Michigan City Board of Zoning Appeals (BZA)

Tuesday, May 13th, 2025, 6:00pm (local time), City Hall; Common Council Chambers, 100 East Michigan Blvd.

--Meeting Minutes—

1. **CALL TO ORDER**: The meeting was called to order by Mr. Ricky Jackson.

2. **ROLL CALL** by Dr. Dominique Edwards (Director of Planning, non voting): Present Mr. Ricky Jackson, Ms. Deborah Vance, Mr. Steve Hale, Mr. Brian Gross, and Ms. Kathy Stransky. Not present were Mr. Fred Klinder.

3. **APPROVAL OF TODAY'S AGENDA**: Mr. Gross made a note to correct the agenda from May 12th to May 13th. Mr. Jackson approved.

4. **APPROVAL OF MEETING MINUTES:** Mr. Gross made a motion to table the approval of the March minutes until the next meeting. Ms. Vance seconded and all present members voted yes.

5. **PETITIONS:** B-103-24

• Mr. Bradley J. Adamsky, attorney representing Mr. Mark Marshitz of Forest Avenue Properties LLC, provided the following update to the board:

• Mr. Adamsky explained that Mr. Marshitz is returning to the board following an appeal that resulted in the case being remanded. The subject property is located at 407 E. 8th Street, within the Elston Grove Historic District, and is currently zoned R2B. Although the structure is presently being used as a multi-family residence, Mr. Marshitz is seeking approval to formally convert it into a three-family dwelling.

• Mr. Adamsky noted that the property includes a driveway, which would be required by code to accommodate at least two vehicles side by side. There is also an existing garage on-site, which may be removed to extend the driveway and increase parking capacity.

• A concern raised in previous discussions was the presence of a gate at the top of the exterior stairway. Mr. Adamsky addressed this, stating it would be resolved in compliance with the applicable codes.

• Mr. Adamsky reiterated that without the board's approval for a three-unit designation, Mr. Marshitz would not qualify 1 for the financing necessary to make essential improvements to the property.

• Mr. Mark Marshitz then introduced himself for the record. He explained that his goal is to improve the community by revitalizing the property. He emphasized that the only way the bank would approve financing is based on the projected rental income from three units. To that end, he is pursuing this conversion to secure funding. He also noted that significant upgrades are already underway, including the replacement of sewer lines, plumbing, and HVAC systems.

• Planning Report: Dr. Edwards presented the planning department's report, stating that the petitioner is requesting a standard use variance in order to convert the basement into an additional residential unit, resulting in a total of three units. The proposed use will comply with all applicable building code requirements and is consistent with similar residential structures in the surrounding area. Dr. Edwards confirmed that granting the variance would not negatively impact neighboring property values.

• Recommendation. Dr. Edwards stated that the planning department recommends approval of the use variance with the following conditions:

• The petitioner is permitted to convert only the basement into one additional residential unit, bringing the total to no more than three dwelling units on the property.

• The existing single-lane driveway must be converted into a two-lane driveway to meet current city standards.

• The petitioner must comply with all relevant requirements outlined in Section 18-02 of the zoning ordinance.

• Attorney Report: Mr. Hale addressed the board, stating that he had the opportunity to review all notice documentation for the hearing the previous day. He confirmed that new notices were properly issued for this meeting and that everything was in order, allowing the board to consider the matter this evening.

• He reminded the board of the standards outlined in Section 28.11, Subsection A of the Zoning Ordinance, which must be met in order to approve a variance:

• The approval will not be injurious to the public health, safety, morals, or general welfare of the community.

• The use and value of adjacent properties will not be substantially and adversely affected. • The need for the variance arises from a condition unique to the property.

• Strict application of the ordinance would result in an unnecessary hardship.

• The approval does not substantially interfere with the comprehensive land development plan of Michigan City.

