

Board of Adjustment Minutes May 14th , 2013

The Board of Adjustment Meeting May 14th, 2013 was called to order by Chairman Fred Muth at 5:30 p.m. Board members Cerise Sissel, Gail Robinson, James Eilders Fred Muth and Mike Grandon were present. None absent. Cerise Sissel moved to approve the Agenda 2nd by Gail Robinson. James Eilders moved to approve the Minutes 2nd by Cerise Sissel.

Fred Muth then read the appeal. B.and D. Development requests permission to erect a 36 unit senior living condominium. Request Denied: There needs to be clarification of definition, Elderly or Elderly Housing. A variance of the required parking spaces is requested.

The second issue, 25' corner side yard. On corner lots, side yard shall not be less than 25'. Proposed construction will not meet this requirement.

Craig Skott, architect from Mason City was introduced to discuss this project. Skott is a developer in the project and owner of the property. Ron Stewert is a co-owner. Skott said that parking is not a strong issue here. Elderly Housing is limited to persons 55 years of age or older. Parking requirements are 1 parking stall per unit. Two parking stalls are required for multi-family structures. Their condo plans for 64 stalls, 40 inside and 24 out.

John Marino, Building and Zoning Authority, suggested that looking at the definition, elderly has been defined as 62 years of age. This is a project for the elderly. However, the By-Laws of the project is limited to persons 55 years of age and older but with no children allowed. Board Chairman Fred Muth asked about this. The By-Laws state that children will not be allowed to live in these units said Skott. Guests will be allowed for a week or two and if units are sublet, they can only be sublet to elderly persons

Board member Gail Robinson suggested that City Attorney give his thoughts to the Board. Sorensen stated that technically this is a violation of the Zoning Ordinance – close but not quite there. The code says 62 is elderly-so it must come to a variance to accommodate the definition of elderly. It would be appropriate to grant the variance if one member of the home is 55 or 62. But the Board also needs assurance that it will be a 55 year old and above project and the By Laws say so. In regards to parking, the elderly usually own only one vehicle. Muth asked what if they have two vehicles. Sorensen replied that the variance is to allow 64 spaces, that is as close to compliance as you can get either way you look at it. Asked about possible lawsuits Skott replied that he feels that they are on solid legal ground as the By-Laws cover it. Mike Grandon asked Sorensen if this could all come back and haunt the Board but Sorensen replied that it is relative to low income elderly houses so does not make a significant difference. He said to the Board, “ You do not have the authority to change the ordinance. But you do have the authority to vary from it.”

Fred Muth then asked for a motion. James Eilders moved to request a variance from 72 to 64 spaces. The motion was seconded by Cerise Sissel and voted aye by all members.

The second issue to be discussed was the relief of the 25' side yard setback.

Mr Skott noted that the front of the building facing north is 60' back from 7th Avenue and will not obstruct either corner there. The side yard setbacks would be 25' if there were other houses on this property. Being that the condo is the only building on this lot, the 25' setback is still a requirement. He noted that the Central Gardens potting shed is closer than 25' and does set a precedent.

Board member Sissel asked about the entrance to the Condos on 7th Avenue and inquired if it would interfere with parking there. Skott replied that it is 40' from the stop lights and would improve visibility there.

Fred Muth then asked for a motion on this variance. Cerise Sissel moved to allow them to encroach onto the 25' side yard. The motion was 2nd by James Eilders and all members voted aye. The variance was granted. The meeting was adjourned at 6:00.

S/Fred Muth Board of Adjustment Chairman

ATTEST:

Mary Helen Meyers, Secretary