

**MINUTES OF THE GOODLETTSVILLE
BOARD OF ZONING APPEALS**

Date: February 14, 2000

Time: 5:00 PM

Place: City Hall Conference Room

Members Present: Tom Mosier, Edgar Lowe, Tommy Jackson, Glen Garrett

Staff Present: Bill Terry, Vicky Ignatz

Others Present: Dunk Murrey, June Hawkins, Teresa McAnally, Sidney Fuller, Thelma Hughes, Jeanette Clark, Lena Doss, David Wilson, Vicki Wilson

Cases Heard: 2000-2-346

2000-2-347

The meeting was called to order by Tom Mosier, Chairperson. Minutes of the January 10, 2000 Board of Appeals meeting approved as written.

Motion by Jackson to approve Vicky Ignatz as Recording Secretary for the Board of Appeals. Motion seconded by Lowe. Motion passed unanimously.

CASE NO. 2000-2-346 Consideration of a request for rear yard or side yard setback at 1034 Louisville Highway. The applicant is Dunk Murrey, Better Home Builders.

Analysis - The applicant has purchased this property which has previously been used as a car lot and a heavy equipment office and storage yard. There is an outbuilding on the back part of the lot which is used as a garage or shop. The owner wants to add a second floor apartment to this outbuilding. The zoning ordinance permits a residence as an accessory use to a principal commercial use as long as it is occupied by the owner or someone employed on the property.

The problem is in getting access to the second floor. In order to build the apartment with an outside entrance a stairway and landing must be constructed. The stairs and landing will encroach into the required setback by about 12 to 18 inches. Therefore, the request for a variance for the stairway and landing.

Discussion - Mr. Murrey stated he has plans to build a second story to the existing building for living quarters with a stairway and 8 x 10 foot landing designed to be located on the side of the building. He also has plans to repair the existing fence bordering the property and resurface the existing asphalt. He is requesting a side yard setback variance and permission to build a second story onto the existing building.

Terry stated the building of a two story structure is permitted under the zoning ordinance and does not require a variance. Murrey stated he would move the stairway and landing to the front of the building; thereby, eliminating the need for a variance.

Action - Mr. Murrey withdrew his request for a variance. No action was required by the Board.

CASE NO. 00-2-347

Consideration of a request for an interpretation that an existing apartment in a single family home at 237 Swift Drive was legally established prior to the adoption of R25 zoning in the area in 1989. The applicant is June Hawkins, owner.

Analysis - The applicant has owned the house at 237 Swift Drive for a number of years. At some time during the mid 1980's, Mrs. Hawkins, the owner, stated a portion of the house was converted into a separate living quarters for her daughter. At the time, the zoning classification of the area permitted duplex or two-family dwellings. Over time, this separate space was improved somewhat so that a complete living unit was created. It was occupied and unoccupied at different times.

A few years ago Mrs. Hawkins started renting the apartment to supplement her income. Last summer or fall, the matter was reported to the Codes Department where an investigation revealed the facts that she has testified to at this point. The property is now zoned R25 which does not permit duplexes so she was advised that she was in violation of the zoning ordinance. Since no building permits were issued and the apartment does not meet codes, the idea of it being legally established before the zoning changed in 1989 is questionable. Staff is without authority to give the apartment any kind of "grandfather" status, therefore, this appeal is before the Board.

Discussion - Terry stated the renovation was not covered by a building permit; therefore, it is not a legally established dwelling. The dwelling does not meet code requirements including the presence of a fire separation wall, a fire rated door separating living quarters, emergency egress provisions, minimum plumbing requirements and kitchen area electrical wiring. Terry stated the basic question for interpretation is the way the building is set up and rented out as an efficiency apartment, does this constitute a two family dwelling?

Mrs. Hawkins presented a statement signed by several of the adjoining neighbors witnessing the fact that in 1985 a bedroom was remodeled into an efficiency type room for the purpose of housing her daughter and subsequently housing boarders. Adjoining property owners present for the meeting included Sidney Fuller, Thelma Hughes, Jeanette Clark, Lena Doss, David & Vicki Wilson. The overall consensus of the property owners is that they are not opposed to the continued rental of the room by Mrs. Hawkins; however, there is great concern that this home will be established as a two family dwelling for future property owners.

Sidney Fuller asked if Mrs. Hawkins would be required to renovate the house to comply with current code regulations if the property is established as a two family dwelling. Terry stated normally you cannot apply a building code retroactively. It is questionable as to whether the building code violations which occurred in 1985 can be enforced at this time.

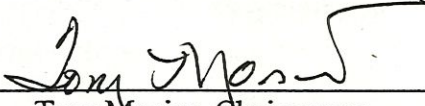
Fuller asked if a agreement could be reached that upon the sale of the property, the house would revert back to a single family dwelling. Terry stated under zoning regulations a variance for the two family dwelling would go with the land and not the owner.

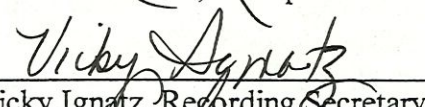
Mosier, Garrett and Lowe asked if the two family dwelling issue would not exist should minimal alterations were made to the efficiency apartment Terry stated such action would result in a narrow interpretation that this is not a two family dwelling. Furthermore, this action would not properly address the concerns regarding use of the property by future owners.

Terry suggested a possible alternative in which Mrs. Hawkins would enter into a binding agreement with the City of Goodlettsville stating that prior to selling the property she would, at her own expense, remove all evidence of an efficiency apartment. Mosier asked if the City would be comfortable with such an agreement. Terry stated it would be a question of compliance by the property owner or her heirs and enforcement by the City. Mrs. Hawkins stated she would be in favor of such an agreement.

Motion by Jackson to defer the item and for the City Planner to confer with legal counsel as to what would be a legal, binding and enforceable agreement regarding future use of the property. Motion seconded by Lowe. Motion passed unanimously.

The meeting adjourned at 6:15 P.M.


Tom Mosier, Chairperson


Vicky Ignatz, Recording Secretary