

ZONING BOARD OF APPEALS MINUTES OF JUNE 10, 2008

Meeting called to order by Chairman Markwardt at 4:45p.m. in the 1st Floor Conference Room, City Hall Plaza.

PRESENT: Dean Markwardt, Wallace Reek, Don Schnitzler, Don Wink, Karl Zimmermann, 1st Alternate Ed Gerl and 2nd Alternate Todd Zieglmeier

ALSO PRESENT: Planner/Zoning Administrator Curtiss, Lacie Pohl, Maureen Lindekugel, Michael Behling

ZB08-011 Motion by Zimmermann, second by Wink to approve the minutes of May 20, 2008 as submitted. All Ayes.

Motion carried

Planner/Zoning Administrator Curtiss read the variance request from Lacie & Robert Pohl to construct a 2-story addition onto the east end of the non-conforming residential structure at 307 N. Peach Avenue, zoned R-5 Medium Low Density Single and Two-Family Residential. Section 18-33 (4) (b) of the Municipal Code prohibits enlargement or alteration of a non-conforming structure in any way which increases its nonconformity, except as permitted by the Zoning Board of Appeals. Sections 18-62 (6)(f) & 18-04 (5)(i) require a minimum 9.5-ft side yard setback for the 2-story addition. Section 18-04 (2)(b) requires a minimum 6-ft separation distance between the residential dwelling and a detached accessory building. Applicants request to alter the non-conforming structure, request a 5.5-ft south side yard setback variance and a 2-ft separation distance variance to build the 2-story addition 4-ft from the property line and 4-ft from the detached garage.

Background

The property owners desire to add a two-story addition onto the east end of their residence. They plan to remove the existing enclosed porch and design the project to match the south elevation of the original home footprint, extending eastward and upward. However, the proposed development would alter and enlarge a non-conforming structure and increase its extent of non-conformity in the south side yard setback. The non-conforming structure provisions of the zoning ordinance limit enlargement/alteration of non-conforming structures, except as permitted by the Board. In addition to the side yard setback encroachment, the new addition will not meet the minimum 6-ft separation distance from the detached garage.

Applicants are requesting variances to three sections of the Municipal Zoning Ordinance, in order to build the 2-story addition 4-ft from the south lot line and 4-ft from the detached garage.

Planner/Zoning Administrator's statement of facts regarding the variance request:

1. The property is 7,175 sq. ft. in lot size and 41 ft. in lot width.
2. The property is part of Lot 1, Block U of J.P. Humes 1st Addition and is considered a conforming lot in the R-5 medium-low density residential district.
3. The R-5 district requires a minimum lot size of 6,000 sq. ft. and a minimum lot width of 40 ft. for single family dwellings.
4. The property is developed with a single-story, single-family residence and detached garage. The Assessor's records indicate the structure was built in 1948.
5. The existing house predates the current code and is considered a "non-conforming structure"; not developed according to the current setback restrictions of the R-5 district.
6. Section 18-62(6)(f)(3)(a) requires a minimum 7.5 ft. side yard setback for single-family dwellings. The site plan indicates that the existing dwelling is located only 4 ft. from the south lot line.

7. Section 18-33 of the Zoning Ordinance provides that no nonconforming structure may be enlarged or altered in any way which increases its nonconformity, except as permitted by the Zoning Board of Appeals.
8. The proposed two-story addition would alter the non-conforming structure and increase the degree of non-conformity in the south side yard setback, adding more mass and height of structure in the required yard area.
9. Section 18-04(5)(i) requires an additional 2-ft side yard setback for two-story residential structures in addition to the standard side yard of the zoning district. Two-story structures require a 9.5 ft. side yard setback in the R-5 district.
10. The general purpose of additional setbacks for second-story structures is to preserve adequate air, light, views and privacy of adjoining residential properties.
11. The adjacent home at 303 N. Peach Ave. is a one-story structure and there is approximately 25 ft. between this structure and the structure at 307 N. Peach Ave.
12. Section 18-04 (2) (b) requires a minimum 6-ft separation distance between the residential dwelling and a detached accessory building.
13. The dwelling addition will encroach into the 6-ft separation area; the residential structure would be located 4-ft from the garage.
14. The general purpose of the separation requirement is to provide adequate distance for fire separation between the two structures. The Uniform Dwelling Code requires fire-rated construction for structures separated by less than 6-feet. This means $\frac{3}{4}$ -hour wall and $\frac{1}{3}$ -hour door or window. The garage currently does not meet the fire-rated construction requirement.
15. Three variances are necessary for this project. The side yard variance request is somewhat substantial, over half of the entire setback.
16. There are limited legal alternatives to alter the non-conforming structure without increasing its degree of non-conformity. An addition to the north would restrict driveway access to the existing detached garage.
17. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.

Zimmermann asked Lacie Pohl what her intentions were as far as the fire wall.

Lacie Pohl said they plan to gut the entire garage down to its framework and reside, reroof and shingle and at that time we would put up extra drywall or whatever we would need to make code. There will be two exterior doors added. Pohl said their plans were to make it structurally sound.

ZB08-012 Motion by Zimmermann, second by Schnitzler to grant the variance requests from Lacie and Robert Pohl to alter the non-conforming structure.

