

**MINUTES
ZONING BOARD OF APPEALS
REGULAR MEETING
Wednesday, October 19, 2016, 4:00 P.M.
Council Chambers, City Hall
109 East Olive Street, Bloomington, Illinois**

Members present: Chairman Briggs, Mr. Brown, Mr. Bullington, Mr. Butts, Mr. Simeone

Members absent: Mr. Kearney, Ms. Meek

Also present: Mr. George Boyle, Assistant Corporation Counsel
Ms. Katie Simpson, City Planner

Ms. Simpson opened the meeting at 4:02 p.m. and called the roll. With five members in attendance, a quorum was present. City staff introduced themselves.

PUBLIC COMMENT None

The Board reviewed the minutes from September 17, 2016. Mr. Bullington offered a correction. A motion to approve the minutes with corrections was made by Mr. Simeone; seconded by Mr. Bullington, and was **approved** by a 5-0 voice vote.

Chairman Briggs confirmed today's case had been published and explained the meeting procedures. Ms. Simpson confirmed all items were properly published.

Z-32-16 Consideration, review and approval of a variance application submitted by Jennifer and Thomas Coon for a variance request to re-establish two adjacent, nonconforming lots of record under common ownership for residential purposes for the property located at 1203 S. Livingston Street.

Chairman Briggs introduced the case and noted this case had been laid over from the previous meeting so that it could be considered with case Z-37-16. Mr. Bullington suggested combining the two cases into one presentation.

Z-37-16 Consideration, review and approval of a variance application submitted by Jennifer and Thomas Coon for a variance request to allow a side yard of five (5) feet in lieu of the required six (6) feet for the property located at 1203 S. Livingston Street

Chairman Briggs introduced case Z-37-16 and asked the petitioner to present on both cases. Jennifer Coon, 1203 S. Livingston St., petitioner and owner of the property, was sworn in. Ms. Coon stated she and her husband live at 1203 S. Livingston Street. She noted that in spring 2015 the house at 1205 S. Livingston was destroyed by fire leaving only the garage. She stated that it the city six months to demolish the house. Ms. Coon explained she and her husband had numerous conversations with the city planner regarding their intentions to purchase the lot at 1205 S. Livingston. She noted that at no time, during those conversations, did the city inform her that the parcels would be combined. She stated she learned of the parcels being combined when she received her tax bill for 2014. She contacted the city

assessor's office and discovered the parcels had been combined. Ms. Coon stated she never received notification from the city explaining the reason the parcels were combined.

Ms. Coon explained she and her husband had intended to improve 1205 S Livingston with a residence but were unable to apply for a building permit because 1205 S Livingston no longer exists. Chairman Briggs clarified that a building permit would not be awarded for new residential construction but that the petitioner could apply for a permit to repair the accessory structure. Ms. Coon confirmed that she could apply for a permit under the 1203 address. Ms. Coon explained the financial arrangements for the mortgage at 1203 S. Livingston.

Mr. Bullington asked the petitioner to address the city's concern of shifting the property line north one foot. Ms. Coon explained she has no intent to rent or sell 1205 S Livingston at the moment but may need to in the future. She noted that the legal description associated with the loan includes the one foot and changing the legal description could pose complications with the current mortgage or if they ever wished to sell the property. Mr. Bullington asked the petitioner if refinancing would be an option. Ms. Coon expressed concerns about the cost of refinancing. Chairman Briggs clarified there were no citizens attending the meeting this time that were not at the last meeting.

Ms. Coon addressed the variance standards. She explained the minimum action necessary would be to leave the lot line where it is and other options suggested in staff's report would create financial hardship for her and her husband. She made clear it is not her intention to rent or sell the property at 1205 S. Livingston. She explained that other lots in the neighborhood are nonconforming in lot size and yards.

