

**MINUTES**  
**ZONING BOARD OF ADJUSTMENT**  
**January 15, 2013**

1. CALL TO ORDER.

The regular monthly meeting of the Marion Zoning Board of Adjustment was called to order at 7:00PM.

2. ROLL CALL.

Members Present: Roth, Kent, Gibson, Kingery

3. ELECTION OF OFFICERS.

Motion by Gibson, seconded by Kingery, to elect the following officers for the 2013 calendar year: Chair – Kent, Vice Chair – Roth, Secretary – Gibson.

Roll Call:

Kent – Yes

Gibson – Yes

Kingery – Yes

Roth – No

Motion passed.

4. MINUTES.

Zoning Board of Adjustment – November 20, 2012

Motion by Roth, seconded by Gibson to approve the November 20, 2012 meeting minutes as submitted.

All "ayes" motion approved.

5. CONSENT CALENDAR.

- a. Motion to receive and file all correspondence from applicants and staff reports regarding variance requests on the January 15, 2013 Marion Zoning Board of Adjustment agenda.

Motion by Gibson, seconded by Roth to receive and file all correspondence from applications and staff regarding the January 15, 2013 meeting.

All "ayes" motion approved

6. APPEALS -

- a. Tama Street Properties, 701 Financial Center, Marion, Iowa - Requesting a variance from Section 176.29-2C1 of the Marion Code of Ordinances to

allow a parking lot to be less than the required 25' front yard setback in the O-1, Office Transitional Zoning District.

ZBA Resolution No. 12-15 approving the variance request.

ZBA Resolution No. 12-15 denying the variance request.

Hockett presented the staff report regarding the variance request and gave a brief history of the property. Hockett stated that the City Council, in October, had approved the applicants' request to provide parking within the Tama Street right-of-way; however, the authorization of parking in the 25-foot setback was only permitted with a variance. Hockett stated that the applicants were requesting a variance of 25-feet.

Hockett noted that letters of objection and a petition against the parking variance were included in with the staff report.

Gibson noticed that the right-of-way along Tama Street seemed larger than normal. He asked if the Council could sell a portion of the right-of-way to the applicants in order for them to meet the setbacks. Hockett replied that the additional right-of-way was purchased with Federal and State dollars when Highway 100 was built. Should the City sell any of the right-of-way, they would need to pay the Federal and State government back, including interest. Selling road right-of-way is not something the City typically does.

Kent informed the applicant that a favorable vote of three members of the Board is required for approval, regardless of the number of Board members present. He indicated that there is a vacancy in the Board, in which there were only four members of the Board present at the meeting. He gave the applicant the option to have the request voted on that night, or tabled until the full five-member Board was re-established. Dave Mercer with Iowa Realty Commercial, representing the applicant, replied that they would like a vote that night.

Mr. Mercer noted that the parking area requiring the variance was one of two areas being added to the property to accommodate the two existing tenants in the building. He noted that they have received both City and Iowa Department of Transportation approval to construct the additional parking in the right-of-way for Tama Street. He added that the owners had contacted the adjacent property owner about purchasing additional land to accommodate the extra parking, but the property owner was not inclined to sell any property. Should the property owner not be granted the variance for the additional parking, they will have a risk of losing their current tenants.

Bill Knapp, of Knapp Warden Architecture and Engineering in Cedar Rapids, addressed the Board as a representative of the applicant. He noted that his firm had designed the proposed parking areas for the property and explained how stormwater retention areas on the south side of the property prohibited them from having all of the additional parking in that area.

Jim Gocke, of Block, Lamberti and Gocke, P.C. in Ankeny, Iowa, addressed the Board as the applicants' attorney. He addressed the concern about the parking being closer to the residences across the

street and pointed out that he felt the requested parking areas would be no closer to the residences than any of the existing parking areas.

Gibson asked Mr. Gocke how his clients' circumstance constitutes a substantial hardship as specified in Marion's City Code. Mr. Gocke replied that if the additional parking is not provided, the current tenants have indicated that they would vacate the property, costing the owner to re-tenant the property, commissions, improvements and an unknown period of vacancy for the building. He noted that it would be a substantial financial hardship to the owner.

Gibson noted his concern for moving the noise and lighting associated with the parking area further to the west, closer to the residences along Tama Street. He stated his second concern was that a growing business does not establish a hardship for the property.

Gibson then asked if Tama Street was ever going to be constructed further south. Hockett replied that it was not planned to be, and it would be difficult to do in the future.

Motion by Gibson, seconded by Roth, to approve ZBA Resolution No. 12-15 **denying** the variance request from Section 176.29-2C1 of the Marion Code of Ordinances to allow a parking lot to be less than the required 25' front yard setback in the O-1, Office Transitional Zoning District based upon the applicants failure to meet the criteria established in the Marion City Code.

Roll Call:

Gibson – Yes

Kingery – Yes

Roth – Yes

Kent – Yes

The request was denied.

- b. Terry E. Parsons, purchaser, 590 S. 11<sup>th</sup> Street, Marion, Iowa – Requesting a variance from Section 176.10-3C of the Marion Code of Ordinances to allow an addition to the principal structure to be less than the required twenty-five (25) foot front yard setback; and a variance from Section 176.33-3 to allow enlargement of a non-conforming structure in the R-2, Medium Density Single Family Residential Zoning District.

ZBA Resolution No. 12-16 approving the variance request.

ZBA Resolution No. 12-16 denying the variance request.

Billings presented the staff report and gave a brief history of the property.

Kent informed the applicant that a favorable vote of three members of the Board is required for approval, regardless of the number of Board members present. He indicated that there is a vacancy in the Board, in which there were only four members of the Board present at the meeting. He gave the applicant the option to have the request voted on that night, or tabled until the full five-member Board were re-established. Terry E. Parsons, the applicant, replied that he would like a vote that night.

Mr. Parsons addressed the Board in favor of the request. He noted that he had hired Steve Scott of Scott Survey to locate the property lines to verify accuracy of his request.

Gibson asked Mr. Parsons if he had considered putting the addition on the southwest side of the house. Mr. Parsons replied that he would be putting an addition onto an addition and did not feel that it would be a practical layout for the house.

Roth asked how far back (west) the applicant could move the proposed addition. Mr. Parsons replied that he could move it back to a 12 foot setback to match the addition on the south side, but that would place the doorway to the addition coming out of the dining room, which was not an appealing flow for him.

Greg Olbekson and Robert Randal, of 580 S. 11<sup>th</sup> Street, addressed the Board and stated that they had no objection to the request.

Gibson asked if the applicant would be able to keep the tree in front of the house. Mr. Parsons replied that it would be too close to the addition to save, and health of the tree was questionable.

Motion by Roth, seconded by Kingery, to approve ZBA Resolution No. 12-16 approving the variance request from Section 176.10-3C of the Marion Code of Ordinances to allow an addition to the principal structure to have a 4-foot front yard setback; and a variance from Section 176.33-3 to allow enlargement of a non-conforming structure in the R-2, Medium Density Single Family Residential Zoning District given that strict application of the terms of the Zoning Ordinance will impose upon the property owner a particular hardship.

Roll Call:

Kent – Yes

Gibson – Yes

Kingery – Yes

Roth – Yes

The request was approved.

## 7. ADJOURNMENT.

There being no further business before the Board the meeting was adjourned at 7:47PM

Respectfully Submitted,

Gordon Gibson, Secretary