

BOARD OF ADJUSTMENT

MEETING MINUTES

December 5, 2019

City Hall – Council Chambers

Regular Members Present: Larry Caldwell, Charles Haubold, Tim Kelley, Skip Smallwood, William Whitlock

Regular Members Absent: None

Alternate Members Present: None

Alternate Members Absent: Ray Buhs, Ed Hart, David Hinton

Staff Present: Carol Peters, Ryan Shrimplin

Call to Order

Chairman Haubold called the meeting to order at 7:00 p.m.

Approval of Minutes

The minutes of the October 3, 2019 Board of Adjustment meeting were unanimously approved upon motion made by Mr. Smallwood and seconded by Mr. Caldwell.

ZONING CODE VARIANCES

1. A public hearing was held on the request of Craig and Denise Lindsey for a variance from Section 30-403(b)(1)a, accessory structures standards, for property at 2149 Chesapeake Avenue. Mr. Craig Lindsey appeared before the Commission to present the request. He explained that he and his wife are requesting approval to exceed the maximum accessory structure footprint by 12 square feet. He stated that they constructed this same structure at their previous residence and would like to construct it again at their new residence because it meets their needs.

A staff report was submitted to the Board, containing the following findings of fact in reference to the variance request:

Criterion #1: The variance request arises from a condition which is unique to the property in question and which is not ordinarily found, and is not created by an action or actions of the property owner or the applicant.

Finding: The application does not identify any unique conditions of the subject property that would justify approval of the variance request. Additionally, staff reviewed photos of the property and did not identify any such conditions.

Criterion #2: Approval of the variance request will not adversely affect the rights of adjacent property owners or tenants.

Conclusions of Law. Mr. Whitlock made a motion to adopt, and Mr. Caldwell seconded the motion. The motion passed by a vote of 4 in favor, 1 in opposition, and 0 abstaining (*Aye: Caldwell, Kelley, Smallwood, Whitlock; Nay: Haubold*). The Board then discussed the code requirement and requested that staff initiate a code amendment to increase the maximum accessory structure footprint size. Mr. Shrimplin stated that he will check with the rest of the staff to see if they support such an amendment and if so, what the new maximum footprint should be. He will report back to the Board at the next meeting.

2. A public hearing was held on the request of Marquette Tower Property, LLC for a variance from Section 30-403(a), accessory structures and uses standards, for property at 338 Broadway. Mr. Scott Rhodes, Marquette Tower Property, LLC, appeared before the Commission to present the request. He explained that the Greater Cape Girardeau Chamber of Commerce occupies the "carriage house" or one-story annex behind the Marquette Tower and would like to purchase it from Marquette Tower Property. A subdivision plat was submitted to split the carriage house off as a separate lot, but the City staff advised that they could not move forward with reviewing it because it would separate the existing parking area, located behind the carriage house, from the Marquette Tower. Marquette Tower Property wishes to retain ownership of both the Marquette Tower and the parking area. Chairman Haubold asked how the City would ensure that the parking spaces are not eliminated if they are placed on a separate lot. Mr. Shrimplin explained that the property is zoned CBD (Central Business District), and that off-street parking is not required in the CBD.

A staff report was submitted to the Board, containing the following findings of fact in reference to the variance request:

Criterion #1: The variance request arises from a condition which is unique to the property in question and which is not ordinarily found, and is not created by an action or actions of the property owner or the applicant.

Finding: The subject property is located downtown and contains the historic Marquette Tower. Behind the tower is an attached one-story annex, and behind that is a parking area serving the entire building. Currently, the building and the parking area are on the same lot. The applicant has plans to sell the annex while keeping the tower and the parking area. Because the annex covers the entire width of the lot, it is not possible to subdivide the lot in a manner that keeps the parking area with the tower. This constitutes a unique condition of the subject property that is not self-imposed.

Criterion #2: Approval of the variance request will not adversely affect the rights of adjacent property owners or tenants.

Finding: Due to the aforementioned unique condition, approval of the variance request will not adversely affect the rights of adjacent property owners or tenants. It should be noted that there are several examples in downtown of lots containing a parking area without a principal use. While staff does not encourage using lots solely for parking, the unique condition of the subject property serves as a justification for approving the variance request.