

## **MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD ON APRIL 17, 2014**

The meeting was called to order by Chairman Ken Hartman at 7:30 PM.

Roll call was taken: **Present: Mueller, Rippelmeyer, Boothman, Loerch, Kaempfe, Gibbs and Hartman.**

Chairman Hartman asked if there were any additions or corrections to the minutes of the March 20, 2014 meeting. Mr. Gibbs mentioned that the date was wrong with regard to the approval of the prior meeting minutes. The minutes were approved for the meeting date of February 20, 2014 and not March 20, 2014. A motion was made by Kaempfe and seconded by Loerch to approve the minutes of the March 20, 2014 meeting as amended. Motion carried.

The Chairman asked if there were any citizens to address the Zoning Board of Appeals. There were none.

The Chairman also asked if there were any corrections or deletions to the agenda. There were none.

### **OLD BUSINESS:**

#### **Z-14-03-01 Review and Comment on Proposed Zoning Map Amendment to Rezone a Downtown Portion of B-3, Central Business District, to R-3, Single Family Residential and a Portion of B-3, Central Business District, to I-1, Light Industrial District.**

This petition was tabled at the March 20, 2014 Board of Appeals meeting. The Board requested that more investigation/study of the area be performed and better direction be specified for rezoning the Downtown Portion that is mentioned in the Petition. The Zoning Administrator stated the City of Waterloo review the map amendment and proposed the following:

- 1.) The I-1, Industrial zone district would remain as originally petitioned and unchanged.
- 2.) The four (4) properties across from Sts. Peter and Paul Catholic School and the Ahne Property (address are: 210, 214, 216, 216 Rear, 222 and 301 West Third Street) will not be rezoned and will maintain their current B-3 status.
- 3.) The business district along Moore Street will also remain as originally petitioned.
- 4.) The feed store property will remain B-3 (Central Business District).

The suggested changes will eliminate the need to have properties listed in an ordinance and allows this petition to become a true "map amendment".

The Zoning Administrator mentioned that the public notice for this petition was published in the Waterloo Republic Times on March 5, 2014. Publication was not needed this month as the petition was tabled and therefore is classified as a continuation of the hearing from last month. In addition the Planning Commission gave this petition a positive recommendation.

**Motion was made by Rippelmeyer and seconded by Kaempfe to recommend approval on a Proposed Zoning Map Amendment to Rezone a Downtown Portion of B-3, Central Business District, to R-3, Single Family Residential and a Portion of B-3, Central Business District, to I-1, Light Industrial District as presented.**

Members voted as follows: **YES** – Mueller, Rippelmeyer, Boothman, Loerch, Kaempfe, Gibbs and Hartman.

**Motion carried.**

**PETITIONS:**

**Z-14-04-01 Review and Comment on Proposed Zoning Map Amendment to Rezone Lots 1 thru 12 of East Ridge 7<sup>th</sup> Addition from R-6 (Condominium Residence) to R-5 (Multi-Family Residence).**

The Zoning Administrator stated that the public notice for this petition was published in the Waterloo Republic Times on March 26, 2014. Mr. Justin and Mr. Ryan Osterhage, petitioners, were present to speak on behalf of this petition, and presented their postal notification receipts to the Zoning Administrator. Lot 1 of East Ridge Phase VII is jointly own by them, and they would like to build a single family home on this parcel of ground. The Zoning Administrator mentioned that condominiums were recently added as a permitted use in an R-5, Multi-Family Residence. Mr. Justin Osterhage pointed out that currently four (4) of the eleven (11) structures on Lots 1-12 are non-conforming (two are single family residences and two are duplexes). If the lots were rezone R-5, Multi-Family Residence, all the lots would be conforming.

Mrs. Deb Zavadil, 640 Hamacher St., requested a definition of R-5, Multi-Family Residence and R-6, Condominium Residence. The Zoning Administrator explained the Waterloo Zoning Code and permitted uses for these zoned districts. Mrs. Zavadil mentioned that the property was zoned from R-5 to R-6 eighteen (18) months ago and the property owners approved of the zoning changed. She wanted to know why the Osterhage's didn't speak up at that time regarding their opposition to the zoning change. Mrs. Zavadil stated she did not want Multi-Family zoning.

Mr. Dave Barbeau, 628 Hamacher St., questioned the reason for the change from R-6 back to R-5 and suggest that the Board of Appeals only rezone Lot 1 (the Osterhage lot) to R-5, Multi-Family and leave the remaining eleven lots as R-6, Condominium. The Zoning Administrator stated that rezoning only Lot 1 would be problematic since it could encourage spot zoning. Mr. Barbeau further stated that he would be concern about future development if the area is rezone R-5, Multi-Family Residence. The Zoning Administrator informed everyone the due to the size of each lot, the only structure that could be built on those lots, if the R-5 rezoning was approved, would be a duplex, a condominium or a single family residence.

