



CITY OF WAUKESHA

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Committee: Board of Zoning Appeals	Date: 7/15/2021
Item Number: ID#21-2460	Date: 7/15/2021
Submitted By: Doug Koehler, Principal Planner	City Administrator Approval: Kevin Lahner, City Administrator
Finance Department Review: Bridget Souffrant, Finance Director	City Attorney's Office Review: Brian Running, City Attorney
Subject: The appeal of Pinnacle Realty, Inc. for a use variance from section 22.61(1) of the zoning code. If granted the variance will allow extension of a Legal Nonconforming Use, display of retail merchandise for sale, from the interior premises at 900 Arcadian Ave. to an outdoor display, when Nonconforming uses shall not be extended.	

Details: 900 Arcadian Ave. is zoned RM-1 Multi-family residential. A small mixed-use building is located on the property, with two apartment units and one Legal Nonconforming business. The business space has been occupied continuously since before the zoning code was first adopted in the early 1950's. It has had numerous occupants, including a meat market, a Musician's Union, several neighborhood convenience stores, and several gift/craft shops. Some past occupants may have had outdoor merchandise displays, but others did not.

At the June meeting the Board of Zoning Appeals upheld the decision of the Zoning Administrator that the outdoor display of retail merchandise at the property constitutes an illegal extension of a non-conforming use. In response the applicant has requested a Use Variance.

Use Variances are more rare than dimensional variances and have a higher standard. In order to grant a use variance the Board must find that the application meets all of the five factors typical for a dimensional variance, and must also find that the property owner will have no reasonable use of the property unless the variance is granted.

Options & Alternatives:

Financial Remarks: No Financial impact.

Staff Recommendation:
 The property currently supports several reasonable uses, including both Permitted residential and the Legal Nonconforming business. The commercial space has been continuously occupied since before the first zoning ordinance was adopted in the 1950's, with no vacancies of over twelve months at a time. As a result, staff feels this application clearly does not meet the standard for a Use Variance and it should be denied.



