BOARD OF ADJUSTMENT
Regular Meeting

DATE: **August 5, 2020**

TIME: **5:00 p.m.**

PLACE: **Zoom Online Meeting**

PRESENT: **Breza, Murphy, Conway, Kouba, Krofchalk, Sanchez**

ABSENT: **Buege**

STAFF: **Carlos Espinosa, City Planner**

Chairman Sanchez called the meeting to order at 5:00 p.m.

The minutes from the Board's July 1st meeting were approved unanimously upon motion by Conway and second by Breza.

Petition No. 20-22-V G & R Rentals, LLC

Chairman Sanchez opened the public hearing and read the petition:

> G & R Rentals, LLC - City Code Section 43.02.24 Table 43-4 Site Dimension Standards: Which requires 12 foot (12') side yard setbacks and 40 foot (40') rear yard setbacks. Applicant is proposing converting an existing duplex into a triplex which will be roughly zero feet (0') from the easterly side lot line and roughly 28 feet (28') from the northern rear lot line.
>
> Also, 43.02.23 Table 43-3 Lot Dimension Standards: Which requires 9,000 square feet of lot area for a triplex in the R-2 Zoning District. Applicant is proposing converting an existing duplex situated on a roughly 4,800 square foot lot into a triplex.
>
> Also, 43.03.22 Table 43-17: Which requires two parking spaces per dwelling unit. The site as currently situated can provide three parking spaces. Applicant is proposing a triplex which requires six parking spaces.
>
> Property is described as R-2 zoning, Sect-26, Twp-107, Range-007, HAMILTON ADDITION, Lot-007, BLANK BLKS 95', or at 652 East Third Street.

Chairman Sanchez stated that he would be abstaining from the discussion since he had recently sold the subject property to the applicants.

The applicants from G & R Rentals, LLC addressed the Board. They noted that the existing structure is set up for three units even through it is only certified for

two. The proposal would be to add another unit in the lower level. Although the property is currently certified for 10 unrelated people, they are only seeking the property to be certified for 8. All of the changes would be made within the existing structure.

Next, Chairman Sanchez opened the public hearing.

Staff (Mr. Espinosa) noted that he had received a comment from the property owner at 656 E. 3rd Street stating that he was concerned about parking for the proposed triplex.

There being no one who desired to speak, Chairman Sanchez closed the public hearing and opened it up for discussion.

Breza and Kouba stated that increasing the number of units would likely result in increased on-street parking in an area that is already relatively congested – especially given the location on Third Street.

Krofchalk noted that the occupancy is proposed to be reduced from 10 to 8.

Next, the Board went through the variance finding questions.

Is the variance in harmony with the purpose and intent of the ordinance?

The Board determined that the variance is not in harmony with the ordinance given the small size of the lot.

Is the variance consistent with the Comprehensive Plan?

The Board determined that the variance is consistent with the Comprehensive Plan since subject property is designated Traditional Neighborhood which generally supports up to four housing units on a single property.

Does the proposal put the property to use in a reasonable manner?

The Board determined that the variance is reasonable given the current setup of the house with three kitchens and the number of certified people is proposed to be decreased from 10 to 8.

Are there unique circumstances to the property not created by the landowner?

The Board determined that there are unique circumstances given the current setup of the house with three kitchens.

Will the variance, if granted, retain the essential character of the locality?

The Board determined that the variance would retain the residential character of the neighborhood.

Are there other considerations for the variance request besides economics?

The Board discussed how the request was related to economics, but the practical difficulties test is satisfied so this criterion is met.

Next, Murphy noted that the request could not be approved because the Board had not determined that the proposal is in harmony with the purpose and intent of the ordinance. Mr. Murphy noted that perhaps the applicants could provide covered bicycle parking in order to meet ordinance requirements. Mr. Murphy asked the applicants if there was room to do this.

The applicants noted that there is an existing shed in back yard that could be utilized for covered bicycle parking.

Mr. Espinosa noted that the property currently has 3 parking spaces and 6 are required for the triplex. As a result, 6 covered bicycle parking spaces would need to be provided to satisfy off-street parking requirements.

Mr. Espinosa also noted that the reduction of occupants from 10 to 8 and the requirement to meet off-street parking standards through covered bicycle parking could be conditions for approval of the request.

Next, the Board reconsidered criterion number one – harmony with purpose and intent of the ordinance. With the proposed conditions noted by Mr. Espinosa, the Board found the request to be in harmony with the ordinance because sufficient parking would be provided and the total number of people on the property would be reduced – substantially benefitting the public welfare while preserving and protecting property value.

Next, Conway made a motion to approve the variances with conditions to reduce the total number of occupants from 10 to 8 and meet City ordinances for off-street parking which may be a combination of vehicular and covered bicycle parking. The motion was seconded by Breza. The motion passed 4-1 with Kouba voting against and Chairman Sanchez abstaining.

