

BOARD OF ZONING APPEALS STAFF REPORT

FILE
16067062

TYPE OF APPLICATION: Major Variance **FILE #**16-047761
APPLICANT: Shannon Ingham
HEARING DATE: July 6, 2016
LOCATION: 492 BAY STREET
LEGAL DESCRIPTION: Scheffers Addtion W 2 Ft Of Lot 7 And All Of Lot 8 Blk 2
PLANNING DISTRICT: 9
PRESENT ZONING: RM1
ZONING CODE REFERENCE: 66.231 & 66.233
REPORT DATE: June 15, 2016 **BY:** Yaya Diatta
DEADLINE FOR ACTION: August 11, 2016
DATE RECEIVED: June 13, 2016

A. **PURPOSE:** The applicant is proposing to construct a new single family dwelling on this vacant parcel on the southeast corner of Bay and Randolph and is requesting three variances: 1) A setback of 4 feet is required from side lot lines; a 2.5 foot setback is proposed from the west property line and a one foot setback is proposed from the east property line for variances of 1.5 feet and 3 feet respectively. 2) A rear yard setback of 25 feet is required; a 22 foot rear yard setback is proposed from the south property line for a variance of 3 feet. 3) The zoning code requires that any side of single-family dwelling be at least 22 feet wide; the proposed house would be 20.2 feet wide for a building width variance of 1.8 feet.

B. **SITE AND AREA CONDITIONS:** This is a 25.7' x 119.7' vacant lot with no alley access at the southeast corner of Randolph Avenue and Bay Street.

Surrounding Land Use: There is a commercial use at the northwest corner and various residential uses on the remaining sides.

C. **ZONING CODE CITATIONS:**

Sec. 62.103. - Nonconforming lots.

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In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this code, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this code. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are applicable in the district; provided, that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the board of zoning appeals.

Sec.66.231. Residential District Dimensional Standards table requires a side yard setback of 4 feet for a single family dwelling in the RM1 zoning district and a minimum rear yard setback of 25 feet from the rear property line.

Sec. 66.233. Minimum building width.

In residential districts, the building width on any side of one-family and two-family dwellings shall be at least twenty-two (22) feet, not including entryways or other appurtenances that do not run the full length of the building.

D. FINDINGS:

1. *The variance is in harmony with the general purposes and intent of the zoning code.*

This property has 25.7' of lot frontage on Randolph Avenue and 119.7' of frontage on Bay Street. This is a legal nonconforming lot that had a house that appears to have been built in 1888 but has been vacant since 2007 when the house was removed. For zoning purposes, Randolph is the front yard. All of the residential lots on this block face, between Bay Street and Osceola Avenue to the east, are at least 40 feet wide.

The zoning code requires that a single family dwelling in this zoning district be set back at least 4' from the side lot lines, have a 25' setback from the rear property line. The code also specifies that any side of a single-family dwelling be at least 22' wide.

The proposed house would be set back 2.5' from the west property line, 1' from the east property line and 22' from the rear property line; it would be 20.2' wide, hence the requested variances.

A purpose and intent of the zoning is to prevent the overcrowding of land. At 23.7' in width and a lot size of 3,084 square feet, this parcel is substantially undersized for a reasonable single family. Allowing a new building on this lot is not in keeping with a purpose and intent of the Zoning Code Sec.60.103 to prevent the overcrowding of land. The building code does not allow any openings on a building elevation located 3' or less from the property line of an adjacent lot and the applicant's plans show window openings on the east elevation, 1' from the east property line. This issue and the building design standards requiring 15% of glazing on all facades facing a public

street and 10% of glazing on all facades combined would have to be addressed. This finding is not met for all the requested variances.

2. *The variance is consistent with the comprehensive plan.*

The West 7th Street/Fort Road District 9 Area Plan, adopted by the City Council on 7/17/13 as part of the Comprehensive Plan includes strategies to:

Maintain a diversity of households in regard to income, age, and race/ethnicity and maintain existing housing stock while developing new housing.

This request is consistent with the District Plan and also with Strategy 1.1 of the Comprehensive Plan to increase housing choices across the city to support economically diverse neighborhoods. This finding is met for all the requested variances.

3. *The applicant has established that there are practical difficulties in complying with the provision that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

There is no other way to construct a single family dwelling on this lot. With a lot width of 25.7' and with a 4' side setback on each side, only 17.7' is available for the width of the house. The minimum house width requirement is 22'. In order to build a house on this property, either the side setbacks or the house width, or both, must be reduced. In this case, the applicant is requesting that both the side setbacks and building width be varied. This is a practical difficulty preventing the construction of a reasonable single family dwelling. This finding is met for the side yard setbacks and building width variances.

The proposed house is 53 feet deep, leaving only 22 feet for the rear yard setback. The house could be moved further to the north, however, there is an overhead electric line that would make the option impractical. Alternatively, if a 50 foot deep house were constructed, a rear yard setback of 25 feet could be provided and the requested variance of the rear yard setback would not be necessary. The applicant has not demonstrated why it is unreasonable or impractical to construct a house 50' deep. This finding is not met for the rear yard setback variance.

4. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

This is an existing lot of record and its relatively narrow size is a circumstance unique to the property not created by the applicant. This finding is met for the side yard setbacks and the building width variances.

However, with a 119.7' depth, this lot can accommodate a single family dwelling that meets the required 25' rear yard setback without the requested variance. There is no unique circumstance to this property to support this finding. This finding is not met for the rear yard setback variance.

5. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

A single family dwelling is a use permitted in this zoning district. The requested variances if granted will not change the zoning classification of the property. This finding is met for all the requested variances.

6. *The variance will not alter the essential character of the surrounding area.*

Because there was a house on this property for over a hundred years, a new house will not alter the essential character of the area. This finding met for all the requested variances.

E. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received a recommendation from West Seventh/Fort Road Federation.

F. **CORRESPONDENCE:** Staff has not received additional correspondence.

G. **STAFF RECOMMENDATION:** Based on finding 1, staff recommends denial of the side yards and building width variances.

Staff further recommends denial of the rear yard setback variance based on findings 1, 3 and 4.