Mr. Barrie Scott, 630 Hamacher St., stated that it appears the Osterhage's are trying to satisfy a situation for Lot 1 for a single family home, and it is request that everyone else change their zoning for this one lot. Mr. Scott mentioned that maybe a special use permit for a single family home should be added in an R-6 zoned district. The Zoning Administrator stated the City wanted a zoned district for condominiums only, and did not want intermixing structures, that is what an R-5 allows. Mr. Jeff Zavadil stated that is strongly opposed the rezoning of Lots 1 thru 12 to an R-5, Multi-Family Residence. Mr. John Hermes, an adjoining property owner, stated he agreed with Mr. Barrie Scott, to make a special use permit for single family residence in an R-6 zoned district.

Mr. Hermes, 621 Ridge Road, added that he did not see a reason to change all the lots in East Ridge 7<sup>th</sup> Addition, to an R-5 zoned district. The Zoning Administrator pointed out that allowing a single family home in an R-6, Condominium zoned district affected all R-6 zoning throughout the city, and not just these twelve lots. In addition, the city is trying to prevent single family residences in areas that are design for condominium usage.

Ms. Donna Herrera, a concerned citizen, mentioned that she attended the meeting 18 months ago, and her understanding was that the R-6, Condominium zoning was to protect the condominium owners and with that in mind she opposed the change to an R-5, Multi-Family Residence zoned district.

Mr. Gene Rice, 102 Eagle Court, stated the change to R-6 was to Osterhage's benefit and that he opposed the proposed R-5 zoning change. The Osterhage's pointed out that currently 37% of the lots in the East Ridge Phase VII are non-conforming. If the zoning was changed to R-5, all the lots would be conforming.

Mr. Glen Wohldmann, 616 Hamacher, mentioned that he thought it would be best for the city and the community if the city allowed the Osterhage's to build on Lot 1. It was explained that the Osterhage's could build on their lot, but they would need to conform to the State Condominium laws and therefore would need to have the land and the interior of the home surveyed. The Osterhage's stated it would cost between \$6,000 and \$10,000 for the surveys.

Mr. Ken Gibbs pointed out that although the Planning Commission approved the rezoning, that Board only heard from the Osterhage's and did not have the benefit to hear the concerns mentioned in this evening's Board of Appeals meeting by the residents.

**Motion was made by Rippelmeyer and seconded by Gibbs to rejected the Proposed Zoning Map Amendment to Rezone Lots 1 thru 12 of East Ridge 7<sup>th</sup> Addition from R-6 (Condominium Residence) to R-5 (Multi-Family Residence.**

**Members voted as follows: YES – Mueller, Rippelmeyer, Boothman, Loerch, Kaempfe, Gibbs and Hartman.**

**Motion Carried.**

The Zoning Administrator commented that since the Planning Commission approved the proposed zoning and the Board of Appeals rejected the proposed zoning, this petition will go to the Planning Committee where they will decided if this petition will go in front of the City Council.

**Z-14-04-02 Review and Comment on Proposed Zoning Text Amendment to remove “Row Dwellings” from the list of Permitted Uses in the R-5, Multi-Family Residence.**

The Zoning Administrator stated that the term “Row Dwellings” was actually removed as a permitted use in an R-5, Multi-Family Zoned District in 1999. However, it was inadvertently re-inserted during the 2003 codification. The City of Waterloo would like to again have the term removed as a permitted use under the R-5 zoned district. Currently the City of Waterloo only has one row house development which would not be affected by this change. Mr. Barrie Scott inquired if this would also include townhouses. The Zoning Administrator stated it would include anything on a zero lot line. The Zoning Administrator added that the public notice for this petition was published in the Waterloo Republic Times on March 26, 2014, and that the petition received a favorable recommendation by the Planning Commission.

**Motion was made by Rippelmeyer and seconded by Mueller to recommend removal of “Row Dwellings” from the list of Permitted Uses in the R-5, Multi-Family Residence.**

**Members voted as follows: YES – Mueller, Rippelmeyer, Boothman, Loerch, Kaempfe, Gibbs and Hartman.**

**Motion Carried.**

**Z-14-04-03 Review and Comment on Proposed Zoning Text Amendment to amend Section 40-3-8 Lot: Division of Lots; by removing the sentence, “Division regulations may not apply to lots that do not increase the density of area.”**

The Zoning Administrator added that the public notice for this petition was published in the Waterloo Republic Times on March 26, 2014, and that the petition received a favorable recommendation by the Planning Commission. The Zoning Administrator mentioned that the City would like to modify Section 40-3-8 of the Zoning Code which allows for the division of a lot or a tract of land. The propose language change for this Section is a version prior to the 1993 codification. This older version is more comprehensive definition and specifies the any lot division shall conform with all the applicable regulations of the zoning districts in which the property is located.

**Motion was made by Kaempfe and seconded by Rippelmeyer to recommend approval on Proposed Zoning Text Amendment to amend Section 40-3-8 Lot: Division of Lots; by removing the sentence, “Division regulations may not apply to lots that do not increase the density of area” as presented.**

**Members voted as follows: YES – Mueller, Rippelmeyer, Boothman, Loerch, Kaempfe, Gibbs and Hartman.**

**Motion Carried.**

**NEW BUSINESS:**

The Chairman asked if there was any additional new business. There was none.

**COMMENTS:**

The Chairman asked if there were any comments. There were none.

**Motion to adjourn the meeting at 8:35PM was made by Kaempfe and seconded by Boothman.**

**Motion carried.**

Minutes respectively submitted by Mechelle Childers