

Memo

To: Village Board

Fr: Trevor Fuller, Planning and Zoning Administrator

Re: ACTION RE: REZONING PARCEL NUMBER AL-1592, LOCATED AT 1525 S. WEBSTER AVENUE LEGALLY DESCRIBED AS: MATH REYNENS PLAT LOTS 7-8-13 & 14 EX S 50 FT OF LOTS 8 & 13 & EX R.R. ALSO E 9 FT OF LOT 11 FROM COMMERCIAL TO B RESIDENTIAL

Date: 13 January 2017

A petition to rezone parcel AL-1592, located at 1525 S Webster Avenue from “Commercial” to “B Residential” has been requested by Kevin Servais. The current structure and use of the parcel is an upper/lower duplex and is an existing, non-conforming use.

The Village of Allouez Comprehensive Plan (amended in 2015) does not specifically reference this parcel, but does call for commercial development in this area (along S Webster Avenue, approximately from Allouez Avenue to the Green Bay border).

It is unknown whether or not this lot has always been zoned “Commercial.” However, the current use is only allowed under “B Residential.” The zoning code does require that any “B Residential” lot have 90’ of frontage. The building was likely constructed when neither of these requirements were in place, making this an existing, non-conforming use. Change in the zoning will require the parcel to comply with all of the zoning requirements for the new zoning. Any variance would have to be granted by the Board of Appeals. Rezoning of the parcel would need to be contingent on receiving a variance.

Parcel AL-1592 includes a 9’x60’ strip off of Kalb Avenue (see attached) that was created for access to Kalb Avenue. A 9’ easement allows for continued access to both pieces of the parcel. The small piece of land could be excluded from the rezoning by creating separate “zoning lots,” but will have to be specifically referenced.

Plan Commission discussed this item at the October and November meetings and did not approve rezoning of the parcel. Below is a summary of the discussion from both meetings.

October 25, 2016

Kevin Servais, petitioner, 1525 S Webster Avenue, was present to provide a background on the property and answer any questions.

- Cannot receive a home equity loan, only a commercial loan, under current zoning
- Plans to continue the current use as residential
- Current zoning will limit the sale of his property to those with cash or business interests
- The property is a small area to be redeveloped
- The property lost some frontage with the Webster Avenue Bridge reconstruction

Discussion included:

- Previous use of the building – was previously used as a retail shop
- Looking at the aggregate of all the surrounding parcels for redevelopment
- The current use (residential) can maintain as an existing non-conforming use
- Personal finance problem versus village zoning issue
- The question of mixed use zoning
- Potential of other financing options: TIF (Tax Increment Finance) funds, CDBG (Community Development Block Grant) loan
- The current uses and zoning of surrounding properties
- Proposed repairs to the house and how the Board of Appeals next steps
- Subdivision history of the property and surrounding parcels
- Upstairs rental
- The number of properties village-wide that are existing non-conforming use

- The Comprehensive Plan direction
- Possibility of temporary zoning

Retzlaff / Ropp moved to table action to the next meeting so that staff can investigate temporary zoning and other financing options. Motion carried.

November 28, 2016

Kevin Servais, petitioner, 1525 S Webster Avenue, was present to provide additional information.

- The underwriting laws have changed since the 2008 Recession. As a result, several lending institutions will not approve a home equity loan, only a commercial loan, because of the current commercial zoning
- The inability to receive a home equity loan for all of the properties in a similar situation along the corridor could cause the homes to become dilapidated
- Redevelopment will only occur by assembling multiple parcels, not with a single parcel

Discussion included:

- Real estate condition report – should have received when the property was purchased
- Zoning the property to what it is used for
- Zoning code should be updated to allow for more flexibility
- Personal finance alone should not influence zoning
- Comprehensive Plan identifies the goals for the area – Plan Commission must enforce the zoning code based on the adopted Comprehensive Plan
- Discussion is part of a larger policy issue regarding existing non-conforming properties and may be better handled by the Village Board
- The precedent, if any, that will be set with the decision

Kowalzek-Adrians / Wheeler moved to approve the rezoning, with the condition to receive a variance for lot frontage from the Board of Appeals. Motion was denied (0-7 vote).

Per the motion made at the October meeting, further investigation has shown that temporary zoning and other financing options discussed above (TIF and CDBG) are not available for this scenario.

The Plan Commission wished to clarify that the motion made at the November meeting to deny rezoning was based on the belief that this is more of a policy issue.

Staff recommendation is to err on the side of caution when interpreting the Comprehensive Plan, as State law mandates all zoning changes be consistent with the adopted Comprehensive Plan. Staff recommends not to approve the rezone.

Village Board is asked whether or not to approve the rezoning of parcel AL-1592 from “Commercial” to “B Residential” and if it should include the 9 x 60’ strip off of Kalb. If the decision is to approve rezoning of the parcel, condition should be to receive a variance for lot frontage from the Board of Appeals.