

MINUTES
COLUMBIA CITY BOARD OF ZONING APPEALS
REGULAR MEETING
TUESDAY, JANUARY 7, 2020
7:00 P.M.

WHITLEY COUNTY GOVERNMENT CENTER

MEMBERS PRESENT

Dennis Warnick, Chairman
Dwayne Knott, Vice Chairman
Cathy Gardner
Jon Kissinger
Anthony Romano

STAFF

Nathan Bilger
Amanda Thompson

MEMBERS ABSENT

None

ATTORNEY

Dawn Boyd

VISITORS

Five visitors attended the January 7, 2020, Columbia City Board of Zoning Appeals meeting. A guest list is included with the minutes of this meeting.

CALL TO ORDER

Mr. Warnick called the meeting to order at 7:00 P.M.

ROLL CALL

Ms. Thompson read the roll call with members present and absent listed above.

ELECTION OF OFFICERS

Mr. Warnick requested discussion or nominations for 2020 Board Officers. Mr. Romano made a motion to nominate Mr. Kissinger as chairman. Mr. Knott gave the second. Ms. Gardner made a motion requesting to close the nominations. Four members voted in favor of Mr. Romano's motion while Mr. Kissinger abstained. Mr. Knott then made a motion to nominate Mr. Romano as vice chairman. Ms. Gardner gave the second. Mr. Knott made a motion to close the nominations. The members voted unanimously in favor of Mr. Knott's motion, and Mr. Warnick turned the meeting over to Mr. Kissinger.

CONSIDERATION AND ADOPTION OF THE MAY 7, JUNE 4, JULY 2, 2019, AND AUGUST 6, 2019, REGULAR MEETING MINUTES

Mr. Warnick made a motion to approve the May, June, July, and August minutes as distributed. Mr. Knott gave the second. Mr. Kissinger did not vote; the other four members voted in favor of the motion. Ms. Gardner wished to abstain from the vote on the August minutes as she had not been present at that meeting.

ADMINISTRATION OF THE OATH TO WITNESSES

Ms. Boyd administered the Oath to five visitors.

OLD BUSINESS

There was no old business.

NEW BUSINESS

1. 20-C-SE-1

Sarah Gospodareck requested approval of a Special Exception in order to permit a traffic generating home occupation at her residence at 580 W. Park Street Ext. Mr. Bilger referred to the Staff Report and explained the petitioner's request to utilize approximately 260 square feet of her home as a salon. As a traffic generating home occupation, Mr. Bilger explained an approval from the Board would be required. He stated that the area to be used was less than 20% of the total structure and therefore in compliance with the Code. Mr. Bilger described the hours of operation, signage, employee, parking, and traffic. He felt the proposed parking was adequate, with seven spaces required, but suggested the spaces be configured in order to allow for a turn-around so that customers would not back out onto the street. Mr. Bilger listed the four suggested conditions listed in the Staff Report. There were no questions for Mr. Bilger, and Mr. Kissinger requested to hear from the petitioner.

Sarah Gospodareck was present and explained her goal to relocate her business into her home. She described having a solid client base and said she does not accept new clients or walk-in customers. She proposed a non-text sign, as a landmark only, to guide clients to the new location. Ms. Gardner asked where the marker would be located. Ms. Gospodareck replied that the sign posts were existing, from the previous owner. There were no further questions for Ms. Gospodareck.

Mr. Kissinger asked if anyone else was present who wished to speak with regard to the petition. Don Langeloh addressed the Board and expressed his support for the petition. He requested that the Board make any approval contingent upon Ms. Gospodareck's ownership and management of the business.

There were no other guests who wished to speak, and Mr. Kissinger closed the public portion of the meeting. Mr. Warnick asked if the parking spaces were required to be marked. Mr. Bilger replied that the Parking Code indicates they should be marked, but the department has

not required marking spaces for residential, home occupations. He added that the Board could list striping as a condition of approval if they felt it was important. Ms. Gardner recommended that the first suggested condition be amended to include the petitioner's name. Mr. Warnick made a motion to approve 20-C-SE-1, for Sarah Gospodareck, as presented, and with the conditions that the signage be the non-illuminated marker that was provided, hours of operation will not exceed 8am – 8pm, and that there be space available for seven parking spaces and a turn-around area. Mr. Knott gave the second. The Board voted unanimously in favor of the motion.

