



CITY of MEDINA

Board of Zoning Appeals

Board of Zoning Appeals

Meeting Date: August 13, 2015

Meeting Time: 6:00 pm

Present: Bert Humpal, Kris Klink, Mark Williams, Jim Bigam, Jonathan Mendel, (Community Development Director), Justin Benko (Associate Planner), Sandy Davis (Administrative Assistant)

Absent: Mark Pinskey

Minutes: Mr. Williams made a motion to approve the July 9, 2015 minutes as submitted. The motion was seconded by Mr. Bigam.

Vote:

Humpal	<u>Y</u>
Bigam	<u>Y</u>
Klink	<u>Y</u>
Williams	<u>Y</u>
Approved	4-0

Mr. Klink made a motion to approve the July 8, 2015 minutes as submitted. The motion was seconded by Mr. Bigam.

Vote:

Humpal	<u>Y</u>
Bigam	<u>Y</u>
Klink	<u>Y</u>
Williams	<u>abstain</u>
Approved	3-1 abstention

Announcements: Mr. Mendel stated Fechko Excavating has filed with the Common Pleas Court.

Old Business:

1. Z15-06 427 N. Court Sunoco Gas Station VAR

Jonathan Mendel gave a brief overview of the case. Mr. Mendel stated this is a continuation of case Z15-06 for a variance request from Section 1147.04 (D) to permit the existing nonconforming pole sign to remain, a variance request from Section 1125.05 to permit the creation of a new lot at 110 W. Union Street that is 52.25 feet wide and 4,086.5 square feet instead of the minimum required 75 feet wide and 8,000 square feet in the R-3 district.

Mr. Mendel stated In March of 2015 this went before the Board of Zoning Appeals and the Planning Commission to increase the size of the convenient store portion of the gas station. Mr. Mendel stated it includes moving lot lines between the residential property at 110 W. Union Street and the gas station property to allow for the larger building. Mr. Mendel stated there were a number of bulk variances, set-backs, impervious surface coverage, landscaping requirements. Mr. Mendel stated all were approved except the variance to allow the non-conforming pole sign to remain on the property in its current location. Mr. Mendel stated moving the lot line will create a substandard lot under the R-3 district so there needs to be a public hearing process for the applicant to request a variance.

Mr. Mendel stated the applicant has met with the city staff to look at other locations for the sign and has decided to request the sign remain at its current location.

Mr. Mendel reviewed the determination of practical difficulties.

Mr. Mendel stated the construction of a conforming sign may not obstruct the vision of motorists.

Mr. Mendel stated a conforming sign would not be blocked from the sight of passing motorists due to any existing private or public structures or improvements. Mr. Mendel stated the construction of a conforming sign would require removal or severe alteration to existing significant features on the site such as trees and natural topography and drainage, etc.

Mr. Mendel stated construction of a conforming sign may affect efficient circulation around the existing gas pumps and general site.

Mr. Mendel stated the existing pole sign would not be more appropriate in scale with the existing site, but simply maintain a sign that has been on the site for an extended period of time.

Mr. Mendel stated the exception should not adversely impact the character or appearance of the subject site or neighborhood because it would simply maintain the status quo.

Mr. Mendel stated the variance sought is a 100% variance from the code requirements since the code requires complete compliance with the current sign code requirements which prohibit pole signs for this size/type of property/use.

Mr. Mendel stated the spirit and intent behind Section 1147.04(D) requiring the compliance of nonconforming signs was an effort to find an appropriate trigger for removing nonconforming signs within the community. Mr. Mendel stated using site plan review as a trigger for compliance is justified under the presumption that the cost of sign compliance may be minor in relation to the overall project budget.

Present for the case was Norman Saeger, Saeger Architectural Services, and property owner Nick Sarai.

Mr. Saeger stated he met with city staff and looked at other options for moving the sign and decided to request to keep the existing sign.

Mr. Klink asked if there has been any comments from the adjoining property owners. Mr. Mendel stated there has not.

Mr. Bigam stated he has no problem with the existing sign remaining since it appears to be the most practical spot.

Mr. Williams stated he agrees with Mr. Bigam. Mr. Humpal agreed.

Mr. Humpal asked for comments from the public. There were no comments from the public.

Mr. Klink made a motion to approve a variance to Section 1147.04(D) of the Planning and Zoning Code to permit the existing nonconforming pole sign to remain. Mr. Klink stated the approval is based on the finding that construction of a conforming sign may affect efficient circulation around the existing gas pumps and the general site itself, also the exception should not adversely impact the character or appearance of the neighborhood because it is maintaining the status quo.

The motion was seconded by Mr. Williams.

