



b) *The Zoning Regulations State:*

The proposed plat would create a 5-foot rear-yard setback for 911 East Bremer Avenue and create a 22.22-foot front-yard setback for 115 9<sup>th</sup> Street NE. See Code of Ordinances Section 100.13.05.2.a.

c) *Interested Property Owners:*

There were no written comments. Secretary Passmore stated that he received three inquires regarding the request. Bob Welch, Jim Jebe and Diana Blake all reviewed the plat but had no objections to its approval.

d) *Discussion:*

Secretary Passmore reviewed the request and the existing and proposed plats. He stated that regardless of how a property line is situated between the two structures, the required yard setbacks would not be able to be met. The two neighboring property owners, Open Bible Church and Deb Salih, have come to an agreement regarding the proposed plat to better accommodate how the property is actually used. The plat will deed more area to Ms. Salih that she currently is using as part of her yard. Jennifer Whitney of Open Bible Church explained that the church uses their structure as a youth center and does not have any use for the property they intend to deed to Ms. Salih. Mr. Passmore further explained that if a variance is granted, the plat will still need Planning & Zoning Commission and City Council approval.

Member Foy stated that the most important factor was that the distance between the two structures does not allow proper setbacks to be achieved. Chairperson Lampe mentioned that the house structure required a variance when it was first constructed and that when the properties were owned by the same owner, lot line issues were not a major concern. Vice-Chairperson Brown confirmed that this request was not being required by the City but that it was desired by the owners to clarify their property boundaries. The Board discussed granting a variance contingent upon Planning & Zoning Commission and City Council approval.

e) *Motion by the Board:*

Motion By: Chris Foy

Seconded By: Karla Shea

Move that a variance to allow the proposed plat to create a 5-foot rear-yard setback at 911 East Bremer Ave. and a 22.22-foot front-yard setback at 115 9<sup>th</sup> Street NE be approved conditional upon plat approval by the Planning and Zoning Commission and the City Council.

Yes: 5

No: 0

Absent: 0

2. Review of Case # 20050502, Janice Nanke, 321 5<sup>th</sup> Ave. SW

a) *The Applicant's Requested Zoning Variance:*

The applicant is requesting a variance to the zoning regulation governing home occupations in Residential Districts.

b) *The Zoning Regulations State:*

The proposed home occupation will be conducted in a separate accessory building and give an outward appearance of a business. See Code of Ordinances Section 100.27.04.1.

c) *Interested Property Owners:*

Neighboring property owner, Tom Buege of 315 5<sup>th</sup> Avenue SW, stated that he did not have any objections and that he was able to clarify with Janice Nanke how the parking would be accommodated. Secretary Passmore stated that he did not receive any written or verbal comments.

d) *Discussion:*

Member Foy removed himself from the meeting before the item was addressed due to a conflict of interest. Secretary Passmore reviewed the request and explained the home occupation code. He stated the accessory building that faces 4<sup>th</sup> Street SW is intended to be a place of business in conjunction with the house and per the home occupation criteria, could easily be construed to give an outward appearance as a business. Mr. Passmore stated that this was a judgment call made by himself as the Zoning Manager and that the variance is requested as an appeal to this interpretation and determination which does not need to meet the common "hardship" rule.

Janice Nanke spoke about her property and her plans to sell various items at her shop on a part-time basis. She stated that the shop would likely be closed during the winter and that she was improving the property to make it appear more residential and connected with the home. Vice-Chairperson Brown clarified that even though this structure was used recently as an antique shop, because it has not been used for a few years, any new commercial use was not a legal non-conforming use. The Board discussed the history of the structure. Mrs. Brown asked about where the intended parking would be for customers. Ms. Nanke responded that parking would be along the south side of the structure adjacent to the alley. Member Shea clarified that the variance request is specific to the intent of the code and that no other variances are being requested in the home occupation code. Mrs. Shea further clarified that per the home occupation code, any infringement to the neighboring property owners would also need to be reviewed. Ms. Nanke stated that she thought it would be difficult for her business to add increased traffic to an already busy 4<sup>th</sup> Street SW and that her business would not generate any significant noise increase.

Mrs. Shea mentioned that the character of this neighborhood is a little different than other residential neighborhoods because of 4<sup>th</sup> Street SW. Ms. Nanke discussed her limited times of operation. Member Gidley stated that the appearance of the property is residential and that the location of the building separates itself from the neighborhood. Mrs. Brown added that the neighborhood has become accustomed to having a small business operate out of this location.

e) *Motion by the Board:*

Motion By: Karla Shea

Seconded By: Pat Brown

Move that a variance to allow the proposed home occupation at 321 5<sup>th</sup> Ave. SW be approved.

Yes: 4

No: 0

Absent: 0

Member Foy removed himself from the Board due to a conflict of interest and did not return.

E. Old Business: None

F. New Business:

The Board discussed the upcoming training seminar, as three members were planning to attend.

G. Adjournment:

Motion By: Karla Shea

Seconded By: Vern Gidley

That the Board of Adjustment meeting be adjourned.

Yes: 4

No: 0

Absent: 1

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