

b) The Zoning Regulations State:

The lot is classified as a lot of record. The proposed addition would protrude into the 17.4-foot rear-yard setback requirement approximately 3.5 feet and further increase the nonconformance of the existing building. See Code of Ordinances Section 100.21.02.2 and Section 100.21.07.5

c) Interested Property Owners:

There were no written or verbal comments.

d) Discussion:

Ms. Brown reviewed her request for the proposed rear dining room addition. She explained that she contacted a surveyor to detail the site to get an accurate site plan. Secretary Passmore reviewed the setback requirement for this lot of record. Member Shea asked how the existing garage was placed further to the rear lot line than this proposed addition. Ms. Brown responded that the garage has been there as long as she has owned the house. Member Gidley asked if she knew the garage was in nonconformance. Ms. Brown indicated she had no idea her garage existed too close to her rear lot line until she came in for this permit. The board reviewed the skewed placement of the house on the lot but did not feel this was a major issue.

Chairperson Lampe confirmed that the only problem with the request is the rear-yard setback and questioned if the addition would be increasing the nonconformity of the structure since the garage extends further than the proposed addition. Mr. Lampe reviewed some similar cases and discussions that have taken place similar to this one. Mr. Passmore explained that if there is an area of land that is in conformance and a proposal is to build on that area of land, even though another part of the structure extends further into a setback, the proposed project would still require a variance. He stated that the project does not affect the line of sight but does not meet the requirements.

Ms. Brown stated that she had spoken with some of her neighbors and they did not have a problem with the addition. Mrs. Shea stated that she sees the main problem with this request, as with most of the requests, that a substantial hardship is difficult to establish. Mr. Gidley stated that he sees the existing garage and the fact that the addition will not extend beyond the garage as the major point for the variance. He also stated another factor was that the owner had no previous knowledge to the requirements. Member Brown stated that the footprint of the entire structure is not being altered. Council Liaison Ribich asked about placing the addition in different locations. The Board discussed different options, but the only location not requiring a variance would block the garage access. Mrs. Shea expressed the difficulty in the request to meet a variance guideline, although nothing is being negatively affected.

e) *Motion by the Board:*

Motion By: Pat Brown

Seconded By: Vern Gidley

Move that a variance to allow the proposed addition to extend into the rear-yard setback requirement approximately 3.5 feet and further increase the non-conformance of the existing building at 205 4th Avenue NW be approved.

Yes: 3

No: 1

Absent: 1

Member Shea cast the "No" vote due to a lack of a substantial hardship.

2. Case #20031102, Huygens Chiropractic Clinic, owner Sheryl Huygens, 908 2nd Avenue SW.

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

The applicant is requesting a variance to the zoning regulation governing minimum lot area for other permitted uses in the R-3 Residential District.

b) *The Zoning Regulations State:*

The proposed basement addition of the clinic would enlarge a structure in which all regulations are not in compliance. See Code of Ordinances Section 100.4.01.

c) *Interested Property Owners:*

Mr. David Hampton, a neighbor of the property, spoke in favor of the variance. He stated that the basement will not affect any line of sight issues. Mrs. Evelyn Thompson, a neighbor of the property, also spoke in favor of the variance. She also stated that the appearance of the building would not be changed. Ms. Laura Wilden, a neighbor of the property, further spoke in favor of the variance and stated that there will be no visual change from her property.

d) *Discussion:*

Mrs. Huygens reviewed the long process that this potential project has gone through. She explained the rezoning that took place on the property over the past six months and the approval of the special provisional use. She also stated that she had no knowledge of the nonconformance of the clinic when she bought it. Secretary Passmore further reviewed the process that has taken place and the reasoning behind the actions of the Planning and Zoning Commission and the City Council. Mrs. Huygens explained that when the original chiropractic clinic was built by Dr. Dickens in the early 1980's the use was conforming. During Dr. Dickens's practice the property was rezoned and ordinances modified that placed the use in nonconformance. Member Shea confirmed that through the rezoning and special provisional use approval that the clinic is now a conforming use.

Mr. Passmore stated that because of the mentioned approvals, the variance can now legally come before the Board. He also reiterated that the variance is due to the fact that the lot area for an "other" permitted use in the R-3 District is not able to be met by Mrs. Huygens property. Mrs. Huygens explained that the code requires 10,000 square-feet while she has approximately 9,300 square-feet. Chairperson Lampe reviewed some of the Planning and Zoning Commission's options during the rezoning process and the Board discussed the purpose behind a lot square-footage requirement.

Mrs. Shea stated that by adding a basement under the existing structure there would be no visible evidence of the project from the outside. Mr. Passmore mentioned that Mrs. Huygens explored different options to expand on her property, but that adding a basement was the least intrusive to the neighborhood. Mrs. Huygens mentioned that a factor in the need for additional space is for record storage. She explained the new HIPA regulations that require greater patient confidentiality are causing her to reorganize her office setup. Member Gidley expressed his thought that the request would sufficiently meet the hardship guidelines. Member Brown echoed these sentiments and stated that the past zoning changes that occurred have also placed a hardship upon the property. Mrs. Shea agreed that the specific ordinance changes negatively affected the property. Mr. Lampe further expressed that the ordinance change inadvertently created a hardship on the property.

e) *Motion by the Board:*

Motion By: Pat Brown

Seconded By: Karla Shea

Move that a variance to allow the proposed Huygens Chiropractic Clinic to enlarge a structure in which all regulations are not in compliance at 908 2nd Avenue SW be approved.

Yes: 4

No: 0

Absent: 1

E. Old Business: None

F. New Business: None

G. Adjournment:

Motion By: Vern Gidley

Seconded By: Karla Shea

That the Board of Adjustment meeting be adjourned.

Yes: 4

No: 0

Absent: 1

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