

**MINUTES  
ZONING BOARD OF ADJUSTMENT  
OCTOBER 1, 2013  
5:30 P.M.  
CITY HALL COUNCIL CHAMBERS**

**Present:** Allen Harvey, Rochelle Conway, Jim Edgmond, Larry Wolf, and Jane Reischauer.

**Staff Present:** Steve Boka, Community Development Director  
Andrew Fangman, City Planner  
Adam Thompson, Planning & Community Development Coordinator  
Stephanie Oien, Office Coordinator, Community Development

Chairperson Harvey called the meeting to order at 5:30 p.m.

**Minutes:** Edgmond motioned to approve the minutes from the September 3, 2013, meeting; seconded by Reischauer. All ayes, motion carried.

**Appeal Case No. 913, filed by Michael Tutor, to replace the commercial downstairs with residential apartments at 421-425 Mulberry Avenue.** Owners Mike Tutor and Matt McFadon were present to discuss their request. Mr. Tutor explained that they planned to remodel the building to include eight apartments – four up, four down. The downstairs apartments would all be handicap accessible. He indicated that they have signed a lease with Flickinger Learning Center to have eight off-street parking spaces available for the tenants. Edgmond inquired as to the location of the parking spots. Tutor replied they would have four spots running parallel to the building and four on the opposite side of the lot. They will not have spaces in the middle. Conway voiced concerns about the time restrictions on tenants for parking as designated in the lease. Tutor responded that there had been on-going discussion with Flickinger and those restraints will change. Reischauer voiced concerns about the short term of the parking lease. Tutor explained that they have an agreement for a longer overall term of 15 years but it will be renewed on a yearly basis. Reischauer asked if there were 18 bedrooms total. Tutor acknowledged that was correct. Edgmond asked if they had arrangements made for a parking fall back should things ever go south with Flickinger. Tutor replied they have also spoken with Pearl City Outreach. Mr. McFadon explained that they will continue to look for nearby property to purchase and construct their own parking lot. Boka reminded the Board that off-site parking needs to be located within 300 feet of the property. Fangman noted that parking regulations will change with the new zoning ordinance that he is working on. Reischauer asked if parking would be an issue if the property was used as commercial. Boka replied that parking is also required for C-1 zoning. He stated the same process would be needed with commercial development. He added that the former VFW was a legal non-conforming use and since the building has not been used for more than one year that status goes away. Boka noted this proposal was somewhat of a double edged sword. The number of units in the building would classify the property as commercial, however there is residential use on the first floor which is not permitted in C-1 zoning. He added the layout for the four bedroom units on the first floor allows for it to be converted to commercial space at a later time. He stated it's an adaptive reuse of the property. Commercial use would be preferred but residential use is more desirable than an empty building. Joe Hagerty of 2788 Shamrock Drive also spoke in favor of the project. Mr. Hagerty indicated that he had been contracted to wire and plumb the units. He corrected Tutor saying there would only be three handicap units available of the first floor. Harvey asked if the property would be sprinkled. Hagerty replied it would not. There will be draft stops and fire rated construction materials will be used. Conway asked where the windows will be located.

Hagerty replied that there would be one window per bedroom as required for egress. Bedrooms will be located in the front and rear of the building. Conway asked how many windows would there be per unit. Hagerty said it varies based on the layout. There was at least one unit that would have only one window. Edgmond motioned to approve the request; seconded by Wolf. Motion passed on a 3-2 vote. Conway and Reischauer were opposed.

**Appeal Case No. 914, filed by Alyssa Raverty of 1426 Cedar Street, to build a 20'x20' two car garage, with a 2 foot setback to the property line.** Alyssa Raverty was present to discuss her request. Ms. Raverty explained that the existing carport is crumbling. She has lived there for 12 years and says when it rains the water from the hospital driveway flows across Cedar Street and onto her property. She is hoping that constructing a garage and installing some sort of drain to catch the runoff will protect her property more. Harvey asked the size of the carport. Raverty indicated she did not have the exact dimensions but that it was large enough for one car. Harvey asked if it would be attached and would it need footings. Boka replied yes to both. Tom Reister of 1430 Cedar voiced opposition because he believed the runoff would be forced onto his property and cause him problems. Mr. Reister was also concerned about a possible fire hazard with the close proximity to his property. He expressed the desire for them to construct a garage further back on the property and maintain the 6-foot setback requirement. Edgmond asked him what the setback is from her property line to his structure. Reister estimated 10-12 feet. Gary Fortune, who has been contracted to do the work, indicated that the carport is 12'x20' and that it will be extended 8-9 feet. Mr. Fortune noted that the existing driveway is located 3 feet from the property line. He explained that dirt and debris from the drainage is coming under the concrete. He added that there are also cracks in the walls of the house foundation that need to be repaired as a result of the runoff. He explained that he will install a 6-foot trench drain with iron grate in front of the garage to catch the runoff. The runoff will be redirected, via piping, to discharge in the rear yard. Harvey asked if the garage could go behind the house. Raverty indicated it was a very steep backyard. Fortune noted that the yard was terraced down. Boka stated that Pappoose Creek runs behind the property and the terrain would be difficult to construct a garage in the rear yard. Boka told the Board that an attached garage is considered part of the house and as a result would require a 6-foot side yard setback by City Code. He suggested to Raverty that she contact the hospital about the drainage issue. He also suggested that she take pictures during and after rainfall to show where there are issues. Boka also asked that Raverty contact him so that he may pass the information on to the city engineer who is working on the Cedar Street Reconstruction Project. Edgmond motioned to approve the request with the caveat that storm water is caught and redirected to the rear yard as presented; seconded by Conway. All ayes, motion carried.

Adjourned.

Respectfully Submitted,

ATTEST:

Steve Boka, Secretary  
Director of Community Development

Allen Harvey  
Chairperson