



City of Grand Island

Tuesday, March 27, 2018

Council Session

Item I-1

#2018-87 - Consideration of Approving Request from Robert & Michelle Fry for a Non-Conforming Use to Replace a Fire Damaged Dwelling with a Modular Dwelling at 3585 N. Highway 281

Staff Contact: Craig Lewis

Council Agenda Memo

From: Craig A. Lewis, Building Department Director

Meeting: March 27, 2018

Subject: Request of Robert & Michelle Fry for Approval to Replace Fire Damaged Dwelling with a Modular Dwelling at 3585 N. Hwy # 281, Grand Island

Presenter(s): Craig Lewis, Building Department Director

Background

This request is for approval to replace a fire damaged dwelling on the property located at 3585 N. Highway #281 with a modular dwelling. The property is zoned M-2 Heavy Manufacturing, within that zoning classification any residential use is specifically excluded.

As the existing dwelling predated current zoning regulations the dwelling was by code a legal nonconforming use and was allowed to continue as such by section 36-30. However section 36-33 requires nonconforming buildings damaged to more than 50% shall not be reconstructed except in conformance with the code. Additionally section 36-35 allows rebuilding if the City Council deems it proper.

§36-30. Nonconforming Buildings and Uses; Continuation

The lawful use of land or buildings existing on June 30, 1969, although such does not conform to the provisions hereof, may be continued except as provided herein, but if continuous operation is suspended, ceased or discontinued for a period of twelve months, any further use of said land or buildings shall be in conformity with the provisions of this chapter.

§36-31. Nonconforming Buildings and Uses; Repairs or Alterations

No structural alterations shall be made to any building which will increase its degree of nonconformity except as may be ordered or required by law, ordinance or regulations. This shall not be construed to prohibit maintenance and repair work necessary to keep a building in sound condition.

§36-32. Nonconforming Buildings and Uses; Change of Use

If no structural alterations are made, a nonconforming use of a building may be changed to a different use if that use is more conforming in nature. No use or building shall be permitted to increase the degree of nonconformity. The principal permitted uses listed under a specific zoning district shall be interpreted to have the same degree of nonconformity in applying this chapter. A residential use located in an industrial zone shall be interpreted as having a high degree of nonconformity.

§36-33. Nonconforming Buildings and Uses; Destruction and Reconstruction

Any nonconforming building which has been damaged by fire, flood, wind, riot, or any other cause to an extent of more than fifty percent of its replacement value exclusive of land and foundation, at the time of such damage or destruction, shall not be reconstructed except in conformance with the provisions of this chapter. If damage is less than fifty percent, it may be restored and used as before, provided, that such restoration is commenced within twelve months. If construction is not commenced within twelve months, the use of such land or building shall thereafter conform with the provisions of this chapter.

§36-34. Nonconforming Buildings and Uses; Discontinuance or Abandonment

A building, structure or portion thereof, all or substantially all of which is designed or intended for a use which is not permitted in the zoning district in which it is located, which is, or hereafter becomes, vacant and remains unoccupied or is not used for a continuous period of twelve months, shall be conclusively presumed to have been discontinued and abandoned as a nonconforming use, and shall not thereafter be occupied or used except by a use which conforms to the use regulations of the zoning district in which it is located.

§36-35. Nonconforming Buildings and Uses; Extension of Nonconforming Uses

The city council may, when it deems proper, permit repairs, alterations, extensions, expansions, and the remodeling or rebuilding of such structures or extensions or expansions of a land use in all cases where a refusal to do so would bring hardship to the owner or occupants and in all cases where justice requires the granting of the same. The city council may attach appropriate conditions to the granting of any such relief. Whenever a use district shall be hereafter changed, any then existing nonconforming use in such changed district may be continued or changed to a use permitted in that zoning district, provided, all other regulations governing the new use are complied with.

Discussion

This request is for approval to replace a fire damaged dwelling with a modular dwelling on a property zoned M-2 Heavy Manufacturing. Residential uses within the M-2 zoning classification are specifically excluded and not allowed. However, as the dwelling was an existing legal nonconforming use it was allow to remain until such time as it was destroyed to more than 50% of the replacement value. At this time it is only allowed to be rebuilt if approved by the City Council finding that refusal to do so would bring a hardship to the owner or occupants and in all cases where justice requires the granting of the same.

The property is surrounded on three sides by property zoned TA which would allow dwellings, it is this property and extending south that the M-2 zoning classification is present.

The location of this proposal is such that it would not appear that this request will have any negative impact on the neighboring properties.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the request to allow continued nonconforming use finding that the proposed application is and will continue to be in conformance with the purpose of the zoning regulations.
2. Disapprove or deny the request, finding that the proposed use does not conform to the purpose of the zoning regulations.
3. Approve the request with additional or revised conditions and a finding of fact.
4. Refer the matter to a special committee for a determination of a finding of fact.
5. Table the issue.

Recommendation

Approve the request, finding that the request does promote health, safety, and general welfare of the community, protects property against blight and depreciation, and is generally harmonious with the surrounding neighborhood. Staff would recommend a time frame of one year to complete the placement of the modular and removal of the fire damaged structure.

Sample Motion

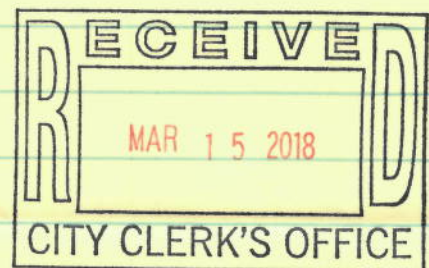
Move to approve the request to allow the replacement of the nonconforming fire damaged dwelling with a modular dwelling, including the staff recommendations, finding that the application conforms with the purpose of the zoning regulations.

03-07-2018

We, Robert and Michelle Fry, have resided at 3585 N. Highway 281 for sixteen years. During this time we have maintained out buildings and invested in the property building a garage valued at \$30,000.

In February we had a homefire that destroyed the main level, our house was deemed a total loss by the fire marshal. We are requesting permission to replace our home with a modular home at the same location.

Robert & Michelle Fry



**PROPOSED AREA
LOCATION MAP**

0 205 410 820 Feet



TA

3585 North Highway 281

US 281 HWY N

AG-2

M2

B2

LLR

RESOLUTION 2018-87

WHEREAS, Robert & Michelle Fry are the owners of the property at located at 3585 N. Highway #218, Grand Island, NE. and

WHEREAS, a fire has damaged the current nonconforming dwelling; and

WHEREAS, the property is zoned M2 heavy manufacturing and that zoning classification specifically excludes any residential uses, and

WHEREAS, section 36-35 of the Grand Island code states City Council may when it deems proper permit repairs, alterations, extensions, expansions, to nonconforming buildings and uses.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Building Department is authorized to issue a building permit for the construction and placement of a modular dwelling in conformance with all other city codes for the property at 3585 N. Highway #281.

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Adopted by the City Council of the City of Grand Island, Nebraska, March 27, 2018.

Jeremy L. Jensen, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	▣ _____
April 5, 2018	▣ City Attorney