

Draft to Clerk:
Approved:
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**MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS
August 10, 2006 7:30 P.M.
CITY COUNCIL CHAMBERS, 10TH FLOOR CITY HALL**

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 E. Horne A. Frederick F. Lain G. Hilts

Absent: B. McGrain G. Swix M. Mayberry

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 F. Lain to approve the agenda with the addition of "Excused Absences" under new business.

On a voice vote, the motion carried 5-0.

III. HEARINGS/ACTION

A. BZA-3881.06, 109/111 S. Washington Square

This is a variance request by Shawn Elliott. The applicant proposes to utilize the existing building at 109/111 S. Washington Square for 6 efficiency and 2, 3-bedroom residential units. Section 1258.06 of the Zoning Ordinance requires 5,800 square feet of lot area for this number of residential units in the "G-1" Business District. The lot area associated with these properties is 4,733 square feet in area. Therefore, a variance of 1,067 square feet to the required lot area is requested. Staff recommended approval of the request on a finding that the variance 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.

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

Ms. Horne asked where the tenants of this building were going to park.

Mr. Frederick stated that being in the downtown, there may not even be a need for parking.

Ms. Stachowiak stated that there is some parking behind the site and there are city lots and ramps in the area where the applicant could lease parking spaces.

Mr. Lain asked if a sprinkler system would be required for this building.

Ms. Stachowiak stated that she did not know, but that building permits are required and the building will have to be brought up to all current standards.

Mr. Frederick stated that the practical difficulty is obvious in this case. He said that when the code was first adopted, not as much room was required which is part of the reason why the lots in the downtown are so small. He also said that development, such as what is being proposed here, is essential to the revitalization of downtown.

A. Frederick moved to approve BZA-3881.06, a variance of 1,067 square feet to the required amount of lot area limitation for 6 efficiency units and 2, 3-bedroom units at 109/111 S. Washington Square on a finding that the variance 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. Seconded by G. Hilts.

VOTE	YEA	NAY
Hilts	X	
Lain	X	
Horne	X	
Frederick	X	
Burgess	X	

Motion carried, 5-0, BZA-3881.06, was approved.

B. BZA-3882.06, 1526 S. Cedar Street

This is a variance request by K. Leroy Cardwell. The applicant is proposing to improve the parking lot at 1526 S. Cedar Street (Leroy's Classic Bar & Grill) and would like to be relieved of the requirement for an 8-foot landscape buffer along the west property line. Section 1290.08 of the Zoning Ordinance requires an 8-foot landscape buffer for all property lines of a commercial business that are adjacent to residential uses. A variance of 8 feet to the landscape buffer requirement is therefore, being requested. Staff recommended denial of the variance request on a finding that the variance would be not be consistent with the practical difficulty criteria of Section 1244.06 (c) or the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Ms. Horne asked if the addition is consistent what was previously approved by the BZA.

Ms. Stachowiak stated that it is consistent with the exception of it being enclosed rather than open. She said that enclosing the addition is much better given the location of this business to the adjoining residential neighborhood. She also said that the parking lot is already

striped, even though the layout has not been approved by the city.

Leroy Cardwell, 1526 S. Cedar Street, spoke in support of his request. Mr. Cardwell distributed packets of information to the Board. He stated that he has been at this location for 15 years and he has plowed the parking lot and the adjoining alley for that entire time. He said that he purposely enclosed the addition in order to make it quiet for the neighbors. He said that there is a fence and a lot of greenery to the west that provides a good buffer, even though it is not on his property. Mr. Cardwell stated that it would be a hardship to put in the buffer as it would impede his neighbors ability to utilize the alley for access to his garage. Mr. Cardwell also said that the city seems to be more concerned about large businesses than small businesses.

Mr. Frederick stated that he can appreciate Mr. Cardwell’s comments about the city catering more to large businesses than small ones. He suggested that Mr. Cardwell pass these concerns along to the Mayor.

Ralph McCarthy, 1517 Herbert Street, spoke in support of the variance. Mr. McCarthy stated that the buffer will hinder his ability to access his rear yard which also includes a rear loading garage. He expressed concerns about where snow will be stored if the buffer is installed.

Sam Nealy, 326 W. Grand River Avenue, owner of 1521 Herbert Street, spoke in opposition to the variance. Mr. Nealy said that the 2004 variance was approved with the idea that a buffer would be installed and now the applicant is requesting that he be relieved of that responsibility. He stated that this is an area where families live and to be a good neighbor to these residents, Mr. Cardwell should install the buffer. He said that he would not want a bar in his back yard and neighborhoods will not improve if buffers are not put in to protect families from bars and liquor stores.

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 Planning Board encourages as much buffering as possible. He said that there is no practical difficulty in this case that would warrant his support for a variance.

Ms. Horne agreed with Mr. Frederick stating that buffers are very important to protect residential areas from the effects of adjoining commercial areas.

E. Horne moved to deny BZA-3882.06, a variance of 8 feet to the landscape buffer requirement along the west property line at 1526 S. Cedar Street, on a finding that the variance would not be consistent with the practical difficulty criteria of Section 1244.06 (c) or the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. Seconded by A. Frederick.

VOTE	YEA	NAY
Swix	X	
Hilts		X
Lain	X	

VOTE	YEA	NAY
Horne	X	
Frederick	X	
Burgess	X	

Motion carried, 4-1, BZA-3882.06, was denied.

