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ZONING BOARD OF APPEALS

Regular Meeting

April 23, 2024

The meeting was called to order by Chairman Russ Boersma at 5:30 p.m.

Present: Chairman Russ Boersma, Members Elliott Church, Ross De Vries, Jack Vander Meulen and Robert De Vries. Also present were Community Development Director Corey Broersma, Assistant Planner and Zoning Administrator Kate White, and Recording Secretary Laurie Slater.

Absent: None

There were no public comments.

** It was moved by Robert De Vries and supported by Church to approve the minutes from the March 26, 2024, meeting as printed. Motion carried with a roll call vote of 3 Yes and 2 abstained.

Chairman Boersma explained the Public Hearing process to the audience.

Hearing declared open for the consideration of a petition for a Nonuse Variance submitted by Spencer Steggerda of SWS Unlimited, LLC for property located at 10593 Chicago Dr, known more specifically as Parcel Number 70-16-23-226-050. Petitioner is requesting variances consisting of: 1) 1,200 square feet from the maximum 480 square feet permitted for a detached accessory building, resulting in a 1,680 square-foot building; and 2) 6 inches from the maximum height of 16 feet permitted for a detached accessory building, resulting in a 16-foot 6-inch tall building. The variances are being requested to build a two-stall, detached accessory building. The subject property is zoned R-2 Moderate Density Residential.

Present for this request was Spencer Steggerda of SWS Unlimited, LLC.

Mr. Steggerda explained to the Board that he would like to put a pole barn on his property for the storage of equipment to maintain the rental property such as a lawn mower, snow removal tools, also some storage of items for the tenants. He has found that tenants fill the attached garage with stuff and park the vehicles outside. Each unit has a one stall garage.

Mr. Steggerda further stated that there are three other properties that have accessory buildings that are larger so he figured he would try for a larger one too. He asked for bigger and if need be, bargain down on the size. The property is unique in that it is deep and long and backs up to the railroad tracks. He stated that his request would not be setting a precedent. If the variance is not granted as asked for, he would be happy with a lesser variance.

Chairman, Russ Boersma, explained to the applicant that each request is looked at on an individual basis. The Board will listen to his request, ask questions and go through the standards to determine their decision. They do not make their decision prior to the meeting.

The Board asked the applicant how he planned to access the garage. The accessory building would be 100' from the back of the house. He replied that there would be a driveway along the west side of the duplex. The proposed driveway would come off the turn around. Mr. Steggerda would put in whatever was required for the surface – gravel or hard surface. He has not thought much about how the inside would be laid out for equipment and tenant storage spaces.

The Board asked staff about the approval of the existing oversized accessory buildings in the neighborhood. Corey Broersma replied that two of the existing accessory buildings obtained a variance. When they got their variances, the standards were different. Also, the ordinance has been totally revised since then.

There was discussion among the Board about adding onto the existing attached garages and he would still be able to build the 480 square foot accessory building in the back yard. Mr. Steggerda replied that adding to the existing garages would not look good.

Further discussion was on the height of the building and why it was necessary to add 6 inches. Mr. Steggerda explained that the sidewalls would be 14 feet high and once the roof was added it would be 6 inches taller than allowed by ordinance. The building would match the existing structure with vinyl siding and a steel roof the same color as the roof of the house. The building would be so far back on the property and surrounded by trees that would probably not be seen by anyone unless they were looking for it.

There was further discussion about the oversized accessory building fitting into its surroundings. The layout of the property, long, narrow, backing into the railroad tracks. The neighborhood being businesses, a school and the property not backing up to anybody else's back yard.

The tenants did not sign the letter of support provided by owner in his variance application, but Mr. Steggerda indicated that they are aware that there would be a driveway along the side of the property going to the accessory building. They would be happy to have more storage area. It would not be a high traffic situation.

The Board discussed other properties that had been granted variances for oversized accessory buildings, where they were and how large they were allowed to go.

There was no one present in the audience to speak to this request.

** It was moved by Vander Meulen and supported by Robert De Vries to close the hearing. Motion carried by voice vote.

The Board went over the standards to review when considering a nonuse variance request.