2. 20-C-SE-2

Ena Colbart requested approval of a Special Exception in order to permit child care for up to 15 children at 608A E. Ellsworth Street. Mr. Bilger summarized the Staff Report and described Ms. Colbart's request to operate a state licensed child care home. He listed the hours of operation and staffing, and stated that a fence permit had already been obtained. Mr. Bilger requested that the Board consider traffic flow on the alleys during pick up and drop off times. He clarified that this child care home would not be a home occupation but is still considered a "home" versus a "center" because it is within a residential structure and fits the definition of a child care home, as defined by the state.

Mr. Bilger presented an aerial of the property and detailed his concerns for alleyway traffic. He suggested the petitioner could attempt to control traffic flow by scheduling pick up and drop off and by directing the route of traffic to the home. He added that 2 parking spaces were required as part of the Residential Code and 1 parking space for an employee, so the proposed parking area would be sufficient, but having space for pick up and drop off should be considered. Mr. Bilger listed the conditions of approval suggested in the Staff Report, with one correction; Condition 3 should describe "three" parking spaces versus "two". Ms. Gardner asked if Condition 5 should require a "non-illuminated" sign. Mr. Bilger stated he would recommend non-illuminated but that the Board could decide otherwise if they felt there was cause to do so, such as hours of operation after dusk, or etc.

There being no further questions for Mr. Bilger, Mr. Kissinger requested to hear from the petitioner. Ena Colbart was present and introduced herself to the Board. She explained that she operates a child care home at her residence on Mowrey Road and proposes to operate a second child care home at the subject property. Ms. Colbart described the driveway as being paved and suitable for four vehicles. She stated that she would direct the route for pick up and drop off so that there would not be any issues with alley traffic. Regarding the sign, Ms. Colbart was not concerned about illumination but described the sign at her other location which has a small solar light on top.

Mr. Kissinger asked if anyone would need to park along the alley. Ms. Colbart felt the driveway would be sufficient parking, and she added that the clients she has lined up for this location would have staggered pick up and drop off times and should not exceed the capacity of the driveway. Ms. Gardner asked for signage details. Ms. Colbart said she hadn't thought much about the sign yet. She said she currently has a small sign up that says "Entrance to Ena's Playpen." Ms. Colbart stated she had also considered placing a temporary sign on the porch until her clients were used to the location. Mr. Knott asked for details about the state

license, and Ms. Colbart explained the requirements. Ms. Gardner referred to Condition 2 in the Staff Report and asked Mr. Bilger how he would keep track of whether or not the license was in good standing. Mr. Bilger stated that he periodically checks online for license status. Mr. Kissinger asked if a license was required for each location. Ms. Colbart confirmed that it was, and she described the status of her and her employee's licenses, the state's inspection process, and other requirements.

There were no further questions for Ms. Colbart. Mr. Kissinger asked if anyone else was present who wished to speak with regard to the petition. Hearing none, Mr. Kissinger closed the public portion of the meeting for Board discussion. Mr. Warnick made a motion to approve 20-C-SE-2, granted to Ena Colbart, as presented, and with the following conditions: a state license for a child care home must be maintained in good standing, at least three parking spaces must be maintained on the driveway during the normal pick up and drop off hours, the business owner is to manage the ingress/egress as discussed, and a non-illuminated freestanding sign of no greater than 6 square feet is permitted so long as it complies with other sign code regulations. Mr. Romano gave the second. The Board voted unanimously to carry the motion.

3. 20-C-SE-3 and

4. 20-C-VAR-1

Integrity Business Investments, LLC, requested approval of a Special Exception to permit apartments in the Central Business District at 115 W. Ellsworth Street. Also requested was a Variance from the required minimum floor area per unit in a multi-family dwelling. Mr. Bilger explained that the petitioner had originally intended to remodel a detached garage into a 2-story, 2-unit apartment building, but, having recently discovered there is no foundation under the garage, the petitioner decided to remove the garage and proposed to construct a new 2-story, 2-unit apartment building. Mr. Bilger said setback variances may be required for the new structure, but a setback variance could not be discussed at this meeting and would be brought back before the Board after proper meeting notice. Mr. Bilger described the existing structures on the property – the detached garage and a house that had been converted into 6 apartments in the mid-1900s. He said zoning would have been in place at that time, but without knowing when exactly the conversion took place, the department must consider the use as legal non-conforming. Mr. Bilger said the Board could consider adding the existing apartment use into an approval for the new building. He also mentioned to the Board, that in the future, the petitioner intends to request to add another 2-story, 2-unit building on the west side of the property.