Vote:
Humpal Y
Klink Y
Williams Y
Bigam Y
Approved 4-0

Mr. Mendel stated the lot variance request for a substandard lot is a determination of practical difficulty. Mr. Mendel reviewed the seven standards.

Mr. Mendel stated the property at 110 W. Union St. could continue to be used for a single-family dwelling without the variance; but the expansion and improvement to the applicant's neighboring gas station at 427 N. Court St. could not occur. Mr. Mendel

stated the expansion of the gas station's convenience store requires the transfer of 12.75 feet of land from 110 W. Union St. to 427 N. Court St.

Mr. Mendel stated the existing lot at 110 W. Union St. is 65.05 feet wide and 5,088 sq. ft. and the proposed lot is 52.25 feet wide and 4,086.5 sq. ft. Mr. Mendel stated the minimum required for compliant lots in the R-3 District is 75 feet wide and 8,000 sq. ft. Mr. Mendel stated the proposed lot is 30% narrower than the minimum required lot width and 49% smaller in area than the minimum required by the R-3 District, but is only 20% narrower than the existing lot width and 20% smaller in area than the existing lot area.

Mr. Mendel stated although the proposed lot at 110 W. Union St. does not comply with the minimum R-3 District regulations, the immediate neighborhood is predominately composed of existing substandard lots. Mr. Mendel stated the proposed lot may not be out of character with the immediate neighborhood.

Mr. Mendel stated the variance would not adversely affect the delivery of governmental services.

Mr. Mendel stated it is unknown whether the applicant/owner purchased the property with knowledge of the zoning restrictions and it was not made clear to the applicant when the development review process began for this project.

Mr. Mendel stated the proposed substandard lot at 110 W. Union St. is integral to the execution of the proposed expansion and improvement of the gas station convenience store adjacent at 427 N. Court St.

Mr. Mendel stated the spirit and intent of the code requiring minimum lot width and area for residential zoning districts is typically to control unit density and impact on the localized and global infrastructure (i.e. traffic capacity, water/sewer, stormwater management, etc). Mr. Mendel stated it is also used as a means to achieve consistent neighborhood character. Mr. Mendel stated in the case of the subject property, the unit density is not changing (i.e. still one single-family dwelling) and the surrounding neighborhood has many existing substandard lots.

Mr. Saeger stated per his letter addressing the seven points, the variance is necessary to move forward with the proposed project.

Mr. Williams asked if ownership transfers on the house on the proposed non-conforming lot, would it impact the neighborhood. Mr. Williams stated he would like to make sure that the substandard lot remains residential. Mr. Sarai stated it is remaining residential.

Mr. Mendel stated when the Planning Commission reviewed the rezoning, he had requested that the whole block be rezoned M-U but the Planning Commission did not agree with that so any rezoning would be the 12.75 strip that would transfer between the two properties. Mr. Mendel stated there would need to be a lot consolidation to move that line so it would create two new lots. Mr. Mendel stated the 52 ft. wide lot that would

be left for the house at 110 W. Union would continue to be R-3 single family only and whatever is permitted in that zoning district under the conditional uses. Mr. Mendel stated they would not be able to have any legal expansion of commercial property onto this property without necessary approvals through the Planning Commission for rezoning or through the Board of Zoning Appeals for a land use variance. Mr. Mendel stated there are big public hearing hurdles that would need to happen.

Mr. Bigam made a motion to approve a variance request from Section 1125.05 to permit the creation of a new lot at 110 W. Union Street that is 52.25 feet wide and 4,086.5 square feet instead of the minimum required 75 feet wide and 8,000 square feet in the R-3 district. Mr. Bigam stated the approval is based on the finding that the variance sought is the minimum necessary to move forward with the proposed project and the variance is consistent with the spirit and intent of the ordinance since the neighborhood consists of many existing nonconforming lots.

The motion was seconded by Mr. Klink.

Vote:

Klink	<u>Y</u>
Williams	<u>Y</u>
Humpal	<u>Y</u>
Bigam	<u>Y</u>
Approved	4-0

New Business:

2. Z15-22 124 W. Union St. James Krejci VAR

Justin Benko gave a brief overview of the case. Mr. Benko stated this is a variance request from Section 1125.05 to permit the creation of two new lots at 124 W. Union Street that are 50 feet wide and 7,664 square feet instead of the minimum required 75 feet wide and 8,000 square feet in the R-3 district.

Mr. Benko stated the subject site is located on the south side of W. Union Street north of Bishop Street and south of Bradway Street. Mr. Benko stated the property is adjacent to residential zoning on all sides.

