

Board of Zoning Appeals

July 12, 2018

Members present: Chairman, Phil Rooney; Blaine Wells; Kerry Trombley; Brett Gies (alternate).

The meeting was called to order at 6:02 p.m. by Mr. Rooney. Mr. Rooney introduced the members to the audience and the general rules were reviewed.

Case # 57368-BA-18 (1007 Graceland Blvd) was introduced: Filed by Bert Rayle, regarding the replacement of a mobile home. The new mobile home must meet a rear yard setback of 12.9 feet (section 1123.05D). The proposed setback will be approximately 10.7 feet.

In 1970, a variance was granted to Mr. Rayle to allow two mobile homes on this lot. That variance is permanent to this land. Over the years, the mobile home has been replaced without a permit, most likely when code enforcement was nonexistent.

Section 1162.06(C) allows us to apply the appropriate residential development standards to properties within the commercial and industrial districts. This is meant to compensate for areas that may not be zoned properly and cannot meet setbacks in those districts as a residence. For example, a single family dwelling in an I-1 district typically can't meet 30-foot side yard setbacks. Although the current language is not clear, the intent is and it follows guidelines our code used to have. In this case, we are utilizing the R-3 standard since this lot and the surrounding area seem to fit that district the best.

The rear yard setback for this district is 15% of the lot depth, or 12.9 feet. The proposed mobile home will be slightly longer than the one it is replacing.

The whole situation is not a good one and was all started with that variance in 1970. That variance had a condition that the mobile home be new or no more than five years old. After a discussion with Mr. Rassmussen today, we have to recognize this variance and the condition, however, the Board has the power to modify the condition, if it wishes to. It doesn't appear the encroachment is going to make much difference. This rear yard is abutting the side lot line in the rear yard of the abutting property in an area that is open space.

Mr. Bert Rayle, 1235 Brookside Drive, was sworn in. He did not have much else to offer, other than what he had presented in the packet.

Mr. Wells asked how old the new mobile home would be? Mr. Rayle replied it will be about 19 years old, but it looks very good for its age and is in excellent condition.

There was no other testimony or communication regarding this request.

Mr. Wells, made a motion to approve the variance and modified the condition that the mobile home cannot be any older than 20 years old. The motion was seconded by Mr. Trombley. The motion passed 3-0.

Case # 57340-BA-18 (627 Washington Street) was introduced: Filed by Rooney & Ranzau, on behalf of ROSI Enterprises, LLC. The applicant is proposing a lot split to avoid having two dwellings on one lot. The resulting lot split will cause the south lot to be smaller than the minimum required size of 3,500 square feet (Section 1123.06A); it will also increase the degree of nonconformity of the rear yard setback by providing .8 of a foot of the required 15% of the lot depth (section 1123.05D); and it will create a side yard setback of 1.3 feet when the minimum requirement is 3 feet (Section 1123.05B).

The second dwelling on this lot was established in 1950. After zoning was adopted in 1955, only one dwelling was permitted on the lot. This is currently a legal, nonconforming use of this property. For some time, financial institutions have had discomfort over these situations. An easy remedy is to split the lots to create two separate entities that can be sold independently.

Often, as in this case, the split creates some other nonconformities (as noted above). The location of the split seems logical because of the location of the parking areas.

Encroachments are often unavoidable and we see them as a fair trade-off for a conforming use of the property that is a result of the split.


If there is ever a calamity to either structure that causes more than 75% damage in relation to its actual cash value, then it would have to be reconstructed according to whatever development standard is in place at that time. It could involve a future variance.

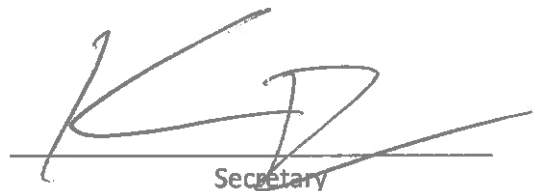
Christie Ranzau, attorney for ROSI Enterprises, did not much more information to offer.

Mr. Trombley made a motion to approve the request. Mr. Wells seconded the motion and it passed 3-0, with Mr. Gies acting as the alternate. Mr. Rooney had to abstain from this case.

No minutes could be approved since there was no quorum for those minutes that needed to be signed.

The meeting was adjourned.


Chairman


Secretary