

BOARD OF ZONING APPEALS

AUGUST 13, 2018

The meeting was called to order at 5:30 p.m. by Chairman Rob Vela. Board members present were Brian Elmer, Jason Decker, Nathan Duricek, and Rob Vela (4). Niki Decker was absent (1). Also present was Cody Grodi, Zoning Inspector.

APPROVAL OF MINUTES

Mr. Vela moved to approve the minutes of the May 14, 2018 meeting. Seconded by Mr. Decker. Ayes: (4). Nays: (0).

Mr. Vela moved to approve the minutes of the July 9, 2018 meeting. Seconded by Mr. Decker. Ayes: Elmer, Decker, and Duricek (3). Abstain: Vela (1).

Mr. Vela administered an oath to those that would be speaking at the meeting.

APPLICATION, 28-18 – David Crimmins is requesting an administrative appeal concerning the interpretation and application of Chapter 1250.51(b)(9), pertaining to pavers being located in the City right-of-way. The property is located at 110 Taylors Mill Circle and is zoned R-3 (Single Family Residential).

NOTE: *Chapter 1275.02(e)(1) Appeals to the Board:* Appeals to the Board of Zoning Appeals may be taken after the initial applications to the Zoning Inspector for permit or, where it is apparent that such application would be in vain and useless, appeals may be made by initial applications to the Board. In either event, the procedural provisions of this chapter shall apply and be followed.

NOTE: *Chapter 1215.02 (62) Definitions: Driveway - Part of the passage located on private property that provides vehicular access as ingress and egress to and from a property fronting on a public or private street and including the apron connecting to the street.*

NOTE: *Chapter 1215.02(161): Right-of-Way -The lines determining the limit of ownership of a street, place or alley. For purposes of setbacks, this includes right-of-way easements. The limits of street right-of-way include lands on each side of the street travel surface to abutting property or parcel lines.*

NOTE: *Chapter 1250.51(b)(9) Curb Cuts and Driveways: Any portion of a driveway within the public right-of-way shall be constructed of six-inch plain concrete on a four-inch stone base or two-inch asphalt on a four-inch stone base. Pavers are not permitted.*

1. The applicant is requesting an administrative appeal on the classification of driveways and pavers made by the Planning and Zoning Division. The applicant has recently installed pavers as part of the driveway, which extends into the City right-of-way.

Recommendation:

1. No recommendation provided.

Mr. Grodi reviewed Application 28-18. Mr. Crimmins was present. Mr. Crimmins stated that he did not interpret the pavers to be an extension of the driveway. He added that he did not narrow the width of the driveway at all, but that he intended to create a clean landscape. Mr. Vela said that the issue is with the pavers being located within the City right-of-way. There was a brief discussion on the width of the driveway. Mr. Grodi added that a neighboring property owner called and stated that she likes the looks of the pavers, and that hopefully it could be at the homeowner's risk of installing them. Mr. Elmer noted that he drove through the neighborhood, and shared his understanding of the City owned right-of-way. Mr. Vela added that the board is there to interpret the code as it is written.

Mr. Decker made a motion to deny Application 28-18. Seconded by Mr. Vela.
Ayes: (4). Nays: (0).

APPLICATION, 29-18 – Homes by Josh Doyle, on behalf of Anand and Jaya Patel, are requesting one zoning exception to permit the construction of a new residential house. The requested exception would permit the applicant to construct a house within the required rear yard setback. The property is located at 1012 Wilderness Court and is zoned R-1 (Single Family Residential).

NOTE: *Chapter 1230.01 Intensity and Dimensional Standards:*
R-1 Zoning:

Front Yard = 50'
Rear Yard = 60'
Side Yard = 10'
Side Yard Total = 25'

1. The applicant is requesting an exception to reduce the rear yard setback. The exception would permit the rear yard setback to be forty-eight (48) feet and four (4) inches, rather than the minimum rear yard setback of sixty (60) feet.

