

MINUTES OF THE ZONING COMMITTEE
Thursday, May 5, 2016 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Makarios, Nelson, Reveal, and Wenc
EXCUSED: Edgerton, Merrigan, and Wickiser
STAFF: Tony Johnson, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Nelson.

Moises Romo - 16-016-050 - Reestablishment of nonconforming use as a triplex, 419 Sherburne Ave, between Arundel and Western

Tony Johnson presented the revised staff report with a recommendation for denial of reestablishment of nonconforming use as a triplex, and approval of reestablishment of nonconforming use as a duplex, with conditions. He noted a District 7 Frogtown Neighborhood Association letter in support, 2 additional letters in support, and 1 letter in opposition.

Commissioner Wenc said condition J(3) seems inappropriate for a nonconforming use permit.

Mr. Johnson said that the Department of Safety and Inspections (DSI) had requested this condition for the applicant to take their Landlord 101 class.

Commissioner Reveal said she agreed with Commissioner Wenc that this condition is not appropriate for the permit, but that DSI could require it as part of their inspection. She asked if it is common practice for DSI to issue a certificate of occupancy for only 1 floor of a 2-3 level building.

Mr. Johnson responded that it is not. He also responded to Commissioner Makarios that he had met with Mr. Romo and the Fire Safety Inspector to discuss the conditions proposed in the staff report. Mr. Romo wants to keep using this home as a triplex, which the District 7 Council supports. In response to questions, Mr. Johnson also said the findings under I.2 in the staff report pertain to guidelines, not requirements, and that the 3rd floor unit is larger than 500 square feet.

The applicant, Moises Romo, 419 Sherburne Ave., presented letters of support from his neighbors. At the time he purchased this property, the house was set up as a triplex. Each unit had a separate bathroom, kitchen, entrance, and utilities. The common areas also have a separate utility panel. Heat is controlled by each individual unit. The second and third floor kitchens did not have faucets or appliances at the time of purchase. He said there are other triplexes nearby with similar size lots. He said the structure was never truly converted back to a single family home. In an effort to keep this property off of the vacant building list, the previous owner received a certificate of occupancy for the first floor only.

Mr. Romo said he has lived in the 3rd floor unit since 2013 and has brought the property from an eyesore to an attractive place. His neighbors are happy with the improvements and were supportive when he reached out to them with a petition to keep the building a triplex. Various neighbors have told him they are happy with the long-term tenants that live at his property. Denial of his request would create financial hardship for him and his tenants, and force them to move. His tenants are happy living here in part because rent is 40% less than comparable rental units in the area.

Caty Royce, Director of the District 7 Frogtown Neighborhood Association, 501 North Dale, spoke in favor. The board of the Frogtown Neighborhood Association had a meeting, and they will have a larger committee meeting next week. This is a very important issue for the neighborhood and they will be revisiting the 1996 change to one-family zoning in the area, where rents have quadrupled since the Green Line opened. Mr. Romo's rental fees are \$500.00 below other comparable rental properties in the area. 65% of the housing in Frogtown is rental property. Mr. Romo is a young, responsible, owner-occupant, something they want in Frogtown. They are supportive of the affordable housing he is providing, and do not want to lose it. In response to a question from Commissioner Makarios, Ms. Royce said there are other triplexes in the area on lots smaller than the 50' guideline, and that these small lots reflect the cultural history of Frogtown. In response to a question from Commissioner Nelson, Ms. Royce said they would look at it differently if the house was not owner occupied. Because Mr. Romo lives on the property, they feel there is less chance of this property becoming a problem.

Commissioner Wencil noted that reestablishment of a nonconforming triplex is something that goes with the land, and is not tied to whether the owner lives there. Commissioner Reveal said we have to follow the rules of the zoning code, which aren't based on who owns the property.

Kenyatta Harper, 1441 Sherburne Ave., spoke in support. Ms. Harper has witnessed the house being rehabilitated by Mr. Romo. She said he is a mentor and motivator to the children of the neighborhood, including her own. He influences these children to do the right thing. She noted that Mr. Romo's tenants seem to be hard working families and do not cause any problems.

Tony Hester, 1441 Sherburne Ave., spoke in support. Mr. Hester is a former neighbor of Mr. Romo. He said Mr. Romo is an inspiration to children in the neighborhood, including him, by showing him positive opportunities. He also helped Mr. Romo in landscaping the property.

Jose Sanchez, Demetria Sanchez, and Joana Solis, 419 Sherburne Ave. 1st floor, spoke in support. Joana Solis translated for Mr. and Mrs. Sanchez. Mr. Sanchez said they have lived at this property for 3 years. Mr. Romo is a good person and they have not had any problems with him or the neighbors. They wish to continue to live in this house. Mrs. Sanchez also said they are happy living at this property. She said if she has questions about the house, Mr. Romo is there when they need him and takes care of any issues. He is very responsible and good with everyone, including the kids. Commissioner Makarios asked if the lot was large enough to share with 3 families. Mr. and Mrs. Sanchez said the yard was large enough.

