

**BOARD OF ADJUSTMENT
Regular Meeting**

DATE: September 2, 2020

TIME: 5:00 p.m.

PLACE: Zoom Online Meeting

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

ABSENT: None

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

The minutes from the Board's August 5, 2020 meeting were approved unanimously upon motion by Dave Kouba and seconded by Tim Breza. All were in favor of approving the minutes.

Petition No. 20-25-V, Immanuel Methodist Church

Chairman Sanchez opened the public hearing and read the petition:

Immanuel Methodist Church – City Code Section 43.02.23 which sets a minimum lot size of 16,000 square feet for a church in an R-2 Medium Density Residence district. Applicant wishes to split approximately 1,600 square feet off an existing 6,292 square foot lot with a church on it. The 1,600 square feet is proposed to be sold to an adjacent property for access to an existing garage. The remaining parcel housing the church will be approximately 4,692 square feet. Property is described as R-2 zoning, Sect-21, Twp-107, Range-007, LIMITS FRAC LOT 2 BLK 4 WILSIES ADD LOT 50, or at 455 South Baker.

Michael Bernatz, spoke in favor of the variance. Mr. Bernatz is the Attorney representing the Immanuel Methodist Church. Also representing the church by phone was Dennis Davis; Trustee President, Immanuel Methodist Church and Sandra Davis, Treasurer of the Immanuel Methodist Church.

It was mentioned that Immanuel Methodist Church owns three separate parcels with the church being on one lot, the variance request to split up the property on another lot, and a vacant lot.

The existing structure on the parcel that the church wants to split is the existing garage space and the church would like to be able to access the existing garage without going onto the church property.

Mr. Bernatz mentioned that the use of the space would not be noticeable and right now it's being used as a rental with the garage and it would continue to be used as a rental. This variance request is to make it more accessible to the garage.

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Tom Conway asked that if the property is split, will the church still have access to that as another exit off of the property and it was clarified by Mr. Bernatz, that would be the case and an easement would be drafted as part of the purchase agreement.

Chairman Sanchez closed the hearing and opened it up considerations.

The Board went through the variance finding questions and question number one asked if the variance was in harmony with the purpose and intent of the ordinance? Yes, no change in zoning and use of the property and it is still in compliance with the ordinance.

Is the variance consistent with the Comprehensive Plan? Yes it is, churches are very common in neighborhoods and zoning is allowing it.

Does the proposal put the property to use in a reasonable manner? Yes, the use of space. The space use is not changing, only ownership.

Are there unique circumstances to the property not created by the landowner? Yes, there is nothing that has created any circumstances and the use of the building was before the zoning ordinance was in place.

Will the variance, if granted, retain the essential character of the locality? Yes, Nothing changes only ownership of land.

Travis Buege asked if this was going to be used as a single family dwelling or retained as a rental and it was clarified that it would remain a rental.

Dave Kouba made a motion to approve the variance request as submitted; it was seconded by Tom Conway. All were in favor of approving except for one member who opposed. The motion passed.

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

Petition No. 20-24-V, Mitchell Walch

Mitchell Walch – City Code Section 43.02.24 which sets a maximum height of 40 feet for structures in the Mixed Use Downtown Fringe zoning district. Applicant wishes to construct a residential building at 53 feet tall. Property is described as Mu-DF zoning, Sect-22 Twp-107 Range-007 DANIELS FIRST SUBDIVISION Lot-001 Block-001 or at 51 Riverview Drive.

Mitchell Walch is requesting a variance to construct a residential apartment building at 53 feet and the ordinance sets a height at 40 feet. He also mentioned that he had been to a previous Board of Adjustment meeting requesting 60 feet and it was denied. He said he can get extra space at 53 feet for additional parking and green space.

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Speaking for the variance was Greg Wohletz, 678 Mankato Avenue. Mr. Wohletz said there was a need for this type of housing within the city and studies that support this type of use.