1. ***That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
 - a. *Exceptional narrowness of the width or depth of a lot of record, or irregular shape.*
 - b. *Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.*
 - c. *Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.*
 - d. *Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.*

The lot exceeds the lot width-to-depth ratio of 4 to 1, like many of the adjacent lots along Chicago Dr in the area. The exceptional depth of the lot may be beneficial in “hiding” the oversized detached accessory building from public view by placing the building deeper on the lot; however, the depth of the lot itself does not pertain to the need for granting of the variance for size or height of the detached accessory building.

2. ***That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.***

The unusual circumstance of the width-to-depth ratio does not apply to most other lots in the same zoning district; however, it does in this area. This is a typical lot in this neighborhood that has been established for generations. Although the lot’s depth and location abutting a railroad right-of-way may be considered a unique circumstance, these factors do not impact the need for a larger and taller than permitted detached accessory building.

3. ***That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

Although we understand why they want the larger accessory building (storage), the variance for a larger accessory building is not necessary for the preservation and enjoyment of a substantial property right.

4. ***That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

Granting this variance would not be of substantial detriment to adjacent and nearby land uses and properties because of how far off the road it would be and it would probably not be visible unless one is looking for it.

5. ***That the applicant shall not have created the problem for which the variance is being sought.***

The applicant did create the problem by wanting to go that big because the cost is not that much more so just go bigger. This request is proportionately larger than anything before the Board previously.

6. *That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.*

Granting this variance would be contrary to the spirit of the ordinance. It would be pushing the envelope out further and setting a precedent.

** It was moved by Robert De Vries and supported by Russ Boersma to deny the variance of 1,200 square feet from the maximum 480 square feet permitted for a detached accessory building, resulting in a 1,680 square-foot building. Motion carried with a roll call vote of 5 Yes and 0 No.

** It was moved by Robert De Vries and supported by Ross De Vries to deny the variance of 6 inches from the maximum height of 16 feet permitted for a detached accessory building, resulting in a 16-foot 6-inch-tall building. Motion carried with a roll call vote of 5 Yes and 0 No.

Hearing declared open for the consideration of a petition for a Nonuse Variance request submitted by Kids' Food Basket on behalf of Ridge Point Community Church for property located at 340 104th Ave, known specifically as Parcel Number 70-16-36-300-016. Petitioner is requesting a variance of 1 ground sign in addition to the maximum 1 ground sign permitted on the property. The variance is being requested for a new ground sign for the Kids' Food Basket facility. The subject property is zoned AG Agriculture.

There was no one present for this request.

Chairman Boersma asked if there was anyone present in the audience that came to speak to this request. There was not.

** It was moved by Vander Meulen and supported by Robert De Vries to table this item and keep the public hearing open for next month's meeting. Motion carried with a roll call vote of 4 Yes and 1 No.

Hearing declared open for the consideration of a petition for a Nonuse Variance request submitted by Champion Windows on behalf of Raymond Gutierrez for property located by 230 Mae Rose Ave, known specifically as Parcel Number 70-16-18-275-031. Petitioner is requesting a variance of 5 feet from required 35-foot front yard building setback, resulting in a front yard setback of 30 feet from the northern property line. The variance is being requested for a covered patio addition. The subject property is zoned R-1 Low Density Residential.

Present for this request was Julius Tyler of Champion Windows on behalf of Raymond Gutierrez.

Mr. Tyler explained to the Board that Mr. Gutierrez would like to put a 13' x 13' patio cover over the existing patio. The house is legal nonconforming as it does not meet the front yard setback along Mae Rose Ave. The proposed patio roof would not encroach any further on the setback than the existing house does. If the patio cover were put in compliance, it would be over the lawn, not the patio. The covering would leave the patio completely open like a carport would be. The current patio deck is made of wood with a step up off the ground of about 6 inches. Since the deck is less than 8 inches off the ground, it does not count as a structure, so no variance was needed for a setback for the patio deck. There would be ¼ of the deck not covered. The patio roof would be vinyl and aluminum. The setback would be counted from the post, not the roof line so what is needed is only 2.4 feet, not 5 feet.

Chairman Boersma asked Mr. Tyler if a variance of 2.4 feet would be enough to accomplish the installation of the patio cover. Mr. Tyler replied that their engineering team drew up the plans and asked for the 5 feet. He is not comfortable with saying a lesser amount would be enough of a variance.