Maria Perez, Guillermo Salmero and Danny Solames, 419 Sherburne Ave. 2nd floor, spoke in support. Mr. Solames translated for Ms. Perez and Mr. Salmero. Mr. Salmero said he has lived at this property for 3 years. He has not had any problems with the neighbors or Mr. Romo. The apartment is in good condition, comfortable and has enough space. He would like to continue to live here and does not see an issue with keeping the building as a triplex. Commissioner Makarios asked if the yard was large enough for 3 families to share. Ms. Perez said she was happy with the amount of space they have. Chair Nelson asked how many cars the family owned. Mr. Solames stated they owned one car and there are enough parking spaces for everyone in the front and back of the residence.

Norma Roberts-Hakizimana, 411 Charles, spoke in support. Ms. Roberts-Hakizimana has an owner occupied duplex she has lived in for 13 years. She also served on the Frogtown Neighborhood Association Board, as Chair and Vice Chair. She said an owner occupied duplex or triplex is something this association strives for. It brings security to the tenants if anything should

go wrong. This property has gone through negative changes over the last 13 years, before Mr. Romo owned it. In the past 3 years, this property has been greatly improved. She believes Mr. Romo has no intention of leaving this property. Commissioner Makarios asked if she felt that the added density on a smaller lot is detrimental to the neighborhood. Ms. Roberts-Hakizimana noted a neighboring house is a 4-plex on a 50' wide. The parking spaces for this property are provided in the front and back of the property, with no garage. Mr. Romo provides outdoor living space in the front and back of this property for his tenants. A larger yard can be undesirable for tenants, as they may be responsible for the yard work. She said 10' will not make a difference for most tenants.

Fred Schussler, 446 Charles Ave., spoke in opposition. Mr. Schussler said he was not at this meeting to criticize Mr. Romo or his supporters. He asked the Commissioners to follow the zoning codes in an effort to make Frogtown a better place to live. He said Frogtown has a lot of problems and feels that crowding people into smaller spaces creates more problems. He would like to see Frogtown move forward in a positive manner without exceptions or excuses. He said he feels this property would be better suited for a duplex, as it has been in the past. He also said it would be a loss to the neighborhood if Mr. Romo had to leave, but we should not make exceptions for Frogtown. In response to a question from Commissioner Wencil, Mr. Schussler said the parking along the alley is a dirt area, the grass gets cut, but the weeds along the fence are too tall. He talked about another house next to 419 Sherburne which has been a problem property. He feels that having 65% of the houses in this area as rental is too much. Mr. Schussler said he would like to see rules and regulations get enforced to move Frogtown in the right direction.

Mr. Romo said he believes we all have similar goals for Frogtown and that is to make it a nice place to live. He considers himself to be a permanent resident of Frogtown. His tenants would also like to continue living at this property. The yard is uncluttered and is a decent size. The parking area in the back is old pavement and is average in comparison to the surrounding neighbors. Mr. Romo said he has plenty of room in his 3rd floor apartment, but would not rent this space to a family. He would consider a young couple or a single person to prevent overcrowding.

The public hearing was closed.

Commissioner Makarios asked Mr. Johnson about the staff report amendment on page 3, finding 3.1, where we the line "to convert the house to a one family dwelling and bring it up to code" was redacted and language added that says "for certification of only the first floor for occupancy."

Mr. Johnson replied that this was discussed in previous meetings where the certificate of occupancy was only issued for the 1st floor. Peter Warner said it was an interesting discussion with the Fire Inspectors on their approach with this building. He suggested that it was unfortunate that no one went up to inspect the 2nd and 3rd floor units as the 2nd and 3rd floor units were not occupied, but may have been intact.

Commissioner Makarios said he thinks the legal nonconforming use never ceased to exist. Mr. Torstenson noted and explained language in Zoning Code section 62.106 (h) about when a property loses its legal nonconforming status. Commissioner Reveal stated it is not clear that the 2nd and 3rd floors were vacant for more than 1 year. Mr. Johnson said that in legislative hearing it was suggested there were people living in the 1st floor unit, but it is unclear. Mr. Warner said it had a certificate of occupancy as a triplex for a period of time in the past and it is not unreasonable to assume that the 2nd and 3rd floors were vacant for a period of time.

In response to a question from Commissioner Wencil, Mr. Warner said the City can't compel owner-occupancy, but could limit the number of occupants in the third floor unit.

Commissioner Makarios said we should consider the reestablishment of nonconforming use as a triplex, since the building cannot be reasonably turned into a single family dwelling. In response to a question from Commissioner Reveal, Mr. Johnson said a triplex would require a certificate of occupancy, which would require code compliance.

Commissioner Reveal said she is a supporter of the guidelines, but she would consider making an exception for the guideline in finding 3.1. Commissioner Reveal and Commissioner Wencl agreed that there is no need for a condition to limit the number of occupants in the 3rd floor unit.

Commissioner Makarios moved to grant reestablishment of a legal nonconforming use as a triplex, with the following conditions: 1) the owner must apply for a certificate of occupancy by May 20, 2016; and 2) the property must receive a certificate of occupancy by January 1, 2017. Commissioner Wencl seconded the motion.

The motion passed by a vote of 4-0-0.

Adopted Yeas - 4 Nays - 0 Abstained - 0

Drafted by:



Cherie Englund
Recording Secretary

Submitted by:



Tony Johnson
Zoning Section

Approved by:



Gaius Nelson
Chair