Mr. Bilger referred to 20-C-VAR-1 and stated the petition was specific to the floor plan submitted as part of the garage remodel. He then referred to the Staff Report and displayed aerial images of the property. Mr. Bilger pointed out that parking standards do not apply in the Central Business District, but generally, the amount of existing parking cannot be decreased. He said this would not be affected by the removal of the garage, but could be affected if any new structures were constructed over the driveway. Mr. Bilger concluded by referencing two suggested conditions. Mr. Warnick asked for clarification that in this case, a special exception approval would run with the land, not the owner, as the other previous two cases had. Mr. Bilger stated the Board could dictate the approval as they saw fit. Ms. Gardner

voiced that she did not feel the condition should be specific to the owner, in this case. Because the Ordinance states special exceptions are assigned to owners, Mr. Bilger suggested the condition describe that the approval is assigned to the structure. Mr. Knott asked if there were any safety codes that would apply due to the number of people residing in a small area. Mr. Bilger replied that there are code requirements for new structures, but the existing 6 units in the house would be considered as grandfathered. The Board discussed briefly, and Mr. Kissinger requested to hear from the petitioner.

Brent Simmons was present and described his request for a 2-story, 2-unit apartment building. Mr. Warnick asked why Mr. Simmons had not proposed both new structures at the same time. Mr. Simmons replied that he had not drawn up plans for the new buildings because he had intended to do the remodel project first and only recently realized it was not feasible. Mr. Romano asked if Mr. Simmons intended to keep the same floor plan for the new building as was proposed for the remodel. He wondered if Mr. Simmons would redraw the floorplan to meet the Ordinance's requirement. Mr. Simmons said he was not sure what size the new building would be and wanted to proceed with the variance request, but he did hope to build the new building in compliance with the Code. Mr. Kissinger asked if current residents mainly park on the street. Mr. Simmons replied that all parking is on the street. Mr. Knott asked how many units would be in the new structure. Mr. Simmons confirmed he planned to have two apartments, one on each floor. He asked Mr. Bilger to display the aerial image and then described where he wanted to place the second building. Mr. Bilger stated the side yard setback requirement is 10 feet, and a plot plan will be needed to determine whether or not a setback variance approval will be necessary. Mr. Simmons felt he could meet the setback requirement for the first building.

Ms. Gardner expressed concern over approving a proposal with so many variables, including a variance request that may not be necessary. The members discussed whether or not they felt comfortable approving the special exception. Realizing there may be others present who wished to speak, Mr. Kissinger invited anyone else present to share their thoughts on the request. Neighbor, Brian Pugh, introduced himself to the Board and wanted to ensure the integrity of his property would be upheld. He was also apprehensive about there being more vehicles parked on the street. Mr. Pugh stated he would be closely following the petitions for this property. There was no one else present who wished to speak, and Mr. Kissinger closed the public portion of the meeting. The members continued their discussion of whether or not they felt comfortable approving either petition while having so many questions about the project. Ms. Gardner suggested that any approval should be very specific so as not to be confusing due to there being multiple structures discussed. Ms. Thompson passed around a rough sketch of a site plan that Mr. Simmons had drawn recently, showing the location of the two new buildings and a parking area on the south side of the parcel. She explained that the main purpose of the sketch was to provide Mr. Simmons with a visual description of the setback requirements, so the distances described on the drawing were not actual in relation to the proposed structures. Ms. Thompson voiced that Mr. Simmons would like to know the Board's feeling on the second building because, at minimum, a setback variance approval would be necessary, and if the Board was not open to the idea, Mr. Simmons could choose not to pursue that part of his plan. The Board discussed the setback requirements. Several

members expressed that they were not against the idea of a second building, but that they weren't necessarily in favor of it either.

Mr. Romano made a motion to approve 20-C-SE-3, for a new 2-unit (1 bedroom each) apartment building with the condition that the structure meet all required codes, or receive variance approvals, and that two off-street parking spaces be maintained on the property. Mr. Warnick gave the second. The members voted 4-1 in favor of the motion, with Ms. Gardner voting against. Mr. Warnick made a motion to continue 20-C-VAR-1 to the February 4th meeting. Ms. Gardner gave the second, and the Board voted unanimously to carry the motion.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further discussion, Mr. Romano made a motion to close the meeting. Mr. Knott gave the second, and the meeting was adjourned at 8:20 P.M.

GUEST LIST

1. Brent Simmons ----- 3377 S. 150 East, Columbia City
2. Adam Olsen ----- 580 W. Park Street Ext., Columbia City
3. Jessica Ross ----- 660 W. Park Street Ext., Columbia City
4. Brent Cox ----- 1975 E. Mowrey Road, Columbia City
5. (Did not sign in) Brian Pugh ----- 107 W. Ellsworth Street, Columbia City