B. BZA-3817.04, 1014 S. Pennsylvania Avenue - No action

**VII. PUBLIC COMMENT**

**VIII. APPROVAL OF MINUTES**

- A. Minutes of Regular Meeting held November 8, 2007

A. Frederick moved, seconded by G. Swix to approve the minutes of November 8, 2007, as printed.

On a voice vote, the motion carried unanimously (7-0).

**IX. NEW BUSINESS**

- A. Ordinance Amendment

Mr. Frederick stated that the Planning Board is working on an amendment to the Zoning Ordinance that would require a minimum lot size of 60 feet in order to convert a structure to a duplex in the "C" Residential district. He said that the variance request that the Board denied a couple months ago for the lot area requirement to convert a single family home to a duplex is what precipitated the amendment.

- B. Excused Absence Request

A. Frederick moved, seconded by E. Horne to approve an excused absence for Mr. Hilts from the November 8, 2007 meeting.

On a voice vote, the motion carried unanimously (7-0).

X. ADJOURNMENT AT 8:30 p.m.

Respectfully submitted,

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Susan Stachowiak, Zoning Administrator