MINUTES
BOARD OF ADJUSTMENT
JANUARY 8, 2013

Chair Townsend called the meeting to order at approximately 7:00 p.m. Those members attending included Philip Clithero, Rex Campbell, Fred Carroz, Martha John and David Townsend. Also attending were the City Clerk, Sheela Amin, Community Development Director, Tim Teddy, Manager of Building and Site Development, Shane Creech, and Assistant City Counselor, Rose Wibbenmeyer.

The minutes from the regular meeting of December 11, 2012 were approved as submitted on a motion by Mr. Campbell and a second by Ms. John.

The following case, properly advertised, was considered.

Case Number 1852 was a request by Kathy Doisy and Matthew Knowlton of 1404 Richardson Street, property owners within twenty feet of 1407 Windsor Street and 1406 Liberty Street, for the Board to rescind the building permit and require the Community Development Department to enforce compliance within the zoning provisions of the Benton-Stephens urban conservation overlay on property located at 1407 Windsor Street and 1406 Liberty Street.

Chair Townsend opened the public hearing.

Phebe La Mar, an attorney with offices at 111 S. Ninth, stated she represented the applicants and explained they had discussed this issue with the developer of the property. She noted they would likely ask the Board to table this issue after Mr. Teddy made a statement.

Mr. Teddy explained he had spoken with Ms. La Mar and Mr. Walther, the attorney for the applicant of the building permit for 1407 Windsor and 1406 Liberty, and noted one permit had been issued for the duplex building at 1407 Windsor, which was currently under construction. He commented that staff regarded this appeal as a request to rescind approval of the building at 1406 Liberty. It had been represented on a site plan, but had not yet been built. Staff did not intend to issue a permit for 1406 Liberty until certain inconsistencies with the zoning ordinance and the Benton-Stephens overlay were resolved. In addition, they planned to send notice of any revised site plan to the Benton-Stephens Neighborhood Association and of any permit issued for this development. He apologized for issuing the permit for 1407 Windsor without notifying the Neighborhood Association of the revised plans received.

Mr. Campbell asked for the requirements in terms of street conditions. Mr. Teddy replied the requirements were vague in the ordinances. He felt Liberty was an unimproved alley, but that was a point of contention since many considered it a street since it was named Liberty Street. It did not meet any City published standard, but there was existing access to it. He felt the question was when access would stop in terms of the load on the alley, and noted staff could not find anything that would restrict placing a driveway off of Liberty.

Chair Townsend asked if it was a publicly dedicated street or a private drive. Mr. Teddy replied it was platted but likely never accepted in the same way the City accepted public improvements
under the modern subdivision process. He understood it was platted as a 15 foot wide alley as part of the original subdivision. Chair Townsend asked if there was a common roadway agreement amongst the land owners. Mr. Teddy replied he was not aware of any agreement, but pointed out he had not done that research.

Ms. La Mar asked the Board to table this item for two months in case these issues still existed then. She explained they had indicated to the developer they would table discussion on this for two months in return for them withdrawing their permit request for the rear duplex.

Mr. Campbell made a motion to table Case Number 1852 to the March 12, 2013 Board of Adjustment meeting. The motion was seconded by Mr. Carroz and approved unanimously by voice vote.

Skip Walther, an attorney with offices at 700 Cherry, stated he represented the developer and explained they would withdraw their application for the building permit for the north building and re-examine the development opportunities in light of the existing ordinances and the Benton-Stephens overlay ordinance. If they could find a way to resubmit an application for a building permit, they would provide the plans to the applicants, through their attorney, prior to providing it to the City in an effort to address any differences that might exist. The goal was for them to not have to come back before the Board.

There being no further business, the meeting adjourned at 7:12 p.m.

Respectfully Submitted,

Sheela Amin
City Clerk