BOARD OF ZONING APPEALS

MINUTES OF THE MEETING OF APRIL 6, 2015

MEMBERS PRESENT: Timothy Kundiger, Chairperson
Jim Askins
Bob Gilmore

MEMBERS ABSENT: Joseph Caskey
Chris Vanderbeck , Vice Chairperson

OTHERS PRESENT: Dustin Wilson, 618 E 546th AVE, Pittsburg, KS 66762
Jeff Sandness, 1004 Abby Lane, Pittsburg, KS 66762
Rex Linville, 3302 E 20th ST, Pittsburg, KS 66762
Troy Graham, Assistant Director of Public Works

The Pittsburg Board of Zoning Appeals met on Monday, April 6, 2015, at 5:15 p.m., in the Municipal Court Room of the Law Enforcement Center located at 201 N Pine. Chairperson Timothy Kundiger called the meeting to order at 5:15 p.m. with three (3) members present.

The first order of business was approval of the minutes of the meeting of March 2, 2015. In this regard, Bob Gilmore moved, seconded by Jim Askins, that the minutes be approved as submitted. Motion carried unanimously.

The first order of business under Requests and Petitions was a **PUBLIC HEARING** held, as advertised, to consider the following:

Case No. 15-01- A TABLED request submitted by Rex Linville to consider a request for a 18 feet variance in front yard setback to permit a new residence to be located twelve 12 feet from the property line to be placed on the property located at 612 East 8th Street.

Chairperson Tim Kundiger opened the PUBLIC HEARING by stating the request and then asked the applicant to comment on behalf of said request. Troy Graham explained Summerfield would like to add a new complex.

Troy Graham indicated this lot is a corner lot and therefore has two corner lots. Therefore Mr. Linville has requested a variance to allow the duplex he is constructing to encroach into the set back.
Mr. Linville indicated he would still be in line with other properties on Smelter. He also indicated that if this request was passed he would have a little green space behind the duplex to allow for a shared picnic area.

Mr. Kundiger asked if there would be a garage and off street parking. Mr. Linville indicated there would be.

There being no one else to speak in favor of the request, Chairperson, Tim Kundiger asked if there was anyone else to speak against the request. There being no one against the request, Mr. Kundiger closed the public hearing. The Board then considered the following factors:

1. Are there conditions, which exist in respect to the property or structure being considered which are different from other properties or building in the neighborhood, i.e. small lot size, unusual grade, easements, right of ways, etc.?

No. This property is a corner lot, which presents the owner with two thirty (30) feet front yard setbacks. The intersecting streets that are located at this corner are East 8th Street and North Smelter. The lot is currently vacant and awaiting the construction of a new duplex.

2. Has such conditions or circumstances been created by the action or actions of the owner or applicant?

Yes. The applicant is wishing to build a new duplex on a corner lot, which has two front yard setbacks of thirty (30) feet. The lot is fifty (50) feet in width and a thirty (30) foot front yard setback in combination with a ten (10) foot rear yard setback would only allow for a ten (10) foot wide structure.

3. Are there special conditions or circumstances such that the strict literal interpretation of the provisions of the Zoning Ordinance will constitute unnecessary hardship upon the property owner represented in the application?

No. However, the current setback regulations for a structure will not allow the structure to be closer than thirty (30) feet from the property line.

4. Will the granting of a permit for the variance requested adversely affect the rights of adjacent property owners or residents?

No. The applicant owns the property located directly adjacent this property requesting the variance.

5. Will the granting of the variance requested confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district?

Yes. However, other applicants have requested and been granted a similar variance in the past.

6. Will the granting of the variance requested adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare?

No.

7. Will the granting of the variance requested be opposed to the general spirit and intent of the Zoning Ordinance?

No. The Zoning Administrator can grant a variance in front yard setback when there is an established setback with other properties along the block. This property does not have an established setback and must use current zoning regulations of thirty (30) foot front yard setback.

