

Board of Appeals & Adjustment City of Wabasha

Minutes of the December 08, 2009, Meeting:

BOARD MEMBERS: Rollin Hall, Chair
Jim Niemantsverdriet
John Friedmeyer
Hardy Schierts
Claire Abbott

STAFF: Molly Patterson-Lundgren, City Planner
Phil Rosendale, Zoning Administrator
Patty Heraty, Administrative Assistant

A Meeting of Board of Appeals and Adjustment was held on December 08, 2009.

Roll call found all members present.

Commissioners Niemantsverdriet and Abbott moved to approve the minutes of the November 13, 2008 Special meeting as presented. Adopted unanimously.

There were no changes or additions to the agenda.

At 6: 04 Chairman Hall opened the public hearing to consider a variance for building height request submitted by Big Jo Limited/Blaine Marcou.

Commissioner Abbott removed herself from the meeting because of a conflict of interest.

The applicant was present and there were 12 people in the audience. All adjacent property owners were notified of the public hearing by mail.

City Planner Molly Patterson Lundgren gave a description of the proposed project. The applicant is requesting a variance to the height requirement to build a 45 room hotel/conference center. They are requesting a height variance allowing a height of up to 60.5 5/8 feet. The property is located in the TDC district which has a max height of 35 feet without a variance. The applicant received a variance for height of 51 feet in 2008 however the variance expired because no construction began on the project.

Molly stated for the record the following variance criteria provided to commission members in the staff report:

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| 1. The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner as distinguished from mere inconvenience. |
| 2. The conditions upon which a petition for a variance is based are unique to the property for which the variance is sought, were not created by the landowner, and are not applicable, generally, to other property within the same zoning classification |
| 3. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. |
| 4. The granting of the variance will not alter the essential character of the locality and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. |
| 5. The variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood. |

Molly stated that she had sent notification of the public hearing to the DNR because the proposed project is located in the floodplain and shoreland districts and had received response (attachment A). The response from Bill Huber stated that the proposed hotel would comply with state standards for floodplain management. Mr. Huber's letter further stated that while the site plan indicates a roughly 45 foot wide plaza, the elevation drawings from the river show a much wider open space and he requested a more accurate elevation drawing.

The applicant, Blaine Marcou addressed the commission and described the proposed project. Mr. Marcou read into record the "Big Jo Limited LLC Application for Land Development Activity Height Variance Appeal" (attachment B) as submitted on 11/17/09 and copies provided to commission members.

Chris Peterson, architect for the applicant addressed the commission and explained that the building has been redesigned from the last submission and presented a drawing of the new building. He explained that the new building would be constructed of bricks and aluminum panels and would have an industrial feel. He indicated that the elevation drawing showed approximately 10 feet more width to the plaza than what is shown in the site plan and what would be constricted.

Public Comments:

Richard Fuller, owner of Wind Whisper West, 128 Main Street West, questioned Mr. Peterson's background and asked if he had experience with this type of project.

Jon Lineweaver, 330 Lawrence Blvd., addressed the commission and requested clarification of the height of the adjacent condos. Staff stated they would get the information.

Stacy Schuth, owner of Stacy's Kitchen, addressed the commission and expressed concern that if the variance was granted that once that project was started that they may find they needed to go higher. She was also concerned of the impact the project would be on downtown traffic and parking. She asked what was passed for height variance in 2008. Mr. Marcou stated that the previous variance was 51 ft to the middle height of the roof. Mr. Marcou also stated that they are meeting all parking criteria of the CUP.

Richard Fuller, owner of Wind Whisper West, 128 Main Street West, stated that there were other uses for the land.

Craig Falkum, 212 2nd Street East, addressed the commission and stated that he believes that the project does meet criteria #4 (as stated above) for granting a variance. He believes the building does not represent other buildings in the area and is a very high structure that will dwarf the NEC. He is against the granting of a height variance for the project.

Catherine Gallenberger addressed the commission and applicant and asked why a 4 story building is being proposed and not a 2 story building. Applicant Blaine Marcou stated that a 4 story building is proposed because it is a smaller footprint which is in the downtown visioning concept and provides more green space. He also stated that a 45 room hotel makes it more economically possible. Catherine stated that one of the criteria states that economic hardship shall not constitute undue hardship. Catherine also stated that the project does not meet criteria #4 (as stated above), she stated that the building does not fit in the area and creates a wall. Catherine read into the record letters from Bob Mann and Vicki Johnson (attachments C and D) speaking against the granting of the variance. She is against granting the variance.

Blaine Marcou stated that they could build a 2 story building with 0 lot lines; however there would be no open space between buildings, there would be no green space. They are proposing a 4 story building to preserve green space.

Nancy Falkum, 212 2nd Street East. Asked if this concept/building as been built before anywhere. Blaine stated that it has not. She also stated that she is opposed to the granting of the variance because she does not believe the height is needed and the building does not represent Wabasha.

David Fisk, downtown business owner, addressed the commission and stated that he is in favor of granting the variance request. He also stated that he does not believe the difference in building height of 9ft can negatively impact the area.

Jon Lineweaver, 330 Lawrence Blvd., addressed the commission and stated that the community cannot lose sight of the economic impact the hotel will bring to the area. Staff stated that the condo variance was granted not to exceed 62 feet – to answer Mr. Lineweaver's earlier question.

Hearing no other public comments, the public hearing was closed at 7:08pm.

Due to time constraints, Board Members Niemantsverdriet and Friedmeyer moved to recess the meeting until Thursday, December 10, 2009 at 7:00 pm. Adopted unanimously.

The continuation of the Board of Adjustment was called to order at 7:00 pm on Thursday, December 10, 2009 by chair Rollin Hall.

Roll found members Hall, Friedmeyer and Niemantsverdriet. Member Abbott was absent.

Board member Hall explained to the public that the public hearing to discuss the variance request submitted by Blaine Marcou has been closed.

Molly brought forward for discussion a question asked by Stacy Schuth during the public hearing. Stacy asked if the applicant would be able to build any higher than what they are requesting on their application. Molly stated that the variance would be approved only for what they are applying for and they would not be able to go any higher unless they went thru the process of applying for another variance.

Board members discussed the variance criteria and findings of fact provided.

After all discussion board members Friedmeyer and Niemantsverdriet offered the following resolution and moved for its approval. Adopted unanimously.

**BOARD OF APPEALS AND OF ADJUSTMENT
HEIGHT VARIANCE ON BIG JO HOTEL LLC
RESOLUTION
#2009-001**

Whereas, The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner as distinguished from mere inconvenience because

- Applicant trying to adhere to rules and regulations set forth by the Downtown visioning plan and City of Wabasha RFP for property.
- Height variance allows for requested green space between NEC and hotel and this is a reasonable use of space based on the visioning design project which included public participation
- Hotel is reasonable use of property in question. Property is in TDC district and requires a CUP
- If 35' height restriction adhered to, building would have to be redesigned and would be at "0" lot line with NEC, condos.
- The project is creating usable green and improving access to the riverfront

; and

Whereas, The conditions upon which a petition for a variance is based are unique to the property for which the variance is sought, were not created by the landowner, and are not applicable, generally, to other property within the same zoning classification because

- Applicant had no involvement in creation of size or shape of land.

; and

Whereas, Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance because

- Applicant is building upward, taking air space to leave green space for city.
- Findings of LHB and city RFP being satisfied. LHB suggested combination of hotel property and green space. RFP similar.
- Rather than claiming economic hardship, the developer is investing more than required under the zoning ordinance
- To develop this parcel as zoned and as required under the RFP, a variance is required

; and