C. BZA-3883.06, 910 W. Lenawee Street

This is a variance request by Lenore Watts to demolish the existing garage at 910 W. Lenawee and construct a new garage that would be 19.5 square feet larger. The proposed garage would be in the same location as the existing garage in that it would have zero foot side and rear yard setbacks. Section 1248.03(b)(6) of the Zoning Ordinance requires 3 foot side and rear yard setbacks for detached garages. In addition, the proposed garage would result in 45 percent lot coverage for buildings and 64 percent total lot coverage at 910 W. Lenawee. Section 1250.11 of the Zoning Ordinance permits 40 percent lot coverage by buildings and 60 percent total lot coverage. Variances of 3 feet to the side and rear yard setback requirements, 5 percent to the lot area building coverage and 4 percent to the total allowable lot coverage requirements are therefore, being requested. Staff recommended approval of the requests 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. Staff recommended that the variance be conditioned upon the applicant securing a 3-foot wide easement from the property owners to the north and west of the subject property for access to the garage for maintenance purposes.

Lenore Watts, 910 W. Lenawee Street, spoke in support of her request. Ms. Watts expressed concerns about having to maintain the easement.

Ms. Stachowiak stated that she will not be responsible for maintaining the easement and she will not be purchasing the land. She explained that the easement only gives her to right to walk on the property for the purpose of maintaining the sides of the garage.

Mary Francis Dvorak, 919 W. Kalamazoo Street, spoke in opposition to the variance. She stated that this house has been a problem in the neighborhood for a long time. Ms. Dvorak said that the houses in the area are close together and the air quality is bad as a result. She also said that the owner of the property does not participate in neighborhood clean-ups. She is glad that the garage is being removed but is not happy about the poor condition of this property.

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

Mr. Lain asked what would happen if the neighbors refuse to sign the easement.

Ms. Stachowiak stated that the applicant would need to come back to the Board.

Mr. Frederick stated that everyone is entitled to a garage. He said that the new garage will be an improvement and the practical difficulty is very evident in this case.

F. Lain moved to approve BZA-3883.06, a variance of 3 feet to the side and rear yard setback requirements, 5 percent to the lot area covered by buildings and 4 percent to the total allowable lot coverage to permit a new, 14' x 19.5 foot, detached garage at 910 W. Lenawee 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 following conditions:

1. The applicant secure easements from the property owners to the north and west of the subject property for access to the garage for maintenance purposes only; and
2. The garage be compatible with the house in design, materials and scale.

Seconded by G. Hilts.

VOTE	YEA	NAY
Hilts	X	
Lain	X	
Horne	X	
Frederick	X	
Burgess	X	

Motion carried, 5-0, BZA-3883.06, was approved.

D. BZA-3884.06, Southeast Corner of Cady Court and N. Pennsylvania Avenue

This is a variance request by the Ingham County Land Bank. The applicant is proposing to place a house on the vacant lot at the southeast corner of Cady Court and N. Pennsylvania Ave. that would have a rear yard setback of 16 feet and an 11 foot front yard setback from the lot line along Cady Court. Section 1250.09 of the Zoning Ordinance requires a 30 foot rear yard setback and Section 1250.07 requires a 20 foot front yard setback. Variances of 14 feet to the rear yard setback requirement and 9 feet to the front yard setback requirement are therefore, being requested. Staff recommended approval of the variance request on a finding that the variance 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.

Eric Schertzing, 315 S. Jefferson Street, spoke in support of the variance. He said that the Land Bank works with local units of government to deal with tax foreclosed properties. He said that the subject property was foreclosed upon in 2005 and since no one wanted it, it went to the Land Bank. Mr. Schertzing stated that the work they will do will be first class and there will be a deed restriction on the property that is must be owner-occupied.

Ms. Horne asked if the Land Bank puts in new siding, windows, etc.

Mr. Schertzing said that they put in all new siding, windows, insulation, appliances, electrical, etc. He said that once it is done, it will be a good, solid house for someone to live in.

Mr. Hilts asked if there was any assistance available for home buyers.

Mr. Schertzing said that the work with the city on home buying assistance. He also said that as a Land Bank, they have many resources available to get the property sold to a home buyer.

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

Mr. Lain expressed his support for the project.

F. Lain moved to approve BZA-3884.06, a variance of 14 feet to the rear yard setback requirement and 9 feet to the front yard setback requirement to place a single family house on the vacant lot at the southeast corner of Cady Court and N. Pennsylvania Avenue 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. Seconded by G. Hilts.

VOTE	YEA	NAY
Hilts	X	
Lain	X	
Horne	X	
Frederick	X	
Burgess	X	

Motion carried, 5-0, BZA-3884.06, was approved.

VI. OLD BUSINESS

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

VII. PUBLIC COMMENT - None

VIII. APPROVAL OF MINUTES

- A. Minutes of Regular Meeting held June 8, 2006

A. Frederick moved, seconded by F. Lain to approve the minutes of July 13, 2006 with the following correction:

Page 4, Case 3876.06, Mr. McGrain voted no.

On a voice vote, the motion carried unanimously, 5-0.

IX. NEW BUSINESS

A. Excused Absences

F. Lain moved, seconded by E. Horne to grant an excused absent to A. Frederick for the September 14, 2006 meeting. On a voice vote, the motion carried unanimously, 5-0.

E. Horne moved, seconded by G. Hilts to grant excused absence to M. Mayberry, B. McGrain and G. Swix for the August 10, 2006 meeting. On a voice vote, the motion carried unanimously, 5-0.

X. ADJOURNMENT AT 8:47 p.m.

Respectfully submitted,

Susan Stachowiak, Zoning Administrator