8. Is the variance being requested the minimum variance that would accomplish this purpose.

Yes.

There being no further questions or discussion from the Board, the Board of Zoning Appeals considered all eight (8) factors involved. Based on these factors, Bob Gilmore moved, seconded by Jim Askins to approve the request as submitted. This motion passed unanimously.

The second order of business under Requests and Petitions was a **PUBLIC HEARING**, held as advertised, to consider the following:

Case No. 15-02- A request submitted by Dustin Wilson to consider a request for a variance in rear yard setback of ten (10) feet to allow a structure to be located ten (10) feet from the property line, a variance in side yard setback of one (1) foot to allow a structure to be located four (4) feet from the property line, and a variance of seven (7) percent in maximum lot coverage to allow for a total lot coverage of sixty-two (62) percent to be placed on the property located at 109 W. Madison.

Chairperson Tim Kundiger opened the PUBLIC HEARING by stating the request and then asked the applicant to comment on behalf of said request. Troy Graham explained Dustin Wilson has purchased the property and wants to demolish the current structure and construct two duplexes on the lot. The ten foot in the rear yard setback is to accommodate the covered parking.

Dustin Wilson was present to speak in favor of the request. Mr. Wilson indicated the parking area would cover one car per bedroom and each unit is a two-bedroom unit.

Mr. Graham stated if the covered parking was not constructed a variance would not be required.

There being no one else to speak in favor of the request, Chairperson, Tim Kundiger asked if there was anyone else to speak against the request. There being no one against the request, Mr. Kundiger closed the public hearing. The Board then considered the following factors:

1. Are there conditions, which exist in respect to the property or structure being considered which are different from other properties or building in the neighborhood, i.e. small lot size, unusual grade, easements, right of ways, etc.?

No. This property is located mid-block on West Madison and contains two platted lots. The owner is wishing to demolish a current dilapidated structure and replace it with two duplexes.

2. Has such conditions or circumstances been created by the action or actions of the owner or applicant?

Yes. The applicant is planning to build two new duplexes on the property and include a covered parking area and sidewalks throughout the property. In doing so, the covered parking will extend into the side yard and rear yard setbacks. The amount of allowable coverage on a R-2 (Two-Family) zoned is also being exceeded due to the covered parking and sidewalks. The sidewalks and covered parking could be cut back or eliminated but City staff would rather see the combination on new construction.

3. Are there special conditions or circumstances such that the strict literal interpretation of the provisions of the Zoning Ordinance will constitute unnecessary hardship upon the property owner represented in the application?

No. However, the current setback regulations state that a structure can be no closer than five (5) feet from the side property line and twenty (20) feet from the rear property line. Mr. Wilson currently owns the property located directly to the East and is seeking to possibly purchase the property to the West for future new construction.

4. Will the granting of a permit for the variance requested adversely affect the rights of adjacent property owners or residents?

No.

5. Will the granting of the variance requested confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district?

Yes. However, other applicants have requested and been granted a similar variances in the past.

6. Will the granting of the variance requested adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare?

No.

7. Will the granting of the variance requested be opposed to the general spirit and intent of the Zoning Ordinance?

No. The owner is wishing to redevelop an area that contains older structures, many of which are not utilizing the R-2 zoning designation. The owner is currently repairing and revitalizing another property in then close vicinity and is wishing to update the neighborhood.

8. Is the variance being requested the minimum variance that would accomplish this purpose.

Yes.

The Board of Zoning Appeals considered all eight (8) factors involved. Based on these factors, Jim Askins moved, seconded by Bob Gilmore, to approve the request as submitted. Motion carried unanimously.

There being no other business to be discussed, Bob Gilmore moved, seconded by Jim Askins, to adjourn the meeting. Motion carried and the meeting adjourned at 5:45 p.m.

Respectfully submitted,

Andrea Holtzman
Public Works Administrative Assistant