• Mr. Hale further advised the board that, under Section 28.05, Subsection B, they may approve the request in full, partially grant it, grant it with conditions, deny it, or table the matter for a later

date. He suggested that, if the board wishes to approve the request, the motion should reference the three staff recommendations provided by Dr. Edwards. 6.

BOARD QUESTIONS AND DISCUSSIONS:

• Mr. Gross asked Mr. Hale whether the previous vote failed because the majority of voting members neither supported nor opposed the request. Mr. Hale responded that he did not have that specific information.

• Mr. Gross then asked Mr. Marshitz when he became aware that three rental units would be necessary to secure financing. Mr. Marshitz responded that he realized this during the initial planning and budgeting phase. Mr. Gross followed up, asking whether this was before construction began. Mr. Marshitz confirmed that it was.

• Mr. Gross asked if Mr. Marshitz had obtained a Construction Design Release from the state, given the property's change to a Class 1 structure. Mr. Adamsky replied that they would comply with all relevant building codes, both local and state.

• Ms. Vance asked Mr. Hale whether staff provided two or three recommendations. Mr. Hale clarified that there were three:

• Only one additional unit may be constructed in the basement.

• The driveway must be widened to accommodate two lanes.

• The petitioner must comply with all regulations set forth in Article 18, Section 18.02.

• Mr. Gross inquired whether Mr. Marshitz had any drawings showing how six vehicles would be accommodated on the lot. Mr. Marshitz responded that while he did not have drawings, six cars could easily park in tandem on the property.Mr. Gross asked if Mr. Marshitz was confident that six parking spaces would be available. Mr. Marshitz confirmed that he was.

7. **PUBLIC COMMENT**:

• Public Comment – Mr. Scott Melon (200 Kenwood Place): Mr. Melon voiced his support for the variance, stating that the original denial in December was unwarranted and lacked justification based on the five 3 required criteria for such decisions. He argued that the concerns raised at that time did not relate to the legal standards that must be considered for a variance denial. Mr. Melon emphasized that the project would contribute to semi-affordable housing in the area and noted that efforts have been made to preserve the historic character of the home, including salvaging old bricks and maintaining the original foundation. He cautioned the board against introducing requirements not outlined in the building code and pointed out that there is marked street parking in front of the house. Mr. Melon also referenced a previous case on Washington Street where a variance was approved despite the absence of street parking, suggesting that the board consider applying the reduced parking requirement of 0.5 spaces per unit in this case.

• **Public Comment** – Ms. Janet Smith (408 E. 8th Street): Ms. Smith questioned whether petitioners are required to wait a full year before returning to the board if their request is denied. Mr. Hale responded that, while that is generally the case, petitioners have the legal right to challenge a board decision in court. Ms. Smith expressed frustration that landlords often fail to maintain their properties in Elston Grove, only engaging with tenants at rent collection time. She raised concerns about inconsistent enforcement of regulations and stated that Mr. Marshitz's driveway ends at a garage, making it difficult for residents to safely back in and out. She also noted that buildings with three or more units are required to arrange and be financially responsible for dumpster service, which adds to congestion from trucks and residents. While Ms. Smith clarified that she is not opposed to the renovations themselves, she is concerned about the increase in traffic and population density the project may bring.

• Vote: Ms. Vance made a motion to approve the variance request, including all three recommendations provided by the Planning Department. Mr. Hale asked if she would also incorporate the findings and standards outlined by Dr. Edwards in her planning report into the motion, which she agreed to do. The motion was seconded by Ms. Stransky. The motion passed with a majority vote—all members present voted in favor, except Mr. Gross, who voted no.

8. **OLD BUSINESS**: None

9. **NEW BUSINESS**: Dr. Edwards introduced herself as the new Planning Director, and Ms. Gianna Galante introduced herself as Wendy Vachet's new Executive Assistant.

10. **ADJOURNMENT**: Metting adjourned until Monday June, 10th at 6:00 pm.

Rickey Jackson, Chairman

Kathy Stransky, Secretary