

CITY BOARD OF ADJUSTMENT

MINUTES: August 7, 2013

Name	Title	01/03/13	02/06/13	03/06/13	04/03/13	05/01/13	06/05/13	07/10/13	08/07/13	09/04/13	10/02/13	11/06/13	12/04/13
Jeff Bollman	Chairman	1	1	1	E	E	1	E	1				
Paul Cox	Vice Chairman	1	1	1	1	1	1	1	1				
Daniel Eggen	Boardmember	1	1	1	1	1	1	1	1				
Neil Kiner	Boardmember	E	E	1	1	1	1	1	E				
Barbara Walborn	Boardmember	1	1	1	E	1	E	1	1				
Marlene Walter	Boardmember	1	1	1	E	1	E	E	E				
James Olson	Boardmember	1	E	1	1	A	1	1	1				

TOTAL NUMBER OF APPLICATIONS 2013	01/03/13	02/06/13	03/06/13	04/03/13	05/01/13	06/05/13	07/03/13	08/07/13	09/04/13	10/02/13	11/06/13	12/04/13	TOTAL
Variance	3	4	1	6	3	4	3	3					21

Chairman Jeff Bollman called the meeting to order at 6:05 p.m. The City Board of Adjustment met in the City Council Chambers.

Chairman Bollman asked Zoning Coordinator Nicole Cromwell to introduce the City Board of Adjustment members and Planning Department staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator; Planner Dave Green; Karen Miller, Planning Assistant

Public Comment:

Chairman Bollman opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There was none. Chairman Bollman closed the public comment period at 6:08 p.m.

Approval of the July 10, 2013 Meeting Minutes

The Minutes of the July 10th meeting were not completed for approval.

Disclosure of Conflict of Interest

Chairman Bollman asked for disclosures of conflict of interest

Disclosure of Outside Communication

Nicole Cromwell explained there are times applicants communicate directly with Board members and this should be communicated to the Board members in a public forum.

Chairman Bollman said staff had received one letter and one email, copies have been distributed to the Boardmembers and a copy was available for the public to view.

Letter from Nora Ellsworth in opposition of Variance #1160. Email from Mary Lee Olson from the YWCA in favor but with conditions to Variance #1159.

Public Hearing:

Chairman Bollman stated the public hearing will be opened and this Board will allow public comment this evening. Ms. Cromwell reviewed the hearing process and presentation process for the meeting for how each variance will be reviewed and acted upon.

Ms. Cromwell read the legal description and Dave Green gave the Staff presentation which reviewed the request and recommendation below.

Item #1: Variance #1158 – 907 N 31st Street - Lot Area – A variance from 27-308 requiring a minimum lot area of 9,600 square feet for 2 existing single family dwellings to allow a lot area of 7,000 square feet in an R-70 zone on Lots 45 and 46, Block 8, North Elevation Subdivision, 1st Filing. Tax ID: A11651. Shauna Kerr Cumin, owner.

REQUEST

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 9,600 square feet for 2 existing single family dwellings to allow a lot area of 7,000 square feet in a Residential - 7000 (R-70) zone on Lots 45 and 46, Block 8 North Elevation Subdivision. Shauna Kerr Cumin is the owner. The variance, if granted, would allow the owner to re-build the existing structure if damaged in the future. No construction or re-building is planned at this time. Planning staff is recommending conditional approval of the proposed variance.

Staff is recommending the following conditions for the reduction in minimum lot size variance request:

1. The variance from 27-308 requiring a minimum lot area of 9,600 square feet for 2 existing single family dwellings to allow a lot area of 7,000 square feet. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 45 and 46, Block 8, North Elevation Subdivision generally located at 907 North 31st Street.
3. Any future re-construction of the existing structure will require compliance with all other zoning regulations and city ordinances that apply at the time of re-construction.
4. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

Discussion

Chairman Bollman asked the members of the Board for questions and discussion.

Boardmember Eggen asked if the structures currently met the setbacks required.

Mr. Green said they currently do not meet the setbacks, but if either building were destroyed it would have to be rebuilt to the current code meeting the setback and lot coverage restrictions in place at the time it is rebuilt.

Public Hearing

Chairman Bollman opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1158.

Proponents:

Shauna Kerr Cumin, applicant, said she did not have any problem with the conditions and concurred with staff. She asked for approval of her request.

Opponents

There were none.

Chairman Bollman closed the public hearing and called for a motion.

Motion

A motion was made by Boardmember Olson and it was seconded by Boardmember Eggen to approve City Variance #1158- with the Conditions and Findings of Fact stated and recommended by staff.

Discussion

Chairman Bollman called for discussion on the motion. There was none.

