

FRUITA BOARD OF ADJUSTMENT MINUTES
Monday, October 11, 2010

ITEMS FOR CONSIDERATION:

2010-20 Smith
Application: Variance

A. CALL TO ORDER & ROLL CALL

Chairman Bruce Bonar called the meeting to order at 6:30 p.m. Board of Adjustment members in attendance were: Dean Pichler and Bruce Bonar

B. PLEDGE OF ALLEGIANCE

Dean Pichler led the Pledge of Allegiance.

C. ELECTION OF OFFICERS

Bruce Bonar- Do I have a motion to nominate a Chairman of the Board?

Dean Pichler- I nominate Mr. Bonar for Chairman of the Board.

Bruce Bonar- Seconds

2 Yes Votes; Motion Passes.

Bruce Bonar- I nominate Dean Pichler to be Vice Chairman.

Dean Pichler- Seconds

2 Yes Votes; Motion Passes

Election of officers is completed.

D. APPROVAL OF THE AGENDA

Bruce Bonar- Asked for a motion to approve the agenda as printed.

Dean Pichler- I make a motion we accept the agenda as printed.

Bruce Bonar- Seconds

2 Yes Votes; Motion Passes

E. APPROVAL OF MINUTES

Bruce Bonar- Approval of the minutes from the October 27, 2008 meeting. Do I have a motion to approve the minutes?

Dean Pichler- I make a motion we accept the minutes as presented.

Bruce Bonar- Seconds

2 Yes Votes; Motion Passes.

F. HEARING ITEMS

2010-20 Smith
Application: Variance
Property Owner: Michele M. Smith
Representative: Michele Smith
Location: 122 and 126 E. Aspen Avenue
Zone: Downtown Mixed Use

A request for a 3,771 square foot and a 4,130 square foot Variance to the minimum lot size required in the Downtown Mixed Used zone.

Bruce Bonar- Onto the hearing item. I believe you are up.

My name is Michele Smith and I appreciate you coming out tonight, everybody that's here. The building located at 122/126 E. Aspen currently houses Klik Clothing store and It's a Girl Thang, which is like a beauty shop/boutique. As you probably know, they are one building and I would just like to divide them just where the buildings currently exist and where the wall currently is. I would just like to divide them so that I have the opportunity to sell each one individually to whomever.

Dahna explained to me when I first made this application that because they are not the standard, what the City of Fruita sets as a standard for the lot area, that I would need a Variance and that we would have this hearing. And so, I guess is there a question that you have of me or a concern that maybe I can address?

Dean Pichler- It's already been explained that there is a firewall in place between the two units or will be.

Michele Smith- Or will, yes. The Building Department requires that it be a fireproof wall; it is partially concrete and then partially not, but we will have to satisfy that with the Building Department.

Dean Pichler- So this is going to have a hard core first before the drywall goes over some sort of a concrete block type configuration?

Michele Smith- Well, between the two buildings there is somewhat of a space. You wouldn't know that unless you got up in the ceiling and looked down, but that is where, according to the Building Department, there needs to be a concrete wall or they called it some kind of a fire retardant installation. I'm not sure, but the contractors will ...

Dean Pichler- So, it's more for fire retardant than it is for structural?

Michele Smith- Yes, it's totally for fire ... in case there was a fire.

Dean Pichler- I don't have any other questions at this time.

Bruce Bonar- I'm good for the moment. Let's see what Dahna has to say.

Dahna Raugh- This is a request for a Variance to the minimum 6,000 square feet lot size required in the Downtown Mixed Use zone. This is an existing property with an existing building, that were built legally at the time that they were built, which was around 1920. But, now it doesn't meet our current Land Use Code and the applicant would like to subdivide the property and the building that is on it to create two separate lots that can be bought and sold separately.

The Land Use Code has five specific criteria that must be considered for variance requests and I'm going to review those quickly.

The first one is that the variance to be granted is without substantial detriment to the public good and does not impair the intent and purposes of the Land Use Code and the Master Plan, including the specific regulation in question. In this case, it's the minimum lot size. Staff believes that the proposed subdivision and the variance that is necessary for it, does further the intent of the Land Use Code and the Master Plan as it does promote the historic development pattern of the downtown area, which has significantly smaller lots than what is typically found today, and certainly, significantly smaller than what new lots are typically built at. The building is existing; no off street parking is required, which also helps reduce the needed area to establish a business and staff believes that this approval criteria has been met.

The second approval criteria is regarding the uniqueness of the lot. For example, shallowness, narrowness, depth, and other considerations and this property certainly is unique in that it is currently substantially smaller than what you see today with new lots and it is in an area of the

City that has smaller lots overall. If you look at the location map on page two of your Staff Report, you will see that this particular area contains some of the smallest lots in the downtown and, I would dare say, probably the smallest lots in the City. Staff believes the second approval criteria has been met.

The third item to consider is that the variance should be the minimum necessary relief in order to resolve the hardship or the peculiar difficulty. In this circumstance, the applicant is just asking for the property to be split in two, right in line with the common wall that currently separates the two businesses operating out of this property. Staff believes that this approval criteria has been met. Staff is currently processing a minor subdivision, which is the application to subdivide this property. It has been reviewed by the Mesa County Building Department, and they have provided their comments regarding the need for a firewall and other requirements to meet the Building Code. I know that Ute Water and the City of Fruita also require that separate utilities be provided to the building and these requirements must also be met. Those will be made a condition of approval of the subdivision and doesn't necessarily have to be a condition of approval on the Variance.

The next approval criteria, number four: the circumstances found to constitute a hardship should not be due to or a result of the general conditions in the area or was not done by an action of the applicant. In this case, again, as I have explained, the properties are unique and small and have been that way for quite some time and the current property owner was not involved in the creation of the lot or the building on the lot.

And lastly, the variance; seems to be a repeat of #3, should be the minimum necessary to alleviate the exceptional difficulty or hardship. Again, staff believes that the subdivision of the property along the common wall is the minimum necessary.

We have received no public comments neither written nor any phone calls on this particular variance request. With that, staff recommends approval with no conditions of this Variance. That concludes my presentation.

Bruce Bonar- Thank you. Dean, any questions?

Dean Pichler- It just appears that we are in sync. I see no reason to embellish.

Bruce Bonar- I will now open this up to a public hearing, if anyone would like to speak for or against this; please speak up. Going once, going twice; hearing no comments, I will close the public hearing and send it back to the Board. Do you have any comments?

Dean Pichler- Again, it appears that we are within tolerance of what our staff recommends. And again, nobody can say what a business is going to be used for. It just behooves you; you can find somebody if you make affordable property available, somebody that will fit that particular piece of property would be happy to have it. So again, I am for carrying through with the staff's recommendation.

Bruce Bonar- It seems to me that staff has adequately demonstrated that this meets all of the five criteria that are necessary to approve a variance. I agree with the staff's comment on those and I also agree that this is consistent with the Master Plan in trying to encourage downtown businesses and with the Council's interest in maintaining the viability of downtown businesses and the potential for attracting new businesses. And so, I think this is a good thing. Do I have a motion to approve the Variance?

Dean Pichler- I make said motion to approve the Variance.

Bruce Bonar- Seconds

2 Yes Votes; Motion Passes

Bruce Bonar- Is there any other business for the evening?

Dahna Raugh- No.

G. ADJOURNMENT

Bruce Bonar adjourned the meeting at 6:42 p.m.