

MINUTES OF THE MEETING OF THE ZONING BOARD OF ADJUSTMENT HELD IN THE CONFERENCE ROOM, AT CITY HALL, 1212 AVENUE M, HUNTSVILLE, TEXAS ON THE 24TH DAY OF June, 2016 AT 12:00 NOON.

Members present: Hannes; Grigsby; Montgomery; Cromer; Alternates Zuniga & Watkins

Members absent: Holland

Staff present: Kulhavy, Ridley

1. CALL TO ORDER

This meeting was called to order by Chairman Hannes. [12:00PM]

2. ROLL CALL and selection of Alternate(s) if needed.

Alternate Watkins will be voting due to the absence of Board Member Holland.

- 3. PUBLIC HEARING** for the variance request by Mark Mucasey, applicant, for variance to Article 5 Lot and Setback Regulations, Table 5-1: Lot & Building Setback Regulations and Article 6 Parking and Driveway Access of the City of Huntsville Development Code relating to minimum street setback and off-Street parking requirements in order to rebuild an apartment building within the Forest Gate Apartments complex located at 196 IH 45 N.

Chairman Hannes opened the public hearing. [12:01PM]

Aron Kulhavy gave an overview of the case as outlined in the staff discussion form.

Two variances are requested, one for setback and one for parking. Explanation of the “grandfather” provision per the Development Code for the setback variance and the current parking requirements per the Development Code was given. The “grandfather” provision for the building, (destroyed by fire in November of 2005), has expired, therefore the reconstruction of the building must conform to current Development Code requirements. Kulhavy noted that staff has received several letters in opposition to the variances and addressed the main concerns presented in the letters of rebuilding on the existing foundation, drainage/runoff from the property, and apartment tenant issues.

A structural report will be required prior to permitting the building to be reconstructed on the existing foundation and this is a permitting issue not an issue for this Board. The reconstruction of the building will have minimal effect on increase of drainage/runoff. The current Development Code requirements for site development can only be enforced for the reconstruction of this building and not for the entire apartment development.

Applicant, **Mark Mucasey**, presented his case for the variances, giving the history of the development and noting that the reconstruction of the building will be exactly as the original building which was destroyed by fire. He explained that the current owner of the property obtained the property with the understanding, (from the seller), that the building could be reconstructed. He presented his argument against the staff report on the 6 criteria required by the Development Code in order to grant the variances. He reported that the property owner intends to upgrade the entire property if allowed to reconstruct the destroyed building.

Speakers in support of the variance request:

There were none.

Speakers in opposition of the variance request:

Bill Miller, property manager for Timbercrest Townhomes (neighboring property), opposes the variances because the existing parking is currently full, the property is currently not being properly maintained, the destroyed building was not rebuilt by the owner of the property at the time because the building was not insured, and does not agree that there was an economic downturn to delay the reconstruction of the building.

Alana Ashley, property owner in Timbercrest Townhomes, spoke in opposition noting that the apartment property existing parking areas are always full and questioning what the impact additional vehicles for the residents in the reconstructed building will have on adjacent properties. She suggested that perhaps the apartment property owner should make improvements to the existing buildings and parking before being allowed to reconstruct the destroyed building.

Linda Skains, property owner in Timbercrest Townhomes, also voiced her opposition because of the parking issues. She also expressed concern regarding increase in crime in the area, stating that the property has become a public housing project.

Staff added that **Rhea Hall**, residing at 236 Elmwood, recently visited the City Planning Office and expressed his opposition to the variances because of the parking issues.

Applicant, Mark Mucasey, spoke in rebuttal to the opposition.

He noted that they are not proposing to add any additional parking, just using the current existing parking. He also stated that the apartment property is not a Section 8 Public Housing Project and added that it would be unfair to require the property owner to improve the entire property prior to approving the reconstruction of the destroyed building. The reconstruction of the building will be catalyst for income to allow the upgrading of the entire apartment property. He also noted the different economies of California, the property owner's state, and Texas. DTI, the property owner, is currently upgrading all of their properties located in Texas as funding has recently become available.

Board members questioned the applicant regarding other properties that DTI own in the City and where the additional residents will park. Applicant indicated that DTI does own other property in the City and that it would be possible to add eight additional parking spaces on the property to be in compliance with the current Development Code parking requirements for the property.

There was an additional public comment from **Bill Miller** regarding an alternative method of increasing income for the property in order to improve the property without reconstructing the destroyed building.

Chairman Hannes closed the public hearing. [12:39PM]

4. **CONSIDER** the variance request by Mark Mucasey, applicant, for variance to Article 5 Lot and Setback Regulations, Table 5-1: Lot & Building Setback Regulations and Article 6 Parking and Driveway Access of the City of Huntsville Development Code relating to minimum street setback and off-Street parking requirements in order to rebuild an apartment building within the Forest Gate Apartments complex located at 196 IH 45 N.

Board Member Montgomery asked staff for clarification regarding the number of existing and proposed apartment units and the number of existing parking spaces, legal vs. illegal street head-in parking spaces. Clarification for the grandfather provisions per the expired Development Code and the current Development Code was also requested.

Staff provided the requested clarifications. There are 118 existing apartment units with 192 bedrooms. The proposed reconstruction of the destroyed building will add 12 units with 16 bedrooms. There are 174 existing legal (located on-site) parking spaces. There are 26 existing illegal (street head-in) parking spaces for a total of 200 existing parking spaces. The current Development Code requires that a nonconforming structure be reconstructed within 18 months, if destroyed/damaged as a result of an accident. The expired “old” Development Code required that a nonconforming structure be reconstructed within 1 year if destroyed/damaged as a result of an accident. Staff also provided clarification regarding the parking variance request. The variance request is to allow the property to count the 26 illegal street head-in parking spaces in the total parking spaces provided to meet the current Development Code off-street parking requirement for the property. In any event, the head-in parking spaces will remain in place until such time as the entire apartment complex is razed. Per the new Development Code 208 on-site parking spaces are required to with the reconstruction of the destroyed building. Counting all existing parking spaces in use (legal & illegal) the property will be short 8 parking spaces. Staff also stated that the “old” Development Code also required 25’ street building setback.

There was additional discussion by the **Board** regarding the parking requirements/issues and fire code requirements. **Board Member Montgomery** also pointed out that it has been 11 years since the building was destroyed. The building was not reconstructed in the four years under the previous ownership or in the 7 years under the current ownership. She also noted that standard commercial real estate contracts allow for a feasibility period for the potential buyer to research and verify the rules, regulations, codes, etc. for reconstructing a destroyed building prior to purchasing the property.

Board Member Cromer made a motion to deny both variances. Second was by Board Member Montgomery. The vote was unanimous.

5. **CONSIDER the minutes of April 29, 2016.**

Board Member Cromer made a motion to accept the minutes. Second was by Board Member Grigsby. The vote was unanimous.

6. **ADJOURNMENT**

The meeting was adjourned. [1:01 PM]