Boardmember	Yes	No	Abstain	Not Present
Jeff Bollman	1			
Paul Cox	1			
Daniel Eggen	1			
Barbara Walborn	1			
Marlene Walter	-			1
James Olson	1			
Neil Kiner	-			1

The motion carried, 5-0. City Variance #1158 is conditionally approved.

Ms. Cromwell read the legal description and Dave Green gave the Staff presentation which reviewed the request and recommendation below.

Item #2: Variance #1159 – Wyoming Ave and 10th St West – 4-plex Dwellings – A variance from 27-308 requiring a minimum lot area of 30,000 square feet for three 4-plex dwellings to allow a lot area of 27,950 square feet for the construction of three 4-plex dwellings in an R-60 zone on Lots 16-18, Block 2, Broadacre Subdivision. The applicant has submitted a concurrent special review request to the City Council. Tax IDs: A03227, A03228, A03229, Bonini Enterprises, LLC is the owner and Eggart Engineering Company, is the agent.

REQUEST

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 30,000 square feet for three, 4-plex dwellings to allow a lot area of 27,950 square feet for the construction of three, 4-plex dwellings in a Residential 6000 (R-60) zone on Lots 16-18, Block 2, Broadacre Subdivision. Tax ID’s: A03227, A03228, and A03229. Bonini Enterprises, LLC is the owner and Eggart

Engineering Company is the agent. Planning staff is recommending conditional approval of the proposed variance.

Staff is recommending the following conditions for the variance request:

1. The variance is to decrease the minimum lot area of 30,000 square feet for three 4-plex dwellings to allow a lot area of 27,950 square feet for the construction of three 4-plex dwellings in a Residential 6000 (R-60) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 16-18, Block 2, Broadacre Subdivision, generally located on the south west corner of Wyoming and 10th Street West.
3. The applicant will submit and obtain a building permit for at least one of the new 4-plexes within 1 year of Board of Adjustment approval.
4. The applicant will complete the construction of all three of the 4-plexes within 3 years of Board of Adjustment approval.
5. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.

Discussion

Chairman Bollman asked the members of the Board for questions and discussion.

Boardmember Walborn asked what the total off-street parking spaces they were proposing.

Ms. Cromwell said there are 41 off-street parking spaces provided with this proposal.

Vice Chairman Cox asked about the pitch of the road and how they would address it and Stormwater runoff.

Ms. Cromwell said they would be able to meet the requirements of the City Engineering division

Mr. Green stated that a main access would be off of the alley for parking and they are required to improve the alley as part of the development.

Boardmember Cox asked about storm water retention and possible runoff.

Mr. Green explained that the Stormwater retention would be maintained on the site as part of the improvement requirements by the City Engineering division. He also pointed out the location of the nearest fire suppression.

Public Hearing

Chairman Bollman asked if there was anyone else wishing to speak in favor or against City Variance #1159.

Proponents

Quentin Eggart, Eggart Engineering, 2- South 7th St. W., the agent for the project reviewed the improvements they would complete with this project. He explained they would be completing the alley the width of the 3 properties as well as the curb gutter and sidewalk all the way around the

perimeter of the property along the two streets. He said they would be providing stormwater retention onsite, so there would be minimal to no runoff onto the street to the stormwater system on Broadwater. He said in they would be one drive approach off of Wyoming Avenue and one off of Tenth Street. They are providing more than 2x the required amount of off street parking, allowing not only for tenants, but for visitors as well. He said the way they proposed the parking would also allow for a safe area to the rear of the property for families to entertain. He said the construction would begin as soon as it is approved and they would anticipate completion within the next year as the weather permits.

Boardmember Eggen asked what the dimensions of the lots were.

Mr. Eggart explained the lot sizes, the two larger lots are 10,075 square feet and the third lot is 7,800 square feet.

Boardmember Cox asked if they were required to do soil test.

Mr. Eggart said he has geotechnical report in process and would be completing that hillside review when they get approval of this variance application and the council approval for the Special Review.

Boardmember Eggen asked if during construction the parking would be affected for the neighboring properties and adjacent businesses or the YWCA?

Mr. Eggart said they did not foresee any issues with the staging areas and construction because there is plenty of room for their equipment. It should not affect any of the parking for the YWCA.

Boardmember Walborn asked what the City Council would be reviewing for this applicant.

Ms. Cromwell clarified that any multifamily project in the residential-6000 zoning district that is more than duplexes is required to have a special review approved for the property. They have requested the special review approval and it is in process for the number of units they desire for this project and it must be reviewed by the Zoning Commission and approved by the City Council.

