



AGENDA MEMORANDUM

TO: The Warrenton Planning Commission
FROM: Kevin A. Cronin, AICP, Community Development Director
DATE: For Agenda of May 30, 2019
SUBJ: Non-Conforming Use | Dober Property in Hammond

SUMMARY

Molly Dober has requested the replacement of a single family detached unit on a non-conforming lot on property they recently purchased at 749 Pacific Ave in Hammond. The property was recently purchased and the non-conforming home was demolished. The property is zoned High Density Residential (RH) that requires certain development standards be applied to single family detached units similar to all other zoning districts. Below is the Development Code language that pertains to non-conforming uses. Enclosed is background information provided by the applicant.

16.276.010 Nonconforming Uses or Structures.

A nonconforming use or structure was a lawful existing structure or use at the time this Code became effective, but which does not conform to some or all of the requirements of this Code.

- A. Continuation. A nonconforming use or structure may be continued.
- B. Expansion or Extension. In case of practical difficulty and unnecessary hardship, the Planning Commission may grant a variance for the enlargement or expansion of a nonconforming use up to 25% in floor or 10% in land area as was existing on the effective date of the ordinance codified in this chapter. For nonconforming industrial uses or structures, the Planning Commission may grant a variance for enlargement or expansion up to a size approved by the Planning Commission. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of the ordinance codified in this chapter is not an enlargement or expansion of a

nonconforming use.

C. Alteration. A nonconforming structure that conforms with respect to use may be altered or extended if the alteration or extension does not cause the structure to deviate further from the standards of this Code.

D. Discontinuance. If a nonconforming use is discontinued for a period of 12 months, further use of the property shall conform to this Code.

E. Replacement. *If a nonconforming use involving a structure is replaced by another use, the new use shall conform to this Code unless the Planning Commission determines that such structure is suitable only for another nonconforming use no more detrimental to surrounding properties than the one to be replaced.*

Under subsection E. Replacement the Planning Commission has the authority to grant replacement of a structure as long as the new non-conforming use does not have a negative impact on the neighborhood. The builder would like to use the existing footprint of the foundation to rebuild the house. Unfortunately, the lot is extremely narrow at 28.5 feet. The standard for the RH Zone is 50 feet. The existing side yard setbacks are 3 and 2 feet, respectively, which are well below the setback standards of 8 feet, and 15 feet for the front yard. A new house could only be built up to 12 feet wide and still meet the standard. The majority of uses in the neighborhood is residential.

Below are the development standards for reference.

A. Density Provisions.

1. Minimum lot area for a single-family detached dwelling: 5,000 square feet.
2. Minimum lot area duplex, townhome, rowhouse: 2,500 square feet per unit.
3. Minimum lot area for a triplex: 7,500 square feet.
4. Minimum lot area for a multifamily dwelling: 10,000 square feet.
5. Maximum density for multifamily structures: one dwelling unit per 1,600 square feet of site area.
6. Lot coverage: not more than 55% of an individual lot area shall be covered by buildings, except as may be permitted by conditional use permit or variance.
7. Minimum lot width at the front building line for single-family detached dwelling or multifamily dwelling: 50 feet.
8. Minimum lot width at the front building line for duplex, townhome, rowhouse: 25 feet per unit.
9. Minimum lot depth: 70 feet.

10. Maximum building height: 40 feet.

11. The lowest density which will be allowed in new subdivisions and other developments with four or more units that are located on sites without significant natural feature problems is five dwelling units per gross acre.

B. Setback Requirements.

1. Minimum front yard setback: 15 feet.

2. Minimum side yard setback: 8 feet.

3. Corner lot minimum secondary street side yard setback: eight feet.

4. Minimum rear yard setback: 15 feet except accessory structures that meet the criteria of Section 16.280.020 may extend to within five feet of a rear property line.

According to the Development Code there is no notice procedure for the this type of decision. Therefore, no public notice has been mailed or published.

There are two options for the Planning Commission to consider:

1. Allow replacement of the single family unit in violation of the setback standard. Staff recommends rebuilding the house with a 2 hour rated fire wall on both sides. In addition, a deed restriction be placed on the property that acknowledges the non-conforming structure and the inability to enlarge the non-conforming structure without creating a legal lot.
2. Don't allow a non-conforming setback and require any new housing to be designed and built to Code, including setbacks. WMC 16.280.010 allows an exception to substandard lot sizes under certain circumstances. If it doesn't the exception standard, the a variance application to lot size would be required.

Recommended Motion: I move to allow (Option 1) OR (Option 2) subject to specific conditions of approval outlined in the staff report dated May 23, 2019.