

Variance Reconsideration Request

1401 E 3rd St
C15-2022-0061

The Board of Adjustment
December 12, 2022
Item ____

Cort Chalfant
(Nexus Series B, LLC, Owner)

Overview

Seeking a reconsideration of the specific language in the motion that led to the 9-0 unanimous approval of our side yard variance request at the BOA meeting of 11/14/22.



**You may recall...
This is what we propose to demolish/replace.**



...this is what we propose to replace it with.

- Unit A: 2/2.5 1,650 sf 2 cars parking on-site
- Unit B: 1/1 650 sf 1 car parking on-site
- Total: 2,300 / 4,967 sf site 46.3% FAR

The Motion

Motion by Board member Von Ohlen was to approve, which carried unanimously.

However:

- He asked if we would stipulate to build as presented (subject to minor alterations). **I agreed. No problem.**
- He asked if we would stick to the 40% FAR “as provided by the Code”. **I said “this is a question best answered by the architect”.** *The architect was an approved speaker and responded on the phone but couldn't be heard.*
- Since attendees heard nothing and we didn't know to clarify the Code, we all moved on and the motion carried.

The Code

Subchapter F, Article 2.1 reads “MAXIMUM DEVELOPMENT PERMITTED: The maximum amount of development permitted on a property subject to this Subchapter is limited to the greater of 0.4 to 1.0 floor-to-area ratio or 2,300 square feet of gross floor area...”.

In the vast majority of cases, a developer has a lot with sufficient area such that the 40% FAR value governs. **I believe Board Member Von Olen defaulted to this value in his motion rather than consciously supersede what the Code otherwise permits.**

In small lot cases, the 2,300 sq. ft. cap supersedes the 40% FAR value.

In our case, the lot is only 4,967 sq. ft. in size. 40% of this value = 1,987 sq. ft. but under the Code we are permitted by right to build 2,300 sq. ft.

The Problem (Hardship Unique to the Property)

- The first stipulation in the approved motion requires that we build as presented (2,300 sq. ft.)
- The second stipulation [*inadvertently?*] imposes a 40% FAR cap (1,987 sq. ft.)

We can't meet both stipulations at the same time. One or the other has to give.

Proposed:

- Make a new motion identical to the first but without language that supersedes Subchapter F, Article 2.1 of the Code.
- We will continue to stipulate that we will build as presented (subject to only minor alterations).