Joe Bonini, 8470 Longmeadow Drive, said he is the builder for the project and wanted to introduce himself. He explained that he had done some similar projects in the area but none as large as this one. He thanked the planning staff for their work and guidance. He said he felt this was a good infill project for the city.

Opponents

There were none.

Chairman Bollman closed the public hearing.

Motion

A motion was made by Boardmember Eggen and it was seconded by Boardmember Cox to approve City Variance #1159 with the conditions recommended by staff.

Discussion

Chairman Bollman called for discussion on the motion.

Boardmember	Yes	No	Abstain	Not Present
Jeff Bollman	1			
Paul Cox	1			
Daniel Eggen	1			
Barbara Walborn	1			
Marlene Walter	-			1
James Olson	1			
Neil Kiner	-			1

The motion passes 5-0. City Variance #1159 is conditionally approved.

Ms. Cromwell read the legal description and Dave Green gave the Staff presentation which reviewed the request and recommendation below.

Item #3: Variance #1160 – 17th Street West and Avenue D – Arterial setback - A variance from 27-602 requiring a minimum setback of 60 feet to the centerline of 17th Street West to allow a 55-foot setback to the centerline in a CC zone on Lot 2A-3, Partington Park Subdivision, 5th Filing, a 3.83 acre parcel of land. The applicant is proposing to construct a 96-unit apartment complex. Tax IDs: A12623, A12621. West Park Shopping Center, LLC, owner and Sanderson Stewart, agent.

REQUEST

The applicant is requesting a variance from 27-602 requiring a minimum setback of 60 feet to the centerline of 17th Street West to allow a 55-foot setback to the centerline of 17th Street West in a Community Commercial (CC) zone on Lot 2A-3, Partington Park Subdivision. The applicant is proposing to construct a 96-unit apartment complex, tax ID's: A12623 and A12621. West Park Shopping Center, LLC is the owner and Sanderson Stewart is the agent.

RECOMMENDATION

Staff recommends conditional approval of the variance.

Staff is recommending the following conditions for the variance request:

1. The variance from 27-602 requiring a minimum setback of 60 feet to the centerline of 17th Street West to allow a 55-foot setback to the centerline of 17th Street West. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 2A-3, Partington Park Subdivision generally located at the South East corner of 17th Street West and Avenue D.
3. The applicant will submit and obtain a building permit for at least one of the new Multi-plexes within 1 year of Board of Adjustment approval.
4. The applicant will complete the construction of all of the Multi-plexes within 4 years of Board of Adjustment approval.
5. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.

7. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

Discussion

Chairman Bollman asked the members of the Board for questions and discussion.

Mr. Green reviewed the letters concerned with the removal or deterioration of the trees existing and suggested the board possibly add a condition to have some protection for the trees that are existing along the right of way. This condition could protect the trees during construction and maintain them after the completion.

Public Hearing

Chairman Bollman opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1160.

Applicant

Brian Alexander, Sanderson Stewart, 1300 N. Transtech Way, agent, explained the 96 unit apartment complex would be an infill project for this area. Encroaching into the arterial setback by 5 feet would be the simplest approach to the project. They have gone through preliminary approval for the subdivision for rent or lease requirements.

Chairman Bollman asked if the request for retaining the street trees would be a problem for the applicant.

Mr. Alexander said he did not feel it would be issue and felt they could accommodate that condition.

Chairman Bollman asked if there was anyone wishing to speak against City Variance #1160. There was none. Chairman Bollman called for a motion.

Opponents

There were none.

Motion

Boardmember Walborn made a motion and it was seconded by Boardmember Cox to approve City Variance # 1160 with the conditions and Findings of Fact presented by staff, and with the added condition that the trees located along 17th Street West be protected during construction and retained on the property and maintained and replaced as needed for the duration as required with their landscaping.

Discussion

Chairman Bollman called for discussion on the motion.

Boardmember	Yes	No	Abstain	Not Present
Jeff Bollman	1			
Paul Cox	1			
Daniel Eggen	1			
Barbara Walborn	1			
Marlene Walter	-			1
James Olson	1			
Neil Kiner	-			1

The motion passes 5-0. City Variance #1160 is approved.

Other Business:

Jeff Bollman asked Zoning Coordinator Nicole Cromwell to open this agenda item.

Other Business/Announcements:

The next City Board of Adjustment meeting will be held on September 4, 2013.

The next meeting will be held at the new Planning Division office location in the first floor meeting room at 2825 3rd Avenue North.

Adjournment:

Motion

Boardmember Eggen made a motion and it was seconded by Boardmember Olson to adjourn.

The motion carried with a unanimous voice vote. The meeting was adjourned at 6:50 p.m.

ATTEST:

Chairman Jeff Bollman

Karen Miller, Planning Assistant