Petitioner was informed that there was a 10-day period during which time an appeal could be filed for Council review.

Petition No. 20-23-V G & R Rentals, LLC

Chairman Sanchez opened the public hearing and read the petition:

> G & R Rentals, LLC - City Code Section 43.02.24 Table 43-4 Site Dimension Standards: Which requires 12 foot (12') side yard setbacks and 45 foot (45') rear yard setbacks. Applicant is proposing adding a fourth habitable unit to a property that currently houses three units. The fourth unit would be located in an existing garage to the rear of the property. As

currently sited, the existing structures are roughly five feet (5') from the side lot lines and roughly three feet (3') from the rear lot line.

Also, 43.03.22 Table 43-17: Which requires two parking spaces per dwelling unit. The site as currently situated can provide four parking spaces. Applicant is proposing four units which requires eight parking spaces.

Property is described as MU-N zoning, Sect-25, Twp-107, Range-007, HAMILTON ADDITION, Lot-003, Block-037 & SOUTH 2' LOT 2, or at 154 High Forest Street.

The applicants from G & R Rentals LLC addressed the Board. They stated that an un-licensed studio apartment currently exists in the garage and they are seeking the variances in order to get it certified for rental.

Board members questioned if the studio would be brought up to code. The applicants confirmed that it would be brought up to all applicable building codes.

Next, there was general discussion on current certification of the property. The applicants noted that there are currently 3 certified units for a total 13 people unrelated. They intend on remodeling one of the units to make it a three bedroom. The other two units are one bedrooms - one unit is potentially suitable for two people; the other for one. If the variance is approved, they would like the ability to rent the studio to up to two people. Based on this, the applicants were agreeable to reducing the total certified number of occupants from 13 to 8.

Next, there was discussion on parking. Mr. Espinosa noted that there is currently room for 4 side by side parking spaces within the existing lean-to. The applicants noted that additional covered bicycle parking could be located within the existing 40' X 40' garage.

There being no others who desired to speak, Chairman Sanchez closed the public hearing and opened it up for discussion.

Next, the Board went through the variance finding questions in consideration of reducing the total number of occupants from 13 to 8 and meeting off-street parking requirements through a combination of vehicular and covered bicycle parking.

<u>Is the variance in harmony with the purpose and intent of the ordinance?</u>

The Board determined that the variances are in harmony with the ordinance given they support investment in the property and will help bring a currently uncertified unit into compliance with code.

Is the variance consistent with the Comprehensive Plan?

The Board determined that the variances are consistent with the Comprehensive Plan given the Traditional Neighborhood land use designation which generally supports up to four units on a single property.

Does the proposal put the property to use in a reasonable manner?

The Board determined that the variances are reasonable given the property's mixed use zoning does not include lot area minimums.

Are there unique circumstances to the property not created by the landowner?

The Board determined that there are unique circumstances given the studio apartment already exists, but is unlicensed.

Will the variance, if granted, retain the essential character of the locality?

The Board determined that the variances would have minimal impact on the character of the locality.

Are there other considerations for the variance request besides economics?

The Board found that there are other considerations for the variances given the findings listed above.

Murphy made a motion to approve the variances with the conditions to reduce the total number of occupants from 13 to 8 and meet off-street parking requirements through a combination of vehicular and covered bicycle parking. The motion was seconded by Breza. Upon vote, all were in favor.

Petitioner was informed that there was a 10-day appeal period during which time no action could be taken on the petition.

Other Business

Following a staff summary, the Board considered three resolutions related to 20-20-V from Mitch Walch.

The Board passed Resolution 20-20 (1) 6-0 upon motion by Krofchalk and second by Conway.

The Board passed Resolution 20-20 (2) 5-1 (Kouba dissenting) upon motion by Murphy and second by Breza.

Next, Chairman Sanchez allowed Mitch Walch to speak. Mr. Walch stated that he is working on re-designing the building and would only be seeking a variance for the height. Mr. Walch mentioned changing the footprint of the building and the parking layout so that the setback and parking variance would no longer be needed. Mr. Walch thus asked the Board to reconsider the height variance.

Mr. Espinosa stated that a building and parking layout change would likely constitute a substantive change which requires a new application. Mr. Espinosa thus recommended proceeding with the resolutions in front of the Board. If Mr. Walch would like to reapply for a height variance related to a new building design – he could do that through a separate application.

Chairman Sanchez noted that if there are substantive changes to the project, the Board would likely have to hold another public hearing as well.

Kouba then made a motion to approve all of the variances related to 20-20-V from Mitch Walch. The motion failed for lack of a second.

Next, the Board passed Resolution 20-20 (3) 5-1 (Kouba dissenting) upon motion by Conway and second by Krofchalk.

Adjournment

There being no further business to come before the Board, the meeting was adjourned at 6:02 p.m.

Carlos Espinosa
Secretary