

ZONING BOARD OF APPEALS MEETING

May 1, 2024

Present: Board Members Horntvedt, Sangster, O'Brien, Chorey and Kwiatkowski

Absent: N/A

Also Present: Daniel Sabolsky, City Manager/Zoning Administrator, Alexandria Martin Executive Assistant to the City Manager and Paul and Amanda Tanner

Review and Approval of the Special Zoning Board of Appeals Minutes of February 22, 2023:

Motion by Horntvedt and seconded by Chorey to approve the Special Zoning Board of Appeals Minutes of February 22, 2023. Kwiatkowski abstained; Motion carried. (4-0)

New Business:

Appeals of Administrative Decisions – 2519 Harrison Ave.

Chairperson Sangster asked Sabolsky if he had anything to add to what was outlined in the application from Mr. Tanner. Sabolsky deferred to Paul Tanner, who discussed a letter from Stephen Lindsay about a fence being more than 60% destroyed. After P. Tanner's discussion of the condition of the fence and its non-compliance with the code, Sabolsky requested clarification on the appeal application and Horntvedt read the application details. Tanner's appeal was on if the Zoning Administrator erred in classifying the fence as a non-conforming structure. P. Tanner argued there was no evidence that the fence repair exceeded 60% of its replacement cost. Sabolsky stated that if it was less than 60% destroyed it could be repaired as per the Zoning Code. P. Tanner disagreed. Then, Sabolsky read the Non-Conforming Section of the Zoning Code that referenced the 60% clause.

Horntvedt questioned the delay in complaints, and A. Tanner explained the fence's condition over time and the Tanners' efforts to maintain it. The Tanners claimed no permit was pulled and their complaints to the homeowner were being ignored. The ZBA members asked further questions, and P. Tanner requested an interpretation of the fence issue as it pertains to its non-conforming status.

Sangster asked the Tanners what their ideal outcome would be. A. Tanner stated they wanted the homeowner to pull a permit and follow the ordinance and they get their application fee of \$450 refunded. Sabolsky read from Article 13 Section 13.01 (D 2) and MCL 90.1, indicating the City had two years to enforce the ordinance, after which the fence became a legal non-conforming structure.

Sabolsky mentioned working with the homeowner for a solution. Horntvedt and Sangster expressed concerns about the fence's condition and safety. Discussion included fence replacement costs and the lack of required inspections. Sabolsky mentioned the involvement of Code Enforcement Officer Hartman who found no violations regarding the fence. Sabolsky had the City Attorney and the City Prosecutor look at the issue and provide their guidance to Hartman and himself. Horntvedt read the non-conforming legal structures section in the ordinance, leading to a conversation about its interpretation. Horntvedt suggested reaching out to the homeowner to try and find a resolution and O'Brien suggested tabling the issue until the next meeting. Discussion began about modifying the zoning ordinance and using other codes to enforce compliance or get the fence upgraded. Sangster preferred the Board to make a decision.

Motion by Chorey to deny the appeal and seconded by Kwiatkowski. O'Brien voiced his recommendation to amend the motion to include refunding the \$450.00 cost for the appeal. Chairperson Sangster explained that the ZBA does not have the authority to issue the refund, but they can amend the motion and recommend to Council to refund the Tanner's \$450.00. Chairperson Sangster confirmed with Chorey and Kwiatkowski to amend the motion as such. Chorey and Kwiatkowski agreed. A roll call vote was taken. Ayes from Kwiatkowski, Sangster, Chorey, and Horntvedt. Nay from O'Brien. Motion carried.

Commissioner Comments:

None

Staff Report:

Sabolsky stated we received a \$50,000 grant from MSHDA to update the master plan and zoning ordinance. The City entered into a contract with NEMCOG to assist with the revision of these documents and the process will start in a month or so.

Public Comments:

None

Adjourn:

Meeting adjourned at 8:20pm.

Minutes prepared by Alexandria Martin