

BOARD OF ADJUSTMENT

MEETING MINUTES

October 1, 2020

City Hall – Council Chambers

Regular Members Present: Larry Caldwell, Charles Haubold, Tim Kelley, Skip Smallwood, William Whitlock

Regular Members Absent: None

Alternate Members Present: None

Alternate Members Absent: Ed Hart, David Hinton

Staff Present: Carol Peters, Ryan Shrimplin

Call to Order

Chairman Haubold called the meeting to order at 7:00 p.m.

Approval of Minutes

The minutes of the July 2, 2020 meeting were unanimously approved upon a motion made by Mr. Smallwood and seconded by Mr. Caldwell.

ZONING CODE VARIANCES

1. A public hearing was held on the request of Cornelia Williams for a variance from Section 30-323(e)(5)(c), side yard setback, for property located at 520 Koch Avenue. Ms. Williams was in attendance and available to answer any questions from the Board.

A staff report was submitted to the Board, containing the following findings of fact in reference to the variance request:

Criterion #1: The variance request arises from a condition which is unique to the property in question and which is not ordinarily found, and is not created by an action or actions of the property owner or the applicant.

Finding: The subject property used to have a detached garage that was at or near the side (south) lot line. The foundation still exists, and the property owner would like to construct a new detached garage on it. The foundation is attached to a retaining wall. This constitutes a unique condition of the subject property.

Criterion #2: Approval of the variance request will not adversely affect the rights of adjacent property owners or tenants.

Finding: Staff identified several properties in this neighborhood that contain an accessory structure located at or near a side lot line. The adjacent property to the south has a detached garage that appears to be less than two (2) feet from the side

lot line. Due to this context, approval of the variance request will not adversely affect the rights of adjacent property owners or tenants.

Criterion #3: The strict application of the provisions of the Zoning Code from which the variance is requested will constitute unnecessary hardship upon the utilization of the property.

Finding: If the variance request is denied, the property owner will have to extend the foundation and the retaining wall in order to position the detached garage out of the setback. Extensive grading work will also be necessary. The cost of this additional work constitutes an unnecessary hardship, especially given the fact that the neighbors already have accessory structures encroaching on setbacks.

Criterion #4: Approval of the variance request will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

Finding: If the variance request is approved, the position of the detached garage in the setback will not endanger or otherwise affect the public. A building permit is required, and the garage must comply with the City's building and life safety codes.

Criterion #5: Approval of the variance request is consistent with the general spirit and intent of the Zoning Code.

Finding: The unique condition of the subject property, the unnecessary hardship that will result if the request is denied, and the lack of an adverse effect on the adjacent property owners, tenants, and the public form the basis for approving the variance request in keeping with the general spirit and intent of the Zoning Code.

Based on the above findings, staff recommended approval of the variance request.

Chairman Haubold opened the public hearing. Seeing no appearances to speak, he closed the public hearing. A motion was made by Mr. Smallwood and seconded by Mr. Whitlock to approve the variance request. The motion passed by a roll call vote of 5 in favor, 0 in opposition, and 0 abstaining (*Aye: Caldwell, Haubold, Kelley, Smallwood, Whitlock*). Chairman Haubold called for a motion to adopt the staff report as the Board's Findings of Fact and Conclusions of Law. Mr. Smallwood made a motion to adopt, and Mr. Caldwell seconded the motion. The motion passed unanimously.

OTHER ITEMS AND COMMUNICATION

Board Appointment Recommendation

The Board was informed of the passing of Ray Buhs, who was serving as an alternate member. The City Clerk's Office provided a copy of the only active City Advisory Board application for the Board of Adjustment, submitted by Ron Robertson. Mr. Robertson introduced himself to the Board and explained why he would like to be appointed. Chairman Haubold stated that he would like to change the way the Board handles appointment recommendations. He asked the staff to email the Advisory Board applications to the Board members as soon as they are received from the City Clerk's Office. This will allow the Board members time to recruit additional applicants if they so desire. Applicants will be encouraged to attend the Board

meeting and introduce themselves. The Board may then take action on making an appointment recommendation or wait until the next meeting. The Board and the staff agreed to this new process moving forward. A motion was made by Mr. Whitlock and seconded by Mr. Caldwell to recommend that the City Council appoint Ron Robertson to the Board as an alternate member. The motion passed by a vote of 4 in favor, 0 in opposition, and 1 abstaining (*Aye: Caldwell, Haubold, Kelley, Whitlock; Abstain: Smallwood*).

Board Communication

There were no communication items from the Board.

Staff Communication

There were no communication items from the staff.

Adjournment

There being no further business, the meeting was unanimously adjourned at 7:20 p.m.

Respectfully submitted by:

A handwritten signature in black ink, appearing to read 'W Whitlock', written in a cursive style.

William Whitlock, Secretary