

CC 53
p 28

CITY COUNCIL MEETING
SEPTEMBER 4, 1985

PUBLIC HEARING TO
CONSIDER APPEAL OF
MR. MICHAEL BUTTERWORTH,
207 FIRST STREET, LODI,
OF THE PLANNING
COMMISSION'S DENIAL
OF HIS REQUEST FOR A
ZONING VARIANCE

Notice thereof having been published in accordance with law and affidavit of publication being on file in the office of the City Clerk, Mayor Hinchman called for the Public Hearing to consider the appeal of Mr. Michael Butterworth, 207 First Street, Lodi, of the Planning Commission's denial of his request for a zoning variance to reduce the required lot size at 207 First Street, Lodi (Parcel "B").

The matter was introduced by Community Development Director Schroeder who presented diagrams of the subject area and responded to questions as were posed by Council.

Mr. Butterworth spoke on behalf of his appeal and responded to questions regarding the matter as were posed by Council.

There being no other persons in the audience wishing to speak on the matter the public portion of the hearing was closed.

On motion of Mayor Pro Tempore Reid, Olson second, Council granted the variance based on a hardship in that the subject parcel had been inaccurately surveyed many years ago and that existing maps were in error and with the condition that the zoning variance be granted for duplex construction only.

COUNCIL COMMUNICATION

TO: THE CITY COUNCIL
FROM: THE CITY MANAGER'S OFFICE

DATE

August 28, 1985

NO.

SUBJECT: APPEAL OF MICHAEL BUTTEWORTH OF ZONING VARIANCE DENIAL

BACKGROUND: At its meeting of June 24, 1985 the Planning Commission denied the request of Michael Butterworth for a Zoning Variance to reduce the required lot size at 207 First Street (i.e. parcel "B" on the enclosed map) from 4,750 square feet to 4,515 square feet to construct a duplex in an area zoned R-HD, High Density Multiple Family Residential.

In denying the request the Planning Commission was unable to make the finding that a "Hardship" as defined in the Municipal Code (i.e. Zoning Ordinance).

Section 17.72.080 of the Code states: "In granting any adjustments, the Planning Commission should find that such adjustment will relieve an unnecessary hardship or practical difficulty that would otherwise be caused by the application of the strict letter of this chapter and that such adjustment will not be contrary to the public welfare".


James B. Schroeder
Community Development

Attachments

9/10

NOTICE OF PUBLIC HEARING BY THE CITY COUNCIL
OF THE CITY OF LODI TO CONSIDER THE APPEAL OF
MR. MICHAEL BUTTERWORTH, 207 FIRST STREET, LODI, CA
OF THE PLANNING COMMISSION'S DENIAL OF HIS REQUEST FOR A
ZONING VARIANCE TO REDUCE THE REQUIRED LOT SIZE - 207 FIRST STREET,
LODI, CALIFORNIA (PARCEL "B")

NOTICE IS HEREBY GIVEN that on Wednesday, September 4, 1985, at the hour of 7:30 pm or as soon thereafter as the matter may be heard, the Lodi City Council will conduct a public hearing in the Council Chambers, City Hall, 221 West Pine Street, Lodi, California, to consider the appeal of Mr. Michael Butterworth, 207 First Street, Lodi, California of the Planning Commission's denial of his request for a Zoning Variance to reduce the required lot size at 207 First Street (Parcel "B") from 4,750 square feet to 4,515 square feet to construct a duplex in an area zoned R-HD, High Density Multiple Family Residential.

Information regarding this item may be obtained in the office of the City Clerk at 221 West Pine Street, Lodi, California.

All interested persons are invited to present their views on this matter. Written Statements may be filed with the City Clerk at any time prior to the hearing scheduled herein and oral statements may be made at said hearings.

