

Board of Zoning Appeals

February 14, 2013

Members present: Phil Rooney, Chairman; Doug Warren, Vice-Chairman; David Russell, Secretary; Sharon Rooney; George McAfee.

The meeting was called to order at 6:01 p.m. by Mr. Rooney. The members were introduced and the rules of the proceedings were explained.

Case # 50241-BA-13 (123 Cherry Street) was introduced. Todd Richard, Zoning/Floodplain Administrator reviewed the case:

Filed by Austin Gerber, on behalf of Mr. Joseph Edinger. The applicant is seeking a variance from section 1161.15j2 of the City of Findlay Zoning Ordinance. The applicant wishes to establish a crematorium within 100 feet of a residential area.

This building was established in sometime around 1920 and has had many uses over the past decades. It was zoned C-residential at the time zoning was adopted in 1955. In 2009, it was rezoned to B-3, Downtown Business. When the new zoning code and map were adopted in December 2011, this property was supposed to have been changed to C-3, Downtown Commercial, which is virtually the same classification as to what was the B-3 district in the old code. A mapping error placed it in the R-3 district (single family, high density).

Ironically, the R-3 district allows funeral services (conditionally) and we have included the crematorium activity as part of what a funeral service provides. The difference here is this crematorium is for pets only. The activity and process is the same as it is for humans.

The proposal was brought to the City Planning Commission (CPC) and it was denied since the activity is within 100 feet of a residential area. The wording of "area" in the code does not seem proper, however, the activity is within 100 feet of a district. The code allows crematoriums in the R-3 district but not within 100 feet of a residential area. The language seems to contradict itself. This is a code issue that needs to be addressed.

The applicant is meeting EPA and Wood County Building code requirements and has been very diligent in following the process. The activity should be relatively unnoticed and many of the neighbors have been notified. The building has no realistic possibility of being changed into a dwelling.

The owner is in the process of having the zoning district changed to the C-3 district. It is currently in the early stages. However, the C-3 district does not necessarily permit funeral services. If this variance is granted and the zone changes to C-3, a nonconforming use will be created.

Mr. Warren asked Mr. Richard why the 100 foot buffer was created. Mr. Richard does not know why and the language contradicts itself and it may be an error in the code writing.

Mr. Austin Gerber was sworn in. His address is 1512 Crystal Avenue. He is the business owner. He read a quote from Mr. Tom Genseman (?), owner of 125/127 Cherry Street. "Based on everything "(inaudible). This was from an email. Mr. Gerber said that if the request is turned down he will find an alternative location for this activity.

Mr. Joseph Edinger was sworn in. He lives at 820 Third Street and is the owner of 123 Cherry Street. He affirmed what Mr. Genseman stated in his emails that he was not in objection to the activity. Mr. Edinger reviewed some of the past uses of the property. He thinks this activity will have a very low impact and he will be using part of this building also. He said that he has had past inquiries for this building would have a higher impact but would have legal uses. The nature of the neighborhood is anything but R-3.

Mr. John Snyder was sworn in. He resides at 324 Clinton Street and also owns 322 Clinton Street. He thinks the applicant and owner of the property are great neighbors to have. His concern is more will happen here than what is intended. He thinks odor will be a problem. He does not want dead animals dropped off at the door and has a concern that large animals will be cremated either.

There were no written communications to be presented and no one else was present to testify in favor of or in opposition to the request.

Mr. Warren asked about the nature of the request. Mr. Richard told the Board that they are only ruling on the location of the activity in relation to the residential area. This is not a use variance. There is a map that indicates the properties within 100 feet of the activity.

Mr. McAfee asked about the zone change process. He asked about what happens when the zoning district is changed. Mr. Richard explained a legal nonconforming use will be created. The use has already been approved with the condition the Board grants a variance.

Mr. Warren asked about the errors in the map. He was advised to ask HRPC about the status of the map maintenance and update.

A motion to approve the variance was made by Mrs. Rooney provided the applicant or owner obtains the permit within 60 days. The motion was seconded by Mr. Russell. By voice vote, the motion passed 5-0.

The minutes from October 11, 2012 and December 13, 2012 were reviewed. Mr. Rooney made a motion to approve the minutes as written. Mrs. Rooney seconded the motion. The motion passed by voice vote 5-0.

A motion was made by Mr. Warren to leave the officers intact for 2013. Mrs. Rooney Seconded the motion. The motion passed by voice vote 5-0.

The meeting was adjourned at 6:25 p.m.


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