

c) *Interested Property Owners and Guests:*

Carol Jahnke, Waverly Area Development Group, spoke in favor of granting a variance to Nestle stating their value to the community.

Dan McDonald, Nestle Employee and Chief Union Steward, spoke in favor of granting a variance to Nestle stating the overall desire to see new product lines come to the Waverly plant.

Ralph Juhl, Waverly citizen, spoke in favor of granting a variance to Nestle and reviewed how long Nestle has been a good part of Waverly.

d) *Discussion:*

Dave Klamforth, Nestle Plant Manager, began the discussion by apologizing for the present situation and for not having the proper systems in place so that permits would be applied for first before starting work. He assured all parties that they have corrected this and that it would not happen again.

Wayne Magee, Magee Construction, spoke as the general contractor for the project and also apologized for their part in this situation.

Mr. Klamforth began the technical discussion surrounding the variance request. He explained the manufacturing process that is being brought to Waverly and the reason behind the project. The project involves a glass packaging process for coffee that has never been done before at the Waverly plant. This involves some major safety concerns and needs to be isolated from the rest of the plant. Mr. Klamforth showed the plant layout and explained why the proposed location was the only plant location that could accommodate this process. He then showed and explained the manufacturing process layout for the new product. This layout affected the existing structure by raising the height of the existing building yet being held to the minimum expansion they need for the process to work. Mr. Klamforth summarized his thoughts by stating the safety and uniqueness of this manufacturing process as their variance request.

Secretary Passmore reviewed the City Code regarding the height of a structure in the M-2 District. Vice-Chairperson Lampe asked about possible concerns regarding noise and dust control. Mr. Magee confirmed the wall construction to be more than adequate to withhold any noise from even passerby's on the sidewalk. Mr. Klamforth stated there would not be any extra towers added and that dust control is an ongoing part of the entire plant that is handled sufficiently.

Member Brown confirmed that the problem with the height of the structure is because of its proximity to the road, as there are taller structures at the plant. Mr. Passmore agreed this was the only reason for the variance request. Member Foy clarified that this variance would not qualify under any other allowed modifications or exceptions part of the code. Mr. Foy asked Nestle about any other options that they considered in the layout of the project.

Mr. Klamforth addressed other potential options and reviewed why this location was chosen. Mr. Foy mentioned that no one wants to deny Nestle a new product line but clarified that a hardship is required for a variance to be granted. Mr. Magee stated that the issues that Mr. Klamforth discussed, safety and uniqueness, are valid along with the fact that this request is the minimum requirement necessary to have the project function. Mr. Lampe clarified the remainder of the plant layout with Mr. Klamforth and also mentioned that he spoke with some of the surrounding neighbors who did not have any problems with the variance. Chairperson Block, along with the rest of the Board members, thanked Nestle for the presentation.

e) *Motion by the Board:*

Motion By: Pete Lampe

Seconded By: Pat Brown

Move that a variance allowing the proposed construction to exceed the maximum structure height by 26 feet at 70 6th Avenue NW be approved.

Yes: 4

No: 0

Absent: 1

2. Appeal of Case #20020501, Vern & Donna Oberheu, 116 6th Street NE

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

The applicant is requesting a variance to the zoning regulation governing maximum total square-footage of accessory buildings.

b) *The Zoning Regulations State:*

The applicant has modified the request from the first hearing to a smaller sized garage. The proposed construction of a 480 square-foot garage in conjunction with the existing 324 square-foot garage combine to equal 804 square-feet of accessory buildings. This would place the property approximately 20 square-feet over the allowed 784 square-foot maximum requirement. Contingent upon the third reading of the ordinance amendment addressing accessory buildings occurring this same evening, the property would be 4 square-feet over the allowed 800 square-foot maximum requirement. See Code of Ordinances Section 100.4.06.1.d(3).

c) *Interested Property Owners:*

Don Huston, surrounding property owner, spoke on behalf of the Oberheu's and stated that they have always enhanced the neighborhood with their property and supports the granting of a variance.

d) *Discussion:*

The Board began the discussion by reviewing the ordinance amendment that was in progress at the City Council meeting that would affect the request. The Board desired to phrase the motion contingent upon the approval of the

ordinance amendment. Member Foy stated that he needs to abstain from the vote on this variance due to his prior representation of the Oberheus. Vice-Chairperson Lampe reviewed that the Oberheus only need an additional four square-feet for the proposed garage under the new ordinance, but that by shortening the dimension on one side by a couple inches they could make the garage conforming and not require a variance.

Member Brown asked about the measurement of the existing building and Secretary Passmore confirmed that the submitted documents were correct and a variance is required. Mr. Foy asked about the possibility of shortening one side to meet the code. Mr. Lampe explained how this could be constructed.

Member Brown stated how nice their property looks, but that she is still having a problem with the variance when they only need to shorten one dimension very minimally. Chairperson Block stated that he views each case as individual in nature and should be reviewed on its own merit. Mr. Lampe expressed his opinion regarding the accessory building code and thought a code based on the percentage of the lot would be more appropriate.

e) *Motion by the Board:*

Motion By: Pete Lampe

Seconded By: Jim Block

Move that a variance to allow the proposed 20' by 24' garage be permitted at 116 6th Street NE be approved contingent upon the passage of the third reading and publication of the relevant ordinance amendment.

Yes: 1

No: 2

Absent: 1

Member Foy abstained due to a conflict of interest.

Member Brown and Vice-Chairperson Lampe explained the reason for their "No" vote was because no hardship was shown and other options were available.

F. Old Business: None

G. New Business: None

H. Adjournment:

Motion By: Pat Brown

Seconded By: Chris Foy

That the Board of Adjustment meeting be adjourned.

Yes: 4

No: 0

Absent: 1

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