Dated: July 24, 1985

BY ORDER OF THE LODI CITY COUNCIL:

Alice M. Reimche
ALICE M. REIMCHE
City Clerk

CITY COUNCIL

DAVID M. HINCHMAN, Mayor
FRED M. REID
Mayor Pro Tempore
EVELYN M. OLSON
JAMES W. PINKERTON, Jr
JOHN R. (Randy) SNIDER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
CALL BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 334-5634

THOMAS A. PETERSON
City Manager
ALICE M. REIMCHE
City Clerk
RONALD M. STEIN
City Attorney

June 25, 1985

Mr. Michael Butterworth
207 First Street
Lodi, CA 95240

Dear Mr. Butterworth:

RE: Variance - Reduce Required Lot size -
207 First Street (Parcel "B")

At its meeting of Monday, June 24, 1985, the Lodi City Planning Commission denied your request for a Zoning Variance to reduce the required lot size at 207 First Street (Parcel "B") from 4,750 square feet to 4,515 square feet to construct a duplex, in an area zoned R-HD, High Density Multiple Family Residential.

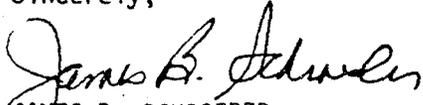
In denying your request the Planning Commission was unable to make the finding that a "Hardship", as defined in the Zoning Ordinance, existed.

Section 27-15(d) 2 of the Lodi Municipal Code (i.e. Zoning Ordinance) provides as follows:

"Appeal. Any applicant or person claiming to be directly and adversely affected by any actions of the Planning Commission may, within five days (i.e. Working Days) after the action, file a written appeal with the City Clerk for transmittal to the City Council."

If you wish to appeal this matter, your correspondence should be directed to Mrs. Alice M. Reimche, City Clerk, and it must be received by her by 5:00 p.m., Monday, July 1, 1985. The City Clerk's address is City Hall, 221 West Pine Street, Lodi.