Planner/Zoning Administrator Curtiss recommended attaching a condition relating to fire-rated construction requirement.

Motion was amended to include the condition that the rebuilt garage meets fire wall safety standards.

Planner/Zoning Administrator Curtiss pointed out that variance requests are only good for one year.

Vote on motion **ZB08-012** as amended; All Ayes.

Motion carried

Planner/Zoning Administrator Curtiss read the variance request from Woodstock Construction to construct a single-family dwelling on Lot #50 of W.D. Connor Estates, 1st Addition, located at the southwest corner of E. Arnold Street and N. Galvin Avenue, zoned “R-2” Large Lot Single-Family District. Municipal Code Sec. 18-04 (6) (a) requires a minimum 50-ft major street setback from Galvin Avenue. Applicants request a 3-ft major street setback variance to build a single-family home 47-ft from Galvin Avenue right-of-way.

Background

Woodstock Construction owns the property and has an interested buyer with a proposed house plan and layout for the lot. This layout, however, encroaches into the required 50’ major street setback on Galvin Avenue.

The development permit would be administratively denied based on non-compliance with Section 18-04(6) of the Municipal Code. Thus, the applicant is requesting a 3-ft variance to the 50-ft major street setback, in order to build with a 47-ft setback from Galvin Avenue right-of-way.

Planner/Zoning Administrator’s statement of facts regarding the variance request:

1. The property is 27,800 sq. ft. in lot size, with 200.14’ of lot frontage on Galvin Avenue and 135.61’ of lot frontage on Arnold Street.
2. The property is Lot 50 of W.D. Connor Estates, 1st Addition and is considered a conforming lot in the R-2 Large Lot Single-Family District.
3. The R-2 district requires a minimum lot size of 14,000 sq. ft. and a minimum lot width of 80 ft. for single family dwellings.
4. The property is a corner lot with frontages on 2 public streets.
5. Front setbacks are required from both public streets. Section 18-62 (3) (f) of the Municipal Code requires a 30’ minimum front yard setback for single-family residences in the ‘R-2’ Residential District. However, Section 18-04 (6) requires a more restrictive 50’ setback along both Galvin Avenue and Arnold Street, as these are both classified as major streets in the transportation plan component of the Comprehensive Plan.
6. The general purpose of a major street setback is to more properly establish adequate future street widths and setback lines.
7. There are no long range plans to widen Galvin Avenue. The road was recently reconstructed with an off-road trail within the existing 66-ft right-of-way. The off-road trail is located on the west side of Galvin Avenue abutting this property.
8. The proposed site plan indicates the dwelling will encroach 3-feet into the 50-ft setback from Galvin Avenue.
9. The variance request is minimal and does not appear it will impair the general purpose of the major street setback requirement.
10. The lot itself does exhibit a slightly irregular shape, with a front lot dimension of 135.61-ft and rear lot dimension of 143.21-feet.
11. There is questionable compliance; however, will all 6 conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.

Schnitzler questioned the width of Galvin Avenue right-of-way and where the setback was measured from. Planner/Zoning Administrator Curtiss answered that Galvin is a 66-ft wide right-of-way and setback is measured from the property line contiguous with the west side of the right-of-way.

Michael Behling spoke in regards to the original lot design and loss of additional lot width due to Galvin Avenue right-of-way acquisition. He pointed out that the house will be set back on Arnold Street 50-ft consistent with other homes on Arnold to the west.

Ed Gerl questioned how setbacks are measured to structure. Planner/Zoning Administrator Curtiss commented that setbacks are measured to foundation walls and certain architectural features such as eaves, cornices and bay windows are permitted to project into required yard areas up to 2 ½ feet.

Markwardt asked if the two houses in the next block north on Galvin are those closer than 50'. Planner/Zoning Administrator Curtiss did not have this information, but pointed out that the averaging provision does not apply in this block of Galvin south of Arnold as this is the first lot to develop. She pointed out that the land to the south is zoned residential and could be platted and developed at some point in the future with other residential lots fronting on Galvin, subject to the same 50-ft major street setback requirement.

Planner/Zoning Administrator Curtiss questioned Michael Behling on the layout, regarding how far would the house be set back from Arnold to meet the 50-ft setback on Galvin. Behling said it would be a good distance and not be a desirable layout especially adjacent and further behind other homes developed on Arnold.

Zimmermann pointed out the 6-ft difference in the front lot width to the rear lot width and noted the variance request is minimal.

Ed Gerl questioned the possibility of angling the house and moving it to the west 3-ft. Behling pointed out that this would be an undesirable layout and out of character with other patterns within the block.

Planner/Zoning Administrator Curtiss pointed out the fact that the lot is buildable, another house plan could be laid out without any variance requests. The only uniqueness to the property is its slight irregular shape with the front lot width slightly narrower than the rear lot width.

Schnitzler commented that if the City had not acquired the additional right-of-way for the walkway, then the lot would have accommodated this layout without any variances.

ZB08-013 Motion by Wink, second by Schnitzler to grant the variance request from Woodstock Construction. All Ayes.

Motion carried

Motion by Reek, second by Wink to adjourn at 5:20 p.m.

Motion carried

Respectfully Submitted by:

Bonnie Curtiss
Planner/Zoning Administrator

For
Lori Panzer, Board Secretary