Mr. Bullington clarified the two variances requested. He asked the petitioner if her plans for 1205 S. Livingston would change if the second variance for a five foot setback were not approved. Ms. Coon explained that she would still like the lots re-established even if the second variance is denied. Mr. Bullington asked the petitioner to address the request for side yard setback. Ms. Coon reviewed the variance standards. She explained she does not feel the setback variance will be detrimental to the neighborhood and the minimum amount necessary and the best option with the least hardship for the petitioner would be to leave the lots at 45 feet. Mr. Boyle asked for clarification regarding the petitioner's intent for 1205 S. Livingston. Ms. Coon confirmed 1205 S. Livingston St. would be converted into a second residence for visiting family members and personal use.

Ms. Simpson presented the City staff report and stated staff recommends in favor of the variance in case Z-32-16. She presented photos of 1205 S. Livingston before the fire and photos after. She described the surrounding properties and reviewed the zoning map and an aerial photo for the property. She stated the petitioner proposes to re-establish the two 45 ft lots and convert the existing accessory structure into a principal structure. She explains that the garage was conforming as an accessory structure but when converted to a principal structure does not meet the required side yard setback for the R-1C district. She explained this is why the petitioner's reason for applying for the second variance. She reviewed the variance standards for the variance in case Z-32-16 and added that staff recommends in favor but is concerned the petitioner's intentions could create a nonconforming structure. Staff recommended the property lines be shifted to the north one foot in order to avoid creating a nonconforming structure.

Ms. Simpson explained case Z-37-16. She stated staff is recommending against the variance. She presented photos, provided a brief background and explained the complications with the zoning ordinance. She reviewed a number of options for addressing the side yard setback and confirmed staff believed moving the lot line would be the minimum action necessary to meet the requirements of the code. She reviewed the standards for a variance. She noted the property has no identifiable physical hardships. Chairman Briggs asked staff to clarify whether the property owner could rebuild on 1205 S. Livingston if it were destroyed given its nonconforming status. Ms. Simpson explained the property owner, despite the nonconforming status of the existing structure, would be allowed to rebuild a single family home but that home would need to meet the setback and bulk requirements of the zoning ordinance. She explained the variance goes with the property.

Mr. Simeone stated that he believes it very relevant that the city did not notify the petitioner that the parcels would be combined. He stated he feels the city is responsible for the petitioner's circumstances and should rectify the mistake. Mr. Bullington stated he believes the city's actions had nothing to do with the second agenda item and the petitioner would have needed a variance regardless.

Chairman Briggs invited the petitioner to respond to staff's report. Ms. Coon noted the majority of lots in the neighborhood are nonconforming. Chairman Briggs clarified if staff's recommendation to move the lot line should be included in the motion for the variance. Ms. Simpson clarified the implications of approving each variance. Mr. Bullington suggested excluding the city's recommendation to move the lot line from the variance.

The petition for case Z-32-16 was **approved** by a 5-0 vote as follows: Brown— yes; Mr. Bullington— yes; Mr. Butts—yes; Mr. Simeone—yes; Chairman Briggs— yes.

The petition for case Z-37-16 was **denied** by a 2-3 vote as follows: Brown— no; Mr. Bullington— no; Mr. Butts—no; Mr. Simeone—yes; Chairman Briggs—yes.

Z-38-16 Consideration, review and approval of a variance application submitted by Eric Voelzke for a variance request to allow a front yard of twenty-five (25) feet in lieu of the required thirty (30) feet for the property located at 805 Vale Street.

Chairman Briggs introduced the case and Eric Voelzke, 805 Vale Street, the petitioner and property owner, was sworn in. Mr. Voelzke stated he hoped to add an extra 5 feet of open air porch to the front of his home. He provided background on his home and described the landscaping and concrete in the front of the home. He stated he has a bay window that projects located two feet in front of the house and would like to add the additional five feet of porch to allow for the bay window. He stated he believes the porch will beautify his home. He described the neighborhood and stated he would like to match the character of the neighborhood. Chairman Briggs asked the petitioner to describe the homes on his block. Mr. Bullington asked the petitioner if his property has physical characteristics that make strict adherence to the code difficult. Mr. Voelzke identified the lack of a front walkway and stated he would have to move the existing walkway to accommodate a five foot front porch. Mr. Bullington asked if the property is generally level and flat. Mr. Voelzke confirmed.

