

b) *The Zoning Regulations State:*

The proposed parcel split would create a lot that would be 2.11 feet short of the required 65-foot minimum lot width. See Code of Ordinances Section 100.9.03.2.c and 100.4.10. The remaining parcel would be officially described as:

Lot 3 of Block 9 in the Original Town of Waverly, Bremer County, Iowa, except the West 4 feet thereof.

c) *Interested Property Owners:*

Milt Westendorf of Westendorf Auto expressed concern over parking in the area to the secretary prior to the meeting. There were no other comments.

d) *Discussion:*

Chairperson Lampe reviewed with Gerald Carney that all three of the members present would need to vote in favor of the variance in order for it to be approved and offered Mr. Carney the opportunity to come back to a meeting when four members could be present to vote. Mr. Carney responded that he would like to proceed and understood the voting parameters. Member Gidley stated that Keith Collins was his attorney and that he also owned the property adjacent to the parcel in question, and asked if anyone had any objections or concerns. No objections or concerns were raised.

Secretary Passmore briefly reviewed the request and the need for a variance. He stated that in order to meet the minimum side-yard setback for the existing structure, part of the adjoining lot was proposed to be split off and retained with the existing structure. This effort to conform the existing structure then produced the current situation where the remaining lot width would be under the minimum required.

Keith Collins, attorney with Leslie, Collins and Foy, represented his firm in their efforts to split their property and sell the remainder to attorney Gerald Carney to allow him to build a separate law firm. Mr. Collins stated that a survey was done during negotiations with Mr. Carney that revealed the need to retain about 4 feet with the existing building in order to meet setbacks. Mr. Collins noted that the commercial lot width in the R-4 zoning district is 65 feet while for a single-family residence it is only 60 feet. He stated that the lot is perfectly suited for another law firm with its proximity to the courthouse and would be consistent with the neighborhood. Mr. Collins stated that parking is currently addressed and will be added to as appropriate, but that due to the construction of the new jail, parking in the area is temporarily difficult. Mr. Collins stated that not approving the variance would create a hardship upon the property in an effort to market it commercially and also mentioned that Mr. Carney has stated that he will not need to ask for any variances for his new building to meet any required setbacks.

Mr. Carney addressed the Board and explained his current situation. He restated that he would meet required setbacks for a new building and not request another variance. Mr. Carney stated that he intends to put additional parking in the rear off the alley and mentioned that without the variance, the remaining lot becomes difficult to sell for an approved R-4 commercial use. Member Brown asked about the sequence of events that led to this request. Mr. Carney stated that he made an offer for the parcel that was accepted and then a survey was conducted which showed the potential problem. He offered to give back about 4 feet of the parcel he would acquire to conform the existing structure and stated that if a variance is not granted then there would be no transaction. Mrs. Brown confirmed that nothing would be done to the existing structure if the entire adjacent lot was sold off except that the structure would become non-conforming. Mr. Collins stated that the adjacent lot could have been sold off, but in an effort to not place the structure into non-conformance, this variance for a lot width is requested. He stated that the spacing between the buildings will be as required and that the new building will not look out of place.

Mr. Passmore mentioned that even though the lot width requirement would not be met, the lot area requirement would be sufficient. Mr. Duane Liddle spoke in favor of the variance and mentioned that if the structure is placed into non-conformance and it becomes damaged, problems could arise in the ability to replace the entire building. Mr. Passmore stated that another problem could arise stemming from the City's building code if the variance is not granted because certain separation requirements would not be met, which would therefore require the existing structure to modify its exterior wall. Mr. Passmore mentioned that this issue was brought to light by the Bremer County Building Department, which now operates also for the City of Waverly.

Mrs. Brown stated that she was having difficulty with the variance request, but with respect to the building code can see a hardship if a variance is not granted. Mr. Carney stated that without the variance the City can not sign off on the plat which would nullify the deal to purchase the lot. Mr. Lampe asked Mr. Carney if a potential motion could include a statement that no further variances shall be allowed for his new building.

e) Motion by the Board:

Motion By: Vern Gidley

Seconded By: Pat Brown

Move that a variance to allow the proposed parcel split to create a lot that would be 2.11 feet short of the required 65-foot minimum lot width with respect to Lot 3 of Block 9 in the Original Town of Waverly be approved and that no further setback variances shall be allowed with respect to Lot 3.

Yes: 3

No: 0

Absent: 1

Member Foy abstained due to a conflict of interest.

Board of Adjustment Minutes
December 12, 2005

E. Old Business: None

F. New Business: None

G. Adjournment:

Motion By: Pat Brown

Seconded By: Vern Gidley

That the Board of Adjustment meeting be adjourned.

Yes: 3

No: 0

Absent: 2

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