

## BOARD OF ADJUSTMENT

### MEETING MINUTES

November 5, 2020

City Hall – Council Chambers

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

Regular Members Absent: Tim Kelley

Alternate Members Present: David Hinton

Alternate Members Absent: Ed Hart, Ron Robertson

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 October 1, 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 Cliff Brooks for a variance from Section 30-323(e)(5)(b), rear yard setback, for property located at 839 Alta Vista Drive. Mr. Brooks was in attendance to present his request. He explained that there is a dilapidated one-car detached garage located approximately six (6) to eight (8) feet from the rear property line. He would like to replace it with a two-car detached garage, to be located ten (10) to twelve (12) feet from the rear property line.

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 has an irregular shape, with the house being skewed relative to the front and rear property lines. This creates limited space in the rear yard for the placement of the proposed detached garage. The shape of the property and the position of the house upon it constitute a unique condition that was not created by the property owner or the applicant.

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 encroaching on the rear yard setback, including the adjacent property to the east. 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: The applicant wishes to position the proposed detached garage in a manner that utilizes the existing driveway and provides enough space for vehicles to maneuver in and out of the two garage bays. Denial of the variance request will force the applicant to move the garage up much closer to the house and widen the driveway on the other side, resulting in additional costs. Given the fact that the existing garages on this property and the adjacent property to the east already encroach on the rear yard setback, denial of the variance request will constitute an unnecessary hardship.

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

Finding: Allowing the proposed detached garage to be constructed in the rear yard setback will not disrupt the character of the neighborhood, nor will it create problems for the surrounding property owners, their tenants, or their guests. Thus, approval of the variance request will not adversely affect the public.

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. Mr. John Voss, 834 Alta Vista Drive, stated that he supported the variance request. He commended Mr. Brooks on the improvements made to the property since purchasing it.

Seeing no further appearances to speak, Chairman Haubold closed the public hearing. A motion was made by Mr. Caldwell and seconded by Mr. Smallwood 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, Hinton, 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. Whitlock seconded the motion. The motion passed unanimously.

OTHER ITEMS AND COMMUNICATION

Board Communication

Chairman Haubold stated that most of the variance requests reviewed by the Board are for properties in the older parts of the city, which may not have utility easements on record covering the utilities that have been installed. Mr. Shrimplin explained that staff checks for conflicts with existing public easements or City-owned utility lines when reviewing a variance request. Chairman Haubold asked if staff checks for conflicts with private utilities. Mr. Shrimplin replied that the City generally does not have access to information on private utilities other than what is visible on the property. He explained that in most cases, private utility infrastructure such as electric and gas lines are located in the right-of-way or in a public or private utility easement. Private easements for electric lines are typically ten (10) to fifteen (15) feet in width and are usually centered on the property line. He added that Missouri law requires anyone doing excavation work to notify the Missouri One Call System (MOCS) at least three (3), but not more than ten (10) working days prior to beginning excavation, except in the case of an emergency.

The Board and the staff discussed options for ensuring that approval of a variance request will not result in a conflict with private utility infrastructure. Staff agreed to look into revising the variance application form by adding language advising the applicant of their responsibility to check with the private utility providers to ensure there will not be a conflict if the variance request is approved.

Staff Communication

There were no communication items from the staff.

Adjournment

There being no further business, the Board voted unanimously to adjourn the meeting at 7:30 p.m.

Respectfully submitted by:



William Whitlock, Secretary