Chairman Briggs asked the petitioner if he currently has a porch. Mr. Voelzke explained he does not have any porch but previously had a small landing.

Ms. Simpson presented the City staff report and stated staff recommends against the variance request. She described the neighborhood and surrounding uses and presented photos of the property, the zoning map, and an aerial view. Ms. Simpson shared the petitioner's site plan and explained the petitioner's request. She noted the proposed front porch would expand the roofline and encroach five feet into the required front yard setback. She provided alternative options which comply with the requirements of the zoning ordinance. She stated both porches and open decks are common in the neighborhood, but the houses with porches appear to meet the setback requirements. Ms. Simpson reviewed the standards for a variance and staff finds the standards were not met. She noted other types of decks are permitted and do not require a variance. Chairman Briggs discussed alternative designs for the porch.

Mr. Voelzke restated older homes further down the block have porches and shorter yards.

The petition was **denied** by a 0-5 vote as follows: Brown— no; Mr. Bullington— no; Mr. Butts—no; Mr. Simeone—no; Chairman Briggs—no.

Z-39-16 Consideration, review and approval of a variance application submitted by Jeff Kochevar of a variance to allow a reduction in the parking lot perimeter landscaping from the required setback to zero (0) along the north and west borders of the property located at 1340-1344 E Empire Street.

Chairman Briggs introduced the case. Jeff Kochevar, 518 17th Street Denver, CO, petitioner was sworn in. Mr. Kochevar explained he is representing GH Development. He stated the company plans to redevelop the property to be used for a Harbor Freight Tools retail store. He presented a site plan for the property and discussed parking, drive aisles and setbacks. He described constraints of the property and difficulties meeting the landscaping setback on the north. He explained a shared parking and access agreement on the west of the property with the adjacent property owner. He explained the developer's plans to provide landscaping in the front and south of the property. Chairman Briggs noted the intersection at the south east corner is hazardous. Mr. Kochevar agreed and explained their intentions to close that access point. Mr. Kochevar explained the property's ingress and egress.

Ms. Simpson presented the City staff report and stated staff recommends in favor of the petitioner. Ms. Simpson presented photos and zoning map for the property. She described the zoning and surrounding uses. Ms. Simpson explained this property is located within the Empire Street TIF district. She provided an aerial photo of the property and noted the petitioner is seeking a shared access agreement with the neighboring property owner. Ms. Simpson discussed the site plan and noted the addition of a 6 ft fence to north property line to buffer the neighboring residential. She reviewed the standards for a variance and staff determined the standards were met. She noted a physical hardship was created overtime by the city when the lot size was decreased through the acquisition of public right of way. She explained the petitioner is exhausting other options and the variance is the minimum action necessary. She noted the benefits of closing the south east access, reconfiguring onsite traffic circulation, and adding the landscaping in front of the building.

The petition was **approved** by a 5-0 vote as follows: Brown— yes; Mr. Bullington— yes; Mr. Butts—yes; Mr. Simeone—yes; Chairman Briggs— yes.

OTHER BUSINESS: None

NEW BUSINESS:

Ms. Simpson explained the city will be partnering with Houseal Lavigne Associates to update the zoning ordinance. She noted the first meeting would be Wednesday, October 26, 2016 during the regular Planning Commission meeting. She confirmed the Planning Commission would not be voting on items pertaining to the update at this moment. Mr. Boyle explained the need to post notice of the meeting if a majority of the quorum of Zoning Board Members would be present. Mr. Boyle mentioned a second meeting with developers and architects would take place at 1:00 pm the same day.

Mr. Simeone explained he would be unable to attend. Ms. Simpson clarified this would be the first of many meetings. Chairman Briggs expressed interest in attending. Mr. Brown, Mr. Butts and Mr. Bullington stated they would be unable to attend the meeting on Wednesday, October 26, 2016.

There was a brief discussion about the role of the city attorney.

Mr. Bullington moved to adjourn; seconded by Mr. Butts and adjournment was approved by voice vote 5-0.

ADJOURNMENT: 5:17 PM

Respectfully,

Katie Simpson
Acting Secretary