

The Board of Zoning Appeals met in regular session and was called to order by Chairman Larry Salyer on Tuesday, May 9, 2017, at 3:30 p.m. Board members in attendance were Larry Salyer, Richard Burns, Tom Force and Will Harrelson. Not in attendance were Kent Frauenberger, Patricia Chavis, and John Stickel. Staff in attendance included Planning and Zoning Manager Tim Davis, Zoning Inspector Shannon Brandon, and Secretary Sheri Green. Also present was Fred Brown, owner and applicant of BWS Enterprises, LTD, property owner of 1401-1411 Trade Square W.

ELECTIONS:

The first order of business was the election of officers.

Tom Force made a motion to nominate Kent Frauenberger as Chairman and Richard Burns seconded the nomination. The nomination was unanimously approved and Mr. Frauenberger was elected as Chairman of the Board of Zoning Appeals.

Tom Force then nominated Larry Salyer as Vice Chairman and Will Harrelson seconded the nomination. The nomination was unanimously approved and Mr. Salyer was elected as Vice-Chairman of the Board of Zoning Appeals.

MINUTES:

Minutes of the November 29, 2016 meeting were approved on a motion by Richard Burns with a second by Tom Force.

Approved 4-0

NEW BUSINESS:

Mr. Salyer explained the workings of the Board of Zoning Appeals for those present. He advised that the Board of Zoning Appeals is a quasi-judicial board and that it has a Standard for Variances that has to be followed. Mr. Salyer then read each one of the standards. He continued by saying that four of the seven members were present, and that four affirmative votes were needed in order to approve the request. He also advised that, according to law, all motions are made in the affirmative. The Board's decisions are final; and if an applicant does not agree with the Board, they may appeal to the courts.

Mr. Salyer then swore in Shannon Brandon, and Fred Brown.

1401-1411 Trade Square W.

Shannon Brandon presented her staff report to the Board. She advised the Board that the City received a request to construct a detached garage at 1401-1411 Trade Square West, which is a residential property, zoned R-7, Multiple Family Residential. In order to construct the detached garage an approval of a variance from the maximum lot coverage of 50% in the R-7, to a maximum of 60% lot coverage would be needed.

The property is located in the Westbrook subdivision, and is a multi-unit rental complex. The Development Department received a request April 12, 2017, to construct a 27' x 27' detached garage at this property. After reviewing the application, staff determined that the existing structure, parking lot, and sidewalks accounted for lot coverage of 55%. The maximum lot coverage in the R-7 zoning district is 50%. After calculating the lot coverage, including the proposed 749 square foot detached garage, the lot coverage would then be 60%.

As shown on the application, the applicant is stating the hardship in this case to be, "In need of onsite maintenance garage for use and storage of maintenance equipment essential to proper care of this property and two adjacent properties also owned by BWS Enterprises, LTD."

While we realize the lot is currently over the allowable lot coverage, and permitted by grandfathering, increasing the lot coverage even further could increase issues in the future. An example could be green space. Green space created by minimal lot coverage, is a valuable resource in the management of storm water. Green space allows the runoff from impervious surfaces to naturally drain away while replenishing the water table. This natural drainage system helps to divert storm water from the storm sewer system, thereby reducing the amount of silt and debris being deposited into the Great Miami River; a wonderful, natural feature for which the City of Troy and surrounding areas are expanding in its use and viability. Preserving green space also decreases the amount of infiltration into the sanitary sewer, which then reduces the amount of processing performed by the Wastewater Treatment Plant. By increasing the lot coverage, green space is reduced, giving storm water less area for natural drainage. Per Section 1131.02 of the Zoning Code, the "City intends to promote the health, safety, morals and general welfare of its residents, businesses and visitor through the following objectives:" Section 1131.02(p) states: "To protect public and private

water supplies, both in quality and quantity.” Increasing the lot coverage will raise the quantity of water being deposited into both public and private water supplies.

Shannon Brandon read the “Code Sections and Findings” from her staff report. Section 1143.10(f)(1) outlines the maximum lot coverage in the R-7 zoning district to be 50%. Section 1131.02(h), which states that through a site plan review, the general, district and supplementary regulations of the code are being followed in the design of each new site improvement. And Section 1131.02(p) which states the code’s intent to protect both public and private water ways.

Following the Code Sections and Findings, Shannon read from her staff report, the Standards for Variances. In her findings, the variance request is not due to an unique condition. The condition of lot coverage could be found in any zoning district within the City. The granting of the variance could impact the rights of adjacent property owners as those property owners would be required to comply with the regulations of the Zoning Code pertaining to lot coverage. The strict application of Section 1143.10(f)(1) does not constitute a hardship upon the property owner, as the variance will not adversely affect stated conditions. It would be opposed to the general spirit and intent of 1143.10(f)(1). This Section specifically requires that all lots within the R-7 have lot coverage not to exceed 50%. There is nothing unique concerning the physical surroundings, shape, or topographical condition of the property in question, nor does staff feel this is a variance request to realize economic gain. The variance would not be materially detrimental or injurious to the neighborhood, and the proposed variance would not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within this neighborhood.

It is the opinion of the staff that this variance not be granted. A practical difficulty does not exist and granted a variance would violate the intent of Section 1143.10(f)(1), Section 1131.02(h), and 1131.02(p) of the Zoning Code.

Mr. Salyer then asked if anyone had any questions for Shannon. Mr. Salyer asked the secretary if notices had been sent out to neighboring properties, and if any responses had been received. Notices were mailed out, and no responses were received.

After discussion and a couple more questions, and no more testimony, Mr. Salyer adjourned the meeting temporary.

After due review of all testimony, the staff report and the applicants requests for variance of section 1143.10(f)(1), the Board of Zoning Appeals findings and facts is that the variance request is the result of practical difficulty for the property owner as required by Section 1137.08(f)(1) by the City of Troy Zoning Code. In addition, we find that the criteria as stated in Section 1137.08(f)(1) A through K are satisfied in the affirmative.

Mr. Harrelson made a motion to grant the variance, Mr. Force seconded the motion to approve requested variance.

The requested variance is the approval of the variance from the maximum lot coverage of 50% in the R-7 to a maximum of 60% lot coverage. Mr. Salyer is if there is a second to that motion or any discussion. In the voting a yes vote carried by the majority states that the findings and facts are supported by the BZA and supports the appeal by the variances approved and if there is a no vote, then it would be rejected. Roll call was called and variance was approved.

Approved 4-0

Mr. Salyer asked if there was any old business; there being none, Will Harrelson made a motion to adjourn meeting, and Richard Burns seconded that motion

Approved 4-0

Larry Salyer, Chairperson

Sheri Green, Secretary