

ZONING BOARD OF APPEALS MINUTES OF OCTOBER 13, 2009

Meeting called to order by Chairman Markwardt at 5:00 p.m. in the 1st Floor Conference Room, Suite 108, City Hall Plaza.

PRESENT: Ed Gerl, Dean Markwardt, Wallace Reek, Todd Zieglmeier, 1st Alternate Kenneth Bargender and 2nd Alternate Scott Noble

EXCUSED: Richard Kenyon

ALSO PRESENT: Director of Planning and Economic Development Angell, Planner/Zoning Administrator Miller and Deputy Clerk Panzer, Charles Gleisner, Mary Gleisner, Bruce Carolfi, Linda Carolfi and Mark Bowman

Chairman Markwardt welcomed new Planner/Zoning Administrator Josh Miller and Director of Planning and Economic Development Angell introduced him to the Zoning Board of Appeals members.

Chairman Markwardt moved agenda item six up on the agenda to be discussed prior to the Municipal Code Amendment item.

ZB09-020 Motion by Reek, second by Gerl to approve the minutes of August 11, 2009 as submitted. All Ayes.

Motion carried

Deputy Clerk read the variance request from Charles Gleisner for property located at 2401 E. Hintz Street, zoned "R-11" Residential (Mobile Home Subdivision District). Section 18-62 (12) (g) of the Municipal Code requires a minimum 20-ft front yard setback. Section 18-04 (2) (b) of the Municipal Code requires a minimum 5-ft separation between any detached accessory building and a residential dwelling unit on the same lot. The applicant requested a 10-foot front yard setback variance along Irene Avenue to place a new home at a setback of 10-ft. The applicant also requested a 3-foot setback variance from the structure separation requirements to place the new home 2-ft from the existing detached garage.

Background

Mr. Gleisner wished to upgrade his living quarters by replacing his existing mobile home with a new home. The property is currently occupied by a mobile home unit and a "permanent" detached garage. The new home is larger in size than the existing home.

A building permit could not be administratively approved for this plan, based on non-compliance with Sections 18-62 (12) (g) and 18-04 (2) (b) of the Municipal Code. A 10-ft variance to the 20-ft front yard variance setback would allow the applicant to build 10-ft from the Irene Avenue right-of-way. A 3-ft setback variance from the structure separation requirements would allow the applicant to place the new home 2-ft from the existing detached garage.

Planning and Economic Development Director's statement of facts regarding the variance request:

1. The property is zoned "R-11" Residential (Mobile Home Subdivision District).
2. The property is platted as Lot 10, Block 2 of Rataiczuk Subdivision.
3. The lot is 9,035-sq. ft. in size, with 64.8-ft of lot frontage along East Hintz Street and 139-ft along Irene Avenue.
4. The lot is a conforming lot in the R-11 District. Lot standards for mobile homes are 7,000-sq. ft. lot size and 60-ft lot width.
5. A corner lot in the R-11 District requires a 20-ft minimum front setback from East Hintz Street as well as a 20-ft setback from Irene Avenue.

6. The layout of the lot is restricted by the intersection of East Hintz Street and Irene Avenue. The driveway (and garage) has been constructed on the east side of the lot to meet the “curb cut” setback from an intersection.
7. The proposed layout of the dwelling extends 10-ft into the required 20-ft setback from Irene Avenue and 3-ft into the required 5-ft setback from an accessory structure.
8. The need for a variance from the accessory structure can be avoided by either shifting the structure to the south or west, or by meeting the fire rating requirements of the UDC. Moving the structure further to the south or west would require an additional front yard variance (along East Hintz Street) or increase the size of the variance requested along Irene Avenue (reducing the setback of 7-ft).
9. It doesn't appear that the variance request will negatively impact the public interest related to safety, aesthetics or environment. The structure would not be located in the vision clearance triangle of the street intersection. The variance request should not impair the general purpose of front setbacks for aesthetic purposes of open space and neighborhood patterns.

Director of Planning & Economic Development Angell recommended approving the variance request based on the following findings of fact:

1. The properties proximity to the intersection requires the driveway to be constructed on the east side of the property, which further limits the location of any structure on the property.
2. Granting the variance would not negatively impact the public interest related to the safety, aesthetics or environment.

Charles Gleisner said a fire wall was installed in the garage today.

Gerl asked if the mobile home has a fire wall.

Director of Planning & Economic Development Angell said a building permit will be needed for the structure and that will be verified at the time of the building permit application.

Reek said there have been a lot of variances in this area, so this would not be unusual.

Director of Planning & Economic Development Angell said that there were a number of properties in this area that have variances granted to them. This is an older subdivision and the specs for mobile homes have changed drastically. The unit that is currently occupying the site is very small and he doesn't believe that that sized home is being built in today's standards.

Zieglmeier asked if there were any plans for sidewalk along Irene Avenue.