Sincerely,


JAMES B. SCHROEDER
Community Development Director

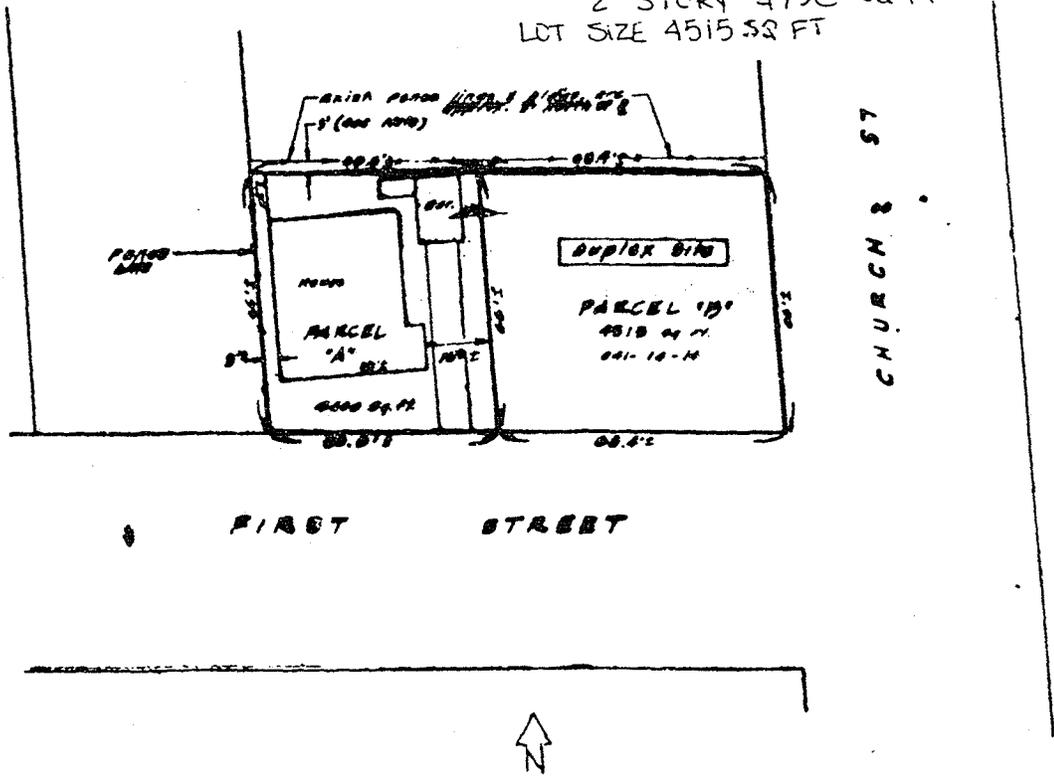
cc: City Clerk

BUTTERWORTH
207 FIRST STREET

A-85-14 6-24-85

3 OFF-STREET PARKING
 SPACES REQUIRED

MINIMUM LOT SIZE FOR DUPLEX IN R-HD ZONE
 1 STORY 5000 SQ FT
 2 STORY 4750 SQ FT
 LOT SIZE 4515 SQ FT



Michael Butterworth
207 First Street
Lodi, Ca. 95240

June 12, 1985

Dear Planning Commissioners:

My name is Michael Butterworth and I live at 207 First Street in Lodi. This is the fifth year that my wife and I have lived at the address in question.

I would like to build an attractive duplex on my side lot (known now as parcel "B") preserving the existing trees and shrubs to the greatest degree possible. I wish to maintain a comfortable "woody" ambiance and I have the greatest confidence that Mr. Arlie Preszler, the architect I wish to have draw up my plans, can do it.

This "woody" ambiance is important to me not only economically, but aesthetically, since I will be the next-door neighbor.

I am asking the Commission to grant me a 5% variance from the RHD Zoning requirement of 4750 sq. feet. I would not have to ask for such a variance except that upon measuring our lot to apply for the split we discovered that we have been the victims of "block shrinkage."

According to the original survey of the Ayers/Pitchers subdivision (done in 1913) and all subsequent title reports and deeds, our property measures 66' by 132.5'. However, Mr. Piazza found the lot to be 66' by 129'. Indeed, in comparing the descriptions on city planning maps to the actual measurement of the block along First Street, we found considerably more footage has been lost than that which I have suffered. (Mr. Schroeder gave a description of how this misfortune came to pass in many of the older sections of town in the Planning Commission meeting of June 10, 1985.)

This loss seems to have occurred on the Church Street side, based on the placement of the house and driveway on our West boundary.

I bought our house particularly with the idea of one day being able to build a pleasing multi-family dwelling on parcel "B". Indeed I paid a premium price for the property since it was zoned RH-D and was advertised by the sellers and their agents as being suitable for this type of construction.

At the time of purchase we went over the deed and figured out the square footage of the property and what we could do with it according to City Code. However, I placed my trust in the Title Company and the City Map descriptions, a circumstance I heartily regret. At this time, I hesitate to place blame in any particular direction, since it seems that so many

seem to share it, but I do feel wronged.

If I had the missing 230 square feet then Parcel "B" would measure 4745 square feet and I would only need a variance of 5 square feet (less than the size of a surfboard or 1/6 the size of a 4x8 sheet of plywood) in order to build.

Members of the Commission have suggested that I contact the property owner on my North boundary line; Mr. Gideon Hieb of 234 Carson Place, Stockton, California; in order to ascertain whether he would be willing to sell me either 3.4'+ along the North side of Parcel "B" or 1.8'+ along my entire North boundary line in order to come up with 235 square feet.

I am not certain of the setback requirements in this case, but assuming 5' (the lesser) setback we encounter difficulties. The existing North side fence is only 3'+ from the house located on the property (neighbor's agreement.) If he sells me the land enclosed by the fence then we will need to appear before the Commission for permission to create a substandard lot. Furthermore, his lot measures (deed) 36.4 x 132.5 or 4823 square feet. The property is currently occupied by a very old single family dwelling (rental) but is big enough for a 2 (two) story duplex according to Code. If he sells me the 235 square feet the Commission wants, he will only have 4588 square feet left, not enough for a duplex. Mr. Hieb is wise in the ways of the world and is not about to sacrifice his own self interest.

I could perhaps claim squatter's rights based on my garage and fence location. This legal action would be as repugnant as it would be expensive, create a substandard lot, and be uncertain in result except to the animosity it would be sure to create.

Upon reflection I doubt the Commission will wish me to pursue this course of action.