Staff received several letters by email in support of the variance. Dave McCorquodale, Agent/Realtor for Coffee House Realty, wrote in favor for the variance request. Mr. McCorquodale also commented on the housing shortage in Winona and the need for more affordable housing units.

Brandon Hutkowski also stated the need for more housing and was in favor of the request.

Joe Czeiska was also in favor of the variance request and stated how it would be a great opportunity to have the apartment building overlooking the Mississippi River and an asset the building would be for Winona.

Michael Onstad of Black Squirrel Properties also sent a letter supporting the request. In Mr. Onstad's letter he said he owned neighboring property located at 330 West Second and he looked forward to having the housing units as his neighbor.

Dave Kouba said he supports the project and there is a need for housing.

The Board went through the variance finding questions and question number one asked if the variance was in harmony with the purpose and intent of the ordinance? Jon Krofchalk said the downtown area was just rezoned and it was a downtown fringe area; whereas, if there was going to be a change, it should be a change in zoning. Tom Conway reiterated that this was a downtown fringe area and it should be done in Planning and Zoning to be in harmony with the purpose and intent of the ordinance. He also mentioned that a decision was to be made based on a zoning requirement and the Board was outside their scope to be able to make a decision. Staff brought forward the language from the ordinance again that this is a downtown fringe and if there was a change, it would be a change to the ordinance and in fact they require a change to the entire Comprehensive Plan to change this to a downtown core area rather than a downtown fringe.

This process could take up to two years and because this is such a unique situation there could be special consideration due to the character of the nature of the building and what they are trying to accomplish. With that being said, Staff did reiterate the idea that because the change to ordinance would take considerable amount of time, they felt it was appropriate to bring this to the Board of Adjustment to try to make evaluation of this unique situation.

Staff also mentioned that reasoning behind different heights in buildings is to make a smooth transition from the downtown core area to the fringe area and to residential and gradually making restrictions for the height.

The Board voted on this finding question and Dave Kouba and Travis Buege voted yes, Jon Krofchalk, Tom Conway, Jim Murphy, Chris Sanchez and Tim

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Breza voted no. The variance is not in harmony with the purpose and intent of the ordinance because it facilitates construction of a building that is effectively one-story taller than permitted. This amount of added density is not an appropriate use of the land.

Is the variance consistent with the Comprehensive Plan? Dave Kouba and Tom Conway voted yes, Travis Buege, Jon Krofchalk, Tim Breza, Chris Sanchez and Jim Murphy voted no. The reason for the no vote was because the Comprehensive Plan has not changed and as such it is not consistent.

Does the proposal put the property to use in a reasonable manner? Dave Kouba and Chris Sanchez voted yes. Jon Krofchalk, Jim Murphy, Tim Breza, Travis Buege and Tom Conway all voting no. It is not reasonable given adjacent buildings are 20'-30' in height.

Are there unique circumstances to the property not created by the landowner? Dave Kouba voted yes. Jon Krofchalk, Jim Murphy, Tim Breza, Travis Buege, Chris Sanchez and Tom Conway all voted no because the property is undeveloped.

Will the variance, if granted, retain the essential character of the locality? Tom Conway, Jim Murphy, Jon Krofchalk, Travis Buege and Tim Breza all voting no. Chris Sanchez and Dave Kouba voted yes. Travis Buege mentioned that there were no other buildings that were that size and the buildings in the area were approximately twenty feet tall, so it is not consistent with the neighborhood.

Dave Kouba made a motion to approve the variance as requested. No one seconded the motion. The motion failed. There was a motion by Jon Krofchalk to direct Staff to draft a resolution for denial of the variance request for submittal to the next Board of Adjustment meeting for a final vote of the resolution and it was seconded by Tim Breza. All were in favor except for Dave Kouba. The motioned carried.

Adjournment

Dave Kouba made a motion to adjourn with a second by Tim Breza. The vote of the Board was unanimous.

There being no further business to come before the Board, the meeting was adjourned at 5:55 p.m.


Greg Karow
Secretary