

ZONING BOARD OF APPEALS

Regular Meeting

December 21, 2021

The meeting was called to order by Chairman Russ Boersma at 5:30 p.m.

Present: Chairman Russ Boersma, Vice-Chairman Ross De Vries, Members Jack Vander Meulen, Elliott Church and, Robert De Vries. Also present were Community Development Director Corey Broersma and Recording Secretary Laurie Slater.

Absent: None

Public Comments: None

** It was moved by Ross De Vries and supported by Vander Meulen to approve the minutes of October 26, 2021 and November 23, 2021 as written. Motion carried.

Chairman Boersma explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for a nonuse variance submitted by Rob Witteveen of 2 Witts Properties LLC for property located at 430 East 8th Street, known more specifically as 70-16-28-328-009. Petitioner is requesting a variance from the required Front Yard Setback. The subject property is zoned C-2 Community Commercial.

Present for this request was Rob Witteveen of 2 Witts Properties LLC.

Mr. Witteveen purchased the Shipping Department five years ago. He recently purchased the building. In the five years of owning the Shipping Department their business has doubled and they need more space for packages dropped off by UPS and FedEx, shipping boxes and packing foam. They would like to enclose the existing canopy. The footprint would be no larger than the existing footprint. There would be a double door on one side of it.

The issue is with the 50-foot setback from Center Street, the road that is behind the building. Mr. Witteveen stated that he was not aware that it was a road. He considered it an alley. The UPS and FedEx trucks park back there. The canopy that they would like to enclose and use as storage is 23 feet from the property line. The building itself, is 47 feet from the property line.

There was discussion of the technical expansion of the canopy. The existing canopy has four columns set in an underground foundation that supports the structure. For the new walls they would need to go down with the new foundation walls and footings for frost purposes only. Above ground the structure would not be any bigger than the existing canopy. Mr. Broersma commented that the new foundations would encroach closer to the property line than the existing structure's foundations.

Center street is a 33-foot-wide old platted right-of-way. It runs from East Street west to 33-foot right of way adjacent to the lemon fresh parking lot.

Mr. Witts indicated the properties that are through lots along Eighth Street and Center Street have a very small buildable area due to the 50-foot setback on both the front and the back of the property; he estimated that leaves room for a building that is 30 feet wide.

Mr. Broersma, pointed out a Concept Plan to the Board and the applicant. This plan was a part of the Comprehensive Plan of 2020 prepared by the Planning Commission and approved by the Board of

Trustees. It is a guide, not a mandate, however, action in support of the plan include ongoing plans to make Eighth Street a three-lane road in 2023 and put in sidewalks on the south side of the road. The area would have mixed uses, perhaps businesses with residential units above it – like a mini downtown.

There was further discussion about the location of the canopy and if there was a tunnel from what used to be the bank drive-thru into the building. Mr. Witteveen has seen no access to the tunnel inside the building and believes buried conduit was used to send canisters from the cars to the tellers. He further pointed out that the edge of the neighboring building to the west is closer to Center Street than the proposed canopy enclose. The proposed storage area would be cold storage with lighting only.

There was no one in the audience to speak to this request.

** It was moved by Mr. Ross De Vries and supported by Vander Meulen to close the hearing. Motion carried.

The Board went over the standards to review when considering a nonuse variance request.

1. *That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:*
 - a. *Exceptional narrowness of the width or depth of a lot of record, or irregular shape.*
 - b. *Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.*
 - c. *Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.*
 - d. *Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.*

The practical difficulties are this is a through lot giving both front yard and back yard setbacks of 50 feet leaving 30 feet for a building. The half of a road behind it with a width of 33 feet instead of 66 feet, which no one realized was a road and use it as an access.

2. *That the unusual circumstances do not apply to most other lots of record in the same manner or to the same extent to other lots of record in the same zoning district.*

It does apply to the other lots. There are trucks parked in one. The buildings are closer to Center Street. Granting this would not be any more detrimental to what has already happened here. Lots on the south side are closer to the road.

3. *That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.*

Can't get much of a building on this lot with the 50-foot front yard setback and the 50-foot back yard setback. They are not expanding, just enclosing.

4. *That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.*

The encloser would not alter the canopy or the island they are already there. It fits the neighborhood.

5. ***That the applicant shall not have created the problem for which the variance is being sought.***

The applicant did not build the building he is looking to enclose it. It is not an addition to the building. It is already there and would be within the same footprint as the existing canopy.

6. ***That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

Granting this request would not alter potential future plans for this area. All the lots and buildings in this area are legal non-confirming. Board noted that there is a row of trees in what is currently Center Street in the Concept Plan, so it would no longer be a road. The Concept Plan is not a sure thing. It would take the right people at the right time to make it happen. Granting this request would take care of the issue for today. Not a large amount of money being invested in the building. Rather than have an empty building waiting on a timeline of a development, have a thriving business make use of it.

** It was moved by Robert De Vries and supported by Vander Meulen to approve a 22-foot setback from Center Street, giving a variance of 28 feet. Motion carried with one opposition from Church.

Next on the agenda, tabled from the November ZBA meeting, was the consideration of a petition for a nonuse variance submitted by Greg Erne on behalf of Westshore Mall Investors LLC for property located at 12360 Felch Street, known more specifically as 70-16-16-400-048. Petitioner is requesting a variance from the required 66-foot width for a private street easement. The subject property is zoned C-2 Community Commercial

** It was moved by Ross De Vries and supported by Robert De Vries to remove this request from the table. Motion carried.

** It was moved by Ross De Vries and supported by Church to accept the applicant's withdrawal of the non-use variance petition. Motion carried.

The Board reviewed the 2022 ZBA meeting dates and times. It was the consensus of the Board that the dates were good and the time of the meeting is to remain at 5:30 pm.

The meeting adjourned at 6:25 pm.

Respectfully submitted,

Laurie Slater
Recording Secretary