



Memo

File #: 434-21

Agenda Date: 9/21/2021

TO: Mayor and City Council

FROM: James V. Capparelli, City Manager

SUBJECT:

An Ordinance Approving a Variation of Use and a Series of Variations to Allow the Continuation of a Two-unit in an R-2 (Single-Family Residential) Zoning District, Located at 142 Akin Avenue (ZBA 2021-46)

BACKGROUND:

The property owner, NCS Enterprises Inc., requests approval of a Variation of Use to allow the continuation of an existing two-unit at 142 Akin Avenue. NCS Enterprises Inc. purchased the property in August 2019 believing the building to be a lawful two-unit. They learned that it did not have proper zoning when City staff initiated their review of building permits for the renovation of the structure.

According to available Polk Street Directories, the house appears to have been a two-unit since at least 1930 and remained a two-unit until the present. The 1968 Zoning map shows this property and surrounding neighborhood zoned as R-3 (One-and-Two Family Residence). Portions of the neighborhood were reclassified in the 1990s to R-2 (Single-family Residential) zoning. The owner at that time did not apply to retain the property's zoning status for a two-unit; although, the two unit continued to be occupied for almost three more decades.

The house has been vacant for several years. The house includes 2,100 square feet of living space between the two units. There is a housing unit on each floor of the house. Each unit has two-bedrooms and one-bathroom. The property currently offers off-street parking for 5 vehicles, so the property meets the City's parking requirement of three parking spaces for a two-unit.

Staff from the Division of Neighborhood Services has been working with the property owner on the proposed renovation of this house. Subject to the proposed renovation's compliance with Building Code and International Property Maintenance Code, Neighborhood Services has no concerns with the continuation of a two-unit at this location. Should the City approve this Variation of Use request, the property shall be automatically enrolled in the City's Rental Inspection Program.

ZONING BOARD OF APPEALS PUBLIC HEARING:

The Zoning Board of Appeals held a public hearing on this matter at their August 19, 2021 meeting. Mr. Nathaniel Washburn, attorney, represented the petition. There was discussion related to the

zoning history of the property and the condition of the building. There were no other public comments of opposition or support made at the meeting nor were any received as written comments. Meeting minutes are attached.

RECOMMENDATION OF THE ZONING BOARD OF APPEALS:

Jim Riggs moved that the Zoning Board of Appeals recommend the City Council approve the Variation of Use and a series of Variations to allow the continuation of a two-unit in an R-2 (Single-Family Residential) Zoning District at 142 Akin Avenue, with the following conditions:

1. That off-street parking spaces for a minimum of three (3) vehicles shall remain in the future;
2. That the public sidewalk, stairs leading from the sidewalk onto the property and service walks shall be repaired according to the International Property Maintenance Code and Building Code standards;
3. That the public sidewalk, stairs leading from the sidewalk onto the property, service walks and rear asphalt parking lot shall be maintained in the future according to the International Property Maintenance Code and Building Code standards;
4. That use of the property shall not be expanded in the future;
5. That the property shall meet the City's water meter and valve requirements, which may require a separate water service external shut-off valve and meter for each unit;
6. That the property shall be enrolled in and comply with the City's Rental Inspection Program; and
7. Should the property be declared a public nuisance by the City Council, the Variation of Use shall be automatically revoked.

Pat McShane seconded the motion, which failed due to lack of a majority vote, with three voting aye and two voting nay. Therefore, this petition moves on to the City Council without a recommendation.

Voting aye were board members: Hennessy, Riggs and McShane. Voting nay were board members Safford and Roehr.

RECOMMENDATION:

The Administration recommends the Mayor and City Council approves the Variation of Use to allow the continuation of a two-unit in an R-2 (Single-Family Residential) Zoning District at 142 Akin Avenue, subject to the above conditions.