The Board asked what the applicant could do if the variance request is denied. Mr. Tyler stated that they could put in a smaller patio cover, but it would not be centered over the deck and it would not be aesthetically pleasing.

It was the consensus of the Board that since they had a professional survey, that holding the applicant to a 4.4 variance, which is in line with the house was reasonable. The Board commented that it is better to give the applicant the variance than to have something that looks out of place.

There was no one present in the audience to speak to this request.

** It was moved by Ross De Vries and supported by Church to close the hearing. Motion carried by voice vote.

The Board went over the standards to review when considering a nonuse variance request.

- 1. That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
 - a. Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
 - b. Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
 - c. Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
 - d. Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

The practical difficulties would be consistent with point c of this standard. The extraordinary location of an existing house allows for no other practical or feasible solution. The existing location is forcing the applicant to have to ask for the variance. It would not be encroaching any further into the setback than the house already does. It's a roof cover, not an enclosure. Do not want it to look out of place, the variance would allow for an aesthetically, nice-looking patio cover.

- 2. That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.***

The corner lots in this neighborhood could all be nonconforming. It is an older platted neighborhood.

- 3. That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

If there is no relief granted, this project could make the patio cover look out of place. It would push it back; it would not be centered. There is no financial return.

- 4. That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

Granting this variance will not be of substantial detriment to adjacent and nearby land uses and properties. It is a corner lot. There is a lot of distance between the properties. The proposed patio cover will not encroach any further on the front yard setback than the house already does.

- 5. That the applicant shall not have created the problem for which the variance is being sought.***

No, the owner did not build the house there. This is how it was when he purchased it, not in compliance with the front yard setback. This is what he was given to work with when he purchased it.

- 6. That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

Granting this request would not be contrary to the public interest. This situation is particular to this house. The variance they are asking for is very minimal. The result would be aesthetically pleasing rather than looking odd.

** It was moved by Church and supported by Vander Meulen to approve a 4.4-foot front yard variance for the addition of a patio covering with the stipulation that the construction adhere to

the plan presented and the patio area is not to be used for outdoor storage or the parking of a vehicle. Motion carried with a roll call vote of 5 Yes and 0 No.

Other Business:

Tabled items

3717 Beeline Rd (70-16-09-200-037) – Nonuse Variance (Tabled October 24, 2023)

Petition submitted by Caroline Kimmel of Kittle Property Group on behalf of K & J Legacy LLC for variances consisting of: 1) 39 square feet from the minimum 120 square feet of storage area required for a 1-bedroom multi-family dwelling unit, resulting in a storage area of 81 square feet; 2) 17 square feet from the minimum 120 square feet of storage area required for a 2-bedroom multi-family dwelling unit, resulting in a storage area of 103 square feet; and 3) 12 square feet from the minimum 120 square feet of storage area required for a 3-bedroom multi-family dwelling unit, resulting in a storage area of 108 square feet. The variances are being requested for a new multi-family apartment complex. The subject property is zoned R-3 High Density Residential and FP Floodplain.

The applicant has submitted a written request with Staff to withdraw this variance request.

** It was moved by Robert De Vries and supported by Church to accept the request to withdraw this variance request. Motion carried with a roll call vote of 5 Yes and 0 No.

10983 Ryans Way (70-16-35-331-012) – Nonuse Variance (Tabled March 26, 2024)

Petition submitted by Elida Hernandez for variances consisting of: 1) 23 feet from the required 35-foot rear yard building setback, resulting in a rear yard setback of 12 feet for an attached deck; 2) 3 feet from the required 7-foot side yard setback, resulting in a side yard setback of 4 feet for an attached deck; and 3) 2.1 feet from the required 10-foot setback for an above-ground swimming pool, resulting in a setback of 7.9 feet. The variances are being requested for an existing above-ground swimming pool and attached deck. The subject property is zoned R-1 Low Density Residential.

This item will remain tabled. The applicant is working with a contractor to develop some options for a lesser relaxation to present to the Zoning Board. The applicant indicated she intends to provide plans for review for the May 28, 2024, meeting.

The meeting adjourned at 6:48 p.m.

Respectfully submitted,

Laurie Slater
Recording Secretary