

BOARD OF ADJUSTMENT MINUTES

May 10, 2010

7:00 p.m.

A. Call to Order:

1. Members Present:

Pete Lampe, Chairperson

Pat Brown, Vice-Chairperson

Al Charlson, Member, *arrived at D.1.*

Vern Gidley, Member

Karla Shea, Member

City Officials Present:

Ben Kohout, Secretary; Tim Kangas, City Council Liaison

2. Motion By: Brown

Seconded By: Shea

Move that the agenda be approved as printed.

Yes: 4

No: 0

Absent: 1

B. Approval of Previous Minutes:

Motion By: Gidley

Seconded By: Shea

Move that the minutes of the April 12, 2010, Board of Adjustment meeting be approved.

Yes: 4

No: 0

Absent: 1

C. Communications:

D. Regular Business:

1. Case # 20100501, Jim Lee, 805 W. Bremer Ave.

a) The Applicant's Requested Zoning Variance:

Jim Lee, owner of 805 W. Bremer Ave., is requesting a variance to the zoning regulations governing the off-street parking requirements for proposed commercial usage out of the existing structure at 805 W. Bremer Ave. The applicant is proposing to utilize the existing three off-street parking spaces to accommodate the potential commercial use within the C-2A zoning district.

b) *The Zoning Regulations State:*

Any commercial usage out of the existing building requires meeting the schedule for parking based on the proposed use as outlined in the City Code. See Code of Ordinances Section 100.13A.03(1).

c) *Interested Property Owners:*

Secretary Kohout stated he received one phone call from a resident to clarify the request and they offered no other concerns.

d) *Discussion:*

Chairperson Lampe opened the public hearing. Mr. Lee referenced the letter he had submitted to the Board and clarified for Member Brown he has no agreement in writing with St. Andrew's church to share parking spaces to meet the City parking regulations as the two parties could not agree to terms. Mr. Lee confirmed for Ms. Brown future tenants of his commercial building is dependent on parking regulations being met through this variance request as the building was constructed with three off-street parking spaces for the building.

Mr. Lee stated the potential uses are office uses, a coffee shop, and a retail use, not necessarily all occupying the building space. Mr. Lee stated allowing any use or combination of uses would require meeting building code regulations and off-street parking regulations.

Mr. Lee confirmed for Ms. Brown the Other Place II Pizza restaurant parking area to the west would not be an option as the owner is not willing to share spaces with his proposed use.

Secretary Kohout confirmed for the Board this notice was sent out again to property owners within 250 feet, as this is a different request from the April 2010 zoning request. Mr. Kohout confirmed for the Board if the variance is granted for relief of the zoning regulations for this proposal, the variance could be exclusive of property ownership and would stay with the property.

Mr. Lee stated the building size and parking regulations not being met were inherited due to the building being constructed before the current regulations were in effect.

Mr. Kohout confirmed with Member Shea a use could be proposed where parking requirements could be met as it currently is situated with three off-street parking spaces in lieu of the sought-after office and/or retail space.

Member Gidley stated this application qualifies for hardship as this is not Mr. Lee's making, the property cannot be used for intended use without a variance, the spirit and intent of the ordinance is upheld and substantial justice would be done in allowing a variance in the off-street parking regulations.

Ms. Shea stated her position is to seek out a commercially feasible alternative to make the current situation work and without St. Andrew's agreement for sharing of parking, there is a hardship present and allowing some commercial use would follow suit with the commercial zoning designation.

Member Charlson stated he thinks off-street parking regulations are in place for a reason and the Board should render a decision in keeping the public safety in mind.

Ms. Shea suggested the Board may consider drafting a variance to allow for only a certain number of spots and the owner must find a use or combination of uses that would not exceed the defined number of spots based upon uses currently outlined in the City code.

Elizabeth Hartman, member of St. Andrew's Church, clarified for the Board the agreement with Mr. Lee did not come to terms as St. Andrew's wanted to reserve the rights to their parking spaces at any time and to terminate the ability for him to use the spaces with a 30 days notice. Ms. Hartman stated she thinks off-street parking is needed along 8th St. SW as this is a high traffic area. Mr. Lee clarified with Ms. Hartman removal of the home to the west, which Mr. Lee owns, in order to create parking spaces, would not be possible with the bank due to current financial arrangements. Ms. Hartman stated she thinks low traffic office uses would be the most desirable uses out of the current building due to events held at St. Andrew's church at different hours throughout the week.

Jim Hurley, resident of Shell Rock and the realtor who sold the building to Mr. Lee, stated Mr. Lee has worked on and continues to explore all of his options. Mr. Hurley stated there are limited options due to the situation of the building on the property and observed it could lend itself to lower traffic generating uses and is a unique building in relation to other building uses located in the C-2A district in the City.

Chairperson Lampe read the requirements for granting a variance to meet the standards. Ms. Shea stated she does not see any uses with the current three off-street parking spaces and it is not allowed to be utilized in accordance with the C-2A zoning regulations.

Mr. Lee clarified for Ms. Brown there are currently two entrances and he will work with the building official to situation any proposed uses within the building in accordance with building codes. Mr. Lee clarified for Mr. Charlson there is roughly 3,200 square feet of space in the lower level of the building. Mr. Kohout clarified for Mr. Charlson each parking space required is 9 feet by 19 feet. Mr. Charlson stated he thinks the Board could allow relief for limiting any use or combination of uses out of the building to no more than 16 spaces, which requires 100 percent of the square footage of the building to be dedicated for parking spaces, to be similar to some of the parking regulations currently found in the City code. Mr. Charlson stated he thinks this could naturally limit the uses out of the building and thus limit the number of parking spaces and potential traffic generation to the property. Mr. Lee thinks this arrangement could work as it would naturally limit the uses due to the finite size of the existing commercial building.

Mr. Kohout clarified for the Board any proposed use out of the building would require a site plan for interior finish and staff would evaluate the proposed square footage of any proposed use/uses and would require the amount of parking as prescribed in the City code. Mr. Kohout also clarified for the Board the parking space size requirements are a minimum that must be demonstrated prior to issuing occupancy of a building to allowing for any use in the C-2A zoning district.

There being no other persons in attendance wishing to speak, Mr. Lampe closed the public hearing.

e) *Motion by the Board:*

Motion By: Charlson

Seconded By: Gidley

Move that a variance to allow 805 W. Bremer Ave. to accommodate any use or combination of uses out of the main lower floor space of the existing building to not require more than 100 percent of the square footage of the building floor area to be dedicated for parking spaces, based on 3,200 square feet of usable floor area, be approved.

Yes: 5

No: 0

Absent: 0

E. Old Business:

F. New Business:

1. Mr. Kohout stated there will be an EPA Smart Growth Workshop on May 26 at the Library and May 27 at the Civic Center in City Hall to discuss how the City of Waverly can incorporate smart growth principles into the Comprehensive Plan update revision process.

G. Adjournment:

Motion By: Shea

Seconded By: Brown

That the Board of Adjustment meeting be adjourned.

Yes: 5

No: 0

Absent: 0