To demonstrate my conviction and desire to enhance Lodi and my neighborhood rather than otherwise, let us examine what I might do with my lot (even in its shrunken state) according to Code and Dave Morimoto. Simply by the artifice of a connection that could be used as a carport to my present dwelling, I could cram 5 family dwellings (single story) or 7 family dwellings (2 story) without the necessity to split my lot or do much more than apply for a building permit. To go to an extreme, without exceeding the height granted to the Cedarwood development further North of me on Church Street, I might be entitled to go up 3 stories and pack 10 family dwellings on my 8515 square feet.

(Please see figures on next page.)

(FROM CITY OF LODI ZONING ORDINANCE REQUIREMENTS:)

ZONING DISTRICT RHD

UNITS/NET ACRE 80

<u>MIN. LOT AREA (SQ. FT.)</u>	<u>1 STORY</u>	<u>2 STORY</u>	<u>3 or 4 STORY</u>
1 FAMILY DWELLING:	4000	4000	4000
2 FAMILY DWELLING:	5000	4750	4500
3 FAMILY DWELLING:	6000	5500	5000
4 FAMILY DWELLING:	7000	6250	5500
<u>EACH ADDITIONAL DWELLING ADD:</u>			
	1000	750	500

MY LOT(S) EXISTING - 8515 SQUARE FEET TOTAL

ACTUAL (DEED) - 8745 SQUARE FEET (ASSUME NO SPLIT, CON-
NECTING STRUCTURE)FIRST STORY:

4 F.D. = 7000
 TOTAL: + 1 F.D. = 1000
 5 F.D. = 8000 SQ. FT.

SECOND STORY:

4 F.D. = 6250
 + F.D. = 750
 + F.D. = 750
 + F.D. = 750
 TOTAL: 7 F.D. 8500 SQ. FT.

THREE STORY:

4 F.D. = 5500
 + 1 F.D. = 500
 10 F.D. = 8500 SQ. FT.

MINIMUM LOT WIDTH 50 FEET (YES)

MAXIMUM LOT COVERAGE 60% (SETBACK ARCHITECT)

MAXIMUM BUILDING HEIGHT 35' - 75' (skillful architect)

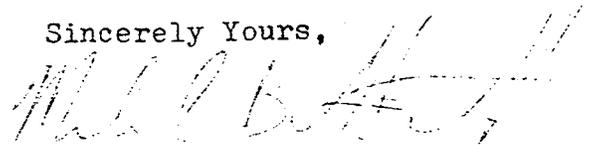
O.S. PARKING 1-1/2 per vmt (skillful architect)

Such development would be hideous, not unlike the Olive Court Apartments across the street (Church) from Parcel "B", which manages to include almost every possible objectionable feature to City Planning standards and yet was permitted by the Commission.

As I am planning a 2 (two) story townhouse type duplex, you can see that I am asking for less than half of the number of dwellings which could conceivably be built on the area in question. I am certain that my duplex will be in harmony with my neighborhood, indeed I believe it will strike a higher chord. You are all familiar with the procedure and economics of building, and realize that it is much easier to obtain loan financing where I live for a duplex than a single family home. Bankers know that it is much easier to find people to rent a duplex for approximately \$350.00 each than to rent a house for \$700.00. I can afford to build a duplex now, but the loan requirements for a single family home will necessitate about 5 years more savings not to mention 5 years loss of possible business.

I believe my request to the Commission is reasonable, and that I have certainly been placed in a hardship situation. I would certainly appreciate your assistance in this matter.

Sincerely Yours,



MICHAEL BUTTERWORTH

9/14 7A

Mr. Michael Butterworth,
207 First Street,
Lodi, California 95240

Dear Mr. Butterworth:

This letter will confirm the action of the Lodi City Council taken at its Regular Meeting of September 4, 1985 whereby Council following a Public Hearing to consider your appeal of the Planning Commission's denial of your request for a zoning variance to reduce the required lot size at 207 First Street, Lodi (Parcel "B"), granted the variance based on a hardship with the condition that the approval be granted for duplex construction only.

Should you have any questions regarding this matter, please do not hesitate to call this office.

Very truly yours,

ALICE M. REIMCHE
City Clerk