Director of Planning & Economic Development Angell said Irene Avenue is a ditched road and he checked with Public Works and Engineering and there are no plans for sidewalk.

ZB09-021 Motion by Reek, second by Gerl to grant the variance request from Charles Gleisner for a 10-ft front yard setback variance along Irene Avenue to place the new home at a setback of 10-ft with the condition that the new home and the existing garage be constructed or upgraded to comply with the requirements of the UDC for fire rating. All Ayes.

Motion carried

Director of Planning and Economic Development Angell explained that the driveway at 312 South Larch Avenue item was discussed during the months of June and July. The motion at the July meeting was to install a 6" high block curb for landscaping purposes to be placed at the location for the 3' setback from

the lot line on the side. The neighbor, Mr. Bowman feels that the work that was done doesn't comply with the motion. Since Mr. Angell wasn't involved with this item to the fullest extent, he didn't want to pass any judgment on what the Zoning Board had intended with the motion that was passed. He passed around photos that his department took of the work that was done.

Chairman Markwardt asked what the reasons were for it not meeting the requirements.

Director of Planning and Economic Development said the curb doesn't exactly run the entire length of the newly poured addition and it doesn't connect at the southern portion of it. There is an approximate 2' gap at the top of it, which is probably for the purpose of allowing the gate to swing open all the way.

Linda Carolfi said that was discussed last time, because we have to get our riding lawn mower through that area.

Bruce Carolfi said he drew this plan out with Mr. Donath before he did anything and Mr. Donath said it would be fine as long as we couldn't park up there.

Zieglmeier said that he believes that was the intent of the motion of the 3' setback. 3' is more of a sidewalk area for landscaping versus a driveway.

Mark Bowman said there were two drawings passed around that day and it was clarified before we left that it went from the top of the driveway to the bottom of the driveway. With that space there, there is no 3' barrier between the driveway and the edge of the property. You could still pull something in there, such as a tractor. The gate swings in, so having that distance doesn't interfere with the gate swing. The barrier doesn't impede the gate swing.

The Carolfi's said it would impede the riding lawn mower.

Chairman Markwardt asked Mr. Bowman what he was objecting to.

Mr. Bowman said based on the drawings and based on the discussion at the July meeting he believed that the curb would go the full length of that drive out to meet the requirements that makes the 31" gap there. The other discussion that we had during that time was what type of material could be used to fill in that gap to make it landscaping.

Zieglmeier said in some of the original discussion we were trying to get a definition of a driveway and it was a core surface that a vehicle could be parked on, and so our purpose was to get this driveway moved over, so there couldn't be a vehicle parked there. In looking at the pictures it doesn't really look like a vehicle could be parked in that small of an area.

Bargender said that the area that angles up to the fence looks to be about 8' and you can't really park a car in an 8' area and he can't see the Carolfi's doing that, because they have gone through all this trouble to make everything right here or as good as possible without impeding and being able to get to that area best to where their lawnmower is stored.

Chairman Markwardt asked how much of a step down there was there.

Bruce Carolfi said the step down is 1' and he uses a ramp.

Bargender asked Mr. Carolfi what his intention was for the boxed in area.

Gerl said the intent of the motion was to put some landscaping in.

Bruce Carolfi said he could fill it in with some bark or rock so it doesn't look like a trough. If he puts plants in they would have to be potted. He doesn't plan to do any of this work until next spring.

Chairman Markwardt asked if the Zoning Board felt the improvements or alterations that have been made met the committee's intent of the motion.

The Zoning Board felt that Mr. Carolfi could not park a vehicle in this area without knocking down his fence; therefore they felt that Mr. Carolfi met the committee's intent of the motion.

ZB09-022 Motion by Gerl, second by Zieglmeier that Mr. Carolfi's improvements/alterations have met the intent of the motion from the July 14, 2009 Zoning Board of Appeals meeting. All Ayes.

Motion carried

Director of Planning and Economic Development Angell explained and recommended an amendment to Section 18-04 (11) of the Municipal Code related to exceptions to height and setback requirement for fences. The proposed amendment to Section 18-04 (11) would require an individual(s) to obtain a variance rather than a conditional use permit. It would also change the "body" that reviews and acts upon the request from the Plan Commission to the Zoning Board of Appeals.

Discussion followed.

Markwardt suggested removing the wording "if a hardship is properly documented" from the amendment to Section 18-04 (11) (g).

ZB09-023 Motion by Bargender, second by Zieglmeier to recommend approval of the proposed changes to Sections 18-04 (11) of the Municipal Code to the Plan Commission with the deletion of the wording "if a hardship is properly documented". All Ayes.

Motion carried

Motion by Reek, second by Gerl to adjourn at 5:40 p.m. All Ayes.

Motion carried

Lori A. Panzer
Deputy City Clerk