Mr. Benko stated the applicant owns 124 W. Union Street (PP#028-19A-17153) and the vacant lot to the west (PP#028-19A-17-154). Mr. Benko stated the property located at 124 W. Union Street is forty feet wide at the building line and it has a legal non-conforming site area of 6,120 sq. ft. Mr. Benko stated the driveway and garage for 124 W. Union Street encroach on the vacant lot. Mr. Benko stated the vacant lot is 60 feet wide at the building line and has a lot size of 9,180 sq. ft. Mr. Benko stated the applicant is proposing the parcels be replatted so that they are both 50 feet wide which would put the driveway and garage on the same parcel. Mr. Benko stated this would create two new parcels that are smaller than the required minimum lot size. Mr. Benko stated the

applicant is seeking a variance for the replatting of the two lots because R-3 residential zoning requires a lot to be 75 feet wide at the building line with a minimum site area of 8,000 sq. ft.

Mr. Benko stated the request is subject to determination of a practical difficulty as lot width and area variances are requested.

Mr. Benko stated 124 W. Union Street can continue to operate without the granting of a variance. Mr. Benko stated the vacant lot is buildable in its current condition. Mr. Benko stated the driveway and garage could be moved to the other side of the house or an easement could be provided to grant access to the driveway and garage.

Mr. Benko stated the variance may not be substantial. Mr. Benko stated although the actual variance constitutes a building line that is 33% smaller than code requirements, 124 W. Union Street is a legal non-conforming lot and would remain so regardless of the variance outcome. Mr. Benko stated the average lot width in the neighborhood is 54 feet. Mr. Benko stated the proposed width of the two new parcels is 7% narrower than the average lot width in the neighborhood.

Mr. Benko stated the essential character of the neighborhood may not be altered. Mr. Benko stated eleven of the twelve houses in the neighborhood have lot widths narrower than code requirements. Mr. Benko stated the average lot width in this section of W. Union Street is fifty-four feet.

Mr. Benko stated the owner's predicament could not feasibly be obviated without a variance. Mr. Benko stated the driveway and garage at 124 W. Union Street encroach onto the vacant parcel. Mr. Benko stated the driveway and garage could be moved to the other side of the house; however, moving the property line to create two fifty foot parcels would end the encroachment without the expense of moving the driveway and garage.

Mr. Benko stated the likely intent of the requirements is to provide a standard and predictable amount of development and unit density on any given street and also to be consistent with infrastructure capacity.

Present for the case was the property owner, Jim Krejci. Mr. Krejci stated he resides at 136 W. Union Street which is to the west of the vacant lot. Mr. Krejci stated when he purchased the property, he replaced the garage and now they are downsizing. Mr. Krejci stated he would like to clear up the problem of the lot line being so close to the house at 124 W. Union. Mr. Krejci stated by moving the lot line over 10 feet and making those lots equal size would be beneficial. Mr. Krejci stated the lots in the area are 54 foot average lot width but there is a house across the street that is 39 feet. Mr. Krejci stated the house on the west side of 136 is 37 feet wide. Mr. Krejci stated he is looking to move the lot line over 10 feet so the driveway and the garage are on 124 W. Union property and do not encroach on the vacant lot.

Mr. Krejci stated it is a sizeable expense to move the driveway and garage.

Mr. Humpal asked for comments from the public. There were no comments from the public.

Mr. Klink asked Mr. Krejci if he has any plans to build on the empty lot. Mr. Krejci stated not at this time.

Mr. Bigam stated he understands the motive as moving the lot line would make them equal lots and makes sense. Mr. Mendel stated the gravel drive is a grandfathered existing condition.

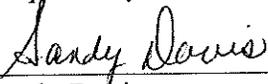
Mr. Bigam made a motion to approve a variance request from Section 1125.05 to permit the creation of two new lots at 124 W. Union Street that are 50 feet wide and 7,664 square feet instead of the minimum required 75 feet wide and 8,000 square feet in the R-3 district. Mr. Bigam stated the approval is based on the finding that the spirit or intent behind the zoning requirement would be observed and substantial justice would be done by the granting of the variance and the essential character of the neighborhood would not be substantially altered.

The motion was seconded by Mr. Williams.

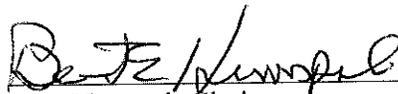
Vote:	
Humpal	<u>Y</u>
Bigam	<u>Y</u>
Klink	<u>Y</u>
Williams	<u>Y</u>
Approved	4-0

Having no further business, the meeting was adjourned.

Respectfully submitted,



Sandy Davis



Bert Humpal, Chairman