

**Minutes of the Zoning Board of Appeals
Of the City of Portland**
Held on Monday, April 14, 2014 at 7:00 P.M.
In Council Chambers at City Hall

Members Present: Frederick, Barnes, Miller, Fedewa

Member Absent: Graham

Staff: Interim City Manager Reagan, Deputy Zoning Administrator Gensterblum

Guests: Terry Frewen of Coldwell Banker Frewen Realty

Interim City Manager Reagan called the meeting to order at 7:02 P.M.

Interim City Manager Reagan opened the floor for nominations for the office of Chairman.

Motion by Miller, supported by Fedewa, to elect the same officers as currently seated.
Frederick as Chair, Barnes as Vice Chair, and Miller as Secretary.
All in favor. Approved.

The Pledge of Allegiance was taken.

There were no Public Comments.

Motion by Miller, supported by Barnes, to approve the Agenda as presented.
All in favor. Approved.

Motion by Barnes, supported by Miller, to approve the minutes of the February 11, 2013 meeting as amended for grammatical corrections and to change "removed" to "replaced" in the 1st paragraph on page two.
All in favor. Approved.

Chairman Frederick opened the Public Hearing at 7:06 P.M. to consider a variance request for reducing the minimum unit size requirement in the R-2 district, for the purpose of creating a multi-family dwelling unit in the building located at 454 Detroit St.

Interim City Manager Reagan stated that all required postings and notices were made in accordance with the law, and letters to all properties within a 300-foot radius were mailed to the property owners.

Interim City Manager Reagan also noted that the Planning Commission met on April 9, 2014 and found no issue with granting a Special Land Use Permit for this property.

In the course of reviewing this request it was discovered that the zoning tables online were incorrect. The R-2 District was shown to have a minimum unit size requirement of 650 square feet; it is actually 850 square feet. The online document has been corrected.

Terry Frewen, of Coldwell Banker Frewen Realty, representing Anna and Patrick Delaney, presented the reason for the variance request and the evidence that the standards for granting the variance have been met. The standards and reasons are outlined in the Zoning Variance Application.

Mr. Frewen presented the following information. The existing building is only 1350 square feet and was previously used as commercial property, first as a party store and then as a daycare facility, and has been a non-conforming use. By granting the variance the building would be more conforming to the neighborhood than the previous commercial uses. There are other multi-family homes in the neighborhood. The building is existing; the applicant did not construct it. The size variance will not create a public safety hazard. There is also approximately 500 square feet available per unit in the lower level.

Deputy Zoning Administrator Gensterblum presented the memo he presented to the Planning Commission in regard to the request. In addition to the information presented by Mr. Frewen, it was noted there would be building footprint alterations. The units would be 653 and 675 square feet on the main floor. The ingress and egress is sufficient as is the required parking. There is also a lot split request associated with this at 456 Detroit Street. The result would be a non-conforming lot due to the lack of required set back on the west side of the building. City Assessor Litts is working on the lot split. There are two other multi-family units within 1,000 feet of this building. The R-2 zoning is appropriate.

Chair Frederick went through each of the standards for granting a zoning variance from the Zoning Ordinance Section 42-71 (b) (1) and Mr. Frewen responded with the rationale for the property.

Under requirement a., Mr. Frewen stated the lot lines would be corrected and the appropriate setbacks the applicants property the purchased.

Under requirement b., Mr. Frewen stated there are other multi-family dwellings in the area. In its current state, it wouldn't easily lend itself to a single-family dwelling due to its previous use. It would be difficult to meet the setback requirements if the building were to be enlarged. The continued use as a commercial building would be more a non-conforming use.

Under Requirement c., Mr. Frewen stated the granting of the variance request would make the property more conforming to the ordinance. There are other multi-family homes in the area.

Under Requirement d. and e., Mr. Frewen stated the size variance was not created by the applicant. They also have not decreased the size of the building. There would be no detriment to public safety.

Interim City Manager Reagan stated no written comment has been received relative to the application for this zoning variance.

Chair Frederick closed the Public Hearing at 7:20 P.M.

Under New Business, the Board considered the variance request to reduce the minimum unit size requirement in the R-2 district, for the purpose of creating a multi-family dwelling unit in the building located at 454 Detroit St.

Chair Frederick clarified the sizes of the units per the variance request would be 670 and 650 square feet.

Motion by Barnes, supported by Miller, to grant the variance request to reduce the minimum unit size requirement in the R-2 district, for the purpose of creating a multi-family dwelling unit in the building located at 454 Detroit Street based on the information received concerning each one of the criteria.

Chair Frederick noted that single unit multi-family units are allowed in the R-3 district, but not in the R-2 district. He also confirmed these would be one bedroom units.

There was discussion.

Chair Frederick noted there is exceptional terrain on each side of the building as well as some very large trees on the property; both unique features to the property. He also noted the block construction of the building is a unique feature.

Chair Frederick held the vote for the motion on the floor.

Yeas: Miller, Barnes, Fedewa, Frederick

Nays: None

Approved

Chair Frederick stated the variance request is granted.

Under Member Comments, Member Fedewa inquired about the status of the Keusch property as discussed at the last meeting on February 11, 2013. He has noticed many junk cars that he thought were supposed to be taken care of.

Mayor Barnes stated the meeting on February 11, 2013 denied the request for the barbed wire on the fence they had installed, granted a variance on the fence height requirement as requested with the condition the fence be level across the top, and granted a variance for fence setbacks along Water St. and Pleasant St. no closer than 1' to the lot line with the condition that plantings of evergreen shrubbery substantial enough to break up the view along Pleasant St. be planted. The barbed wire has been removed but the top of the fence has not been made level. The Keusches were given a year to make the changes, if not done, the fence may have to come down. A court order may be required.

Deputy Zoning Administrator Gensterblum stated he spoken with Adam Keusch the beginning of April and Dick Keusch last July. They stated they had leveled the fence in some areas; there is one section in the middle where the ground really dips. The fence contractor tried to straighten it as much as he could. Adam Keusch stated they intended to remove the rest of the junk cars, but due to the weather haven't been able to do so yet. They plan to get them removed soon. Dick Keusch stated he is planning to have the fence contractor come and try to level the fence some more. They plan to plant the evergreens in the spring.

Interim City Manager Reagan stated former City Manager Dempsey had given the Keusches until April 29, 2014 to meet the requirements. After this date, the legal process would begin.

Motion by Fedewa, supported by Miller, to adjourn the meeting at 8:31 P.M.
All in favor. Approved.

Respectfully submitted,

Yvonne Miller, Secretary