Recommendation:

1. The Zoning Inspector recommends denial of the zoning exception. This is a new construction house and the layout of the house can be altered to meet the setback requirements. There is an ample amount of room in the side yard setbacks that would allow for the same amount of square footage to fit within the setback requirements. Beneficial use of the property is still achievable without an exception.

Mr. Grodi reviewed Application 29-18. Mike Mallory with Homes by Josh Doyle, and Mr. Patel were present. Mr. Mallory stated that the initial design of the home was with the garage to the right side, as originally understood by neighborhood regulations. Mr.

Doyle added that the initial request for the variance was to allow the Patel's to have a usable sun room off of the rear of their home. Mr. Doyle noted that there is also an eight (8) foot easement along the right side of the property, and a large sixty (60) foot setback in the rear of the property. He added that he was recently made aware that the neighborhood is not enforcing that all of the driveways be on the same side. Mr. Doyle said that now they are looking to flip the house, and to put the garage and driveway on the left side of the property. He added that now they are looking for a variance of only an additional five (5) feet into the rear yard setback to accommodate the sun room. Mr. Patel added that this only impacts one room, and relief from one room in the basement. Mr. Vela asked if there is an exact distance in mind for this new request, and Mr. Mallory added that it would be a fifty-five (55) foot setback request, rather than a sixty (60) foot setback from the rear yard. Mr. Elmer asked for an updated plot plan, and Mr. Mallory showed the board the most recently proposed plan.

Christopher Davis, 1016 Wilderness Court, stated that he is their next door neighbor and that he has no complaints with the variance being requested.

Mr. Vela moved to approve Application 29-18 finding A, B, C, and D of Chapter 1275.02(c)(3) to be true, with the exception that the rear yard setback is kept to fifty-four (54) feet. Seconded by Mr. Decker. Ayes: (4). Nays: (0).

APPLICATION, 30-18 – Susan and Grant Garn are requesting a zoning variance to install a gazebo in the front yard. The property is located at 1030 Louisiana Avenue and is zoned R-3 (Single Family Residential).

NOTE: *1250.61(a) Accessory Buildings and Uses:* No accessory building or uses shall be located in any front or side yard setback except under unusual circumstances where such activity will not conflict with the intent and purposes of this Zoning Code or where enforcement would result in extreme hardship. Either exception shall require approval of the Board of Zoning Appeals.

1. The applicant is requesting a variance to install a gazebo that will be located within the driveway on the landscaped island.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances B, C, D, and E of Ch. 1275.02(c)(3). The gazebo will not pose any detriment to neighboring properties as it will be set forty-five (45) feet off of the side property line and fifty-seven (57) feet from the front property line. Additionally, the location proposed is heavily wooded which will conceal the gazebo and limit the views of the gazebo from the street or neighboring properties.

Mr. Grodi reviewed Application 30-18. Mr. and Ms. Garn were present. Mr. Vela asked if any comments were received from neighbors, and Mr. Grodi added that two neighbors had called stating that they were both in favor of the structure. Mr. Vela asked if any trees would need to be taken down, and Mr. Garn stated that the gazebo will be well hidden, and that they will not have to take down any trees.

Mr. Elmer moved to approve Application 30-18 finding B, C, D, and E of Chapter 1250.02(c)(3) to be true. Seconded by Mr. Decker. Ayes: (4). Nays: (0).

APPLICATION, 31-18 – Steve and Mary Ruhe are requesting one zoning variance that would allow for the installation of a six (6) foot fence in the side yard. The property is located at 233 East Fifth Street and is zoned R-3 (Single Family Residential).

NOTE: *Chapter 1250.42 Fences, Walls, Structural Screens, Hedges, and Screen Plantings:*

	Max Height	
	Permitted	*Restricted
Front Yard	4'	6'
Side Yard	4'	6'
*Requires BZA Approval		

1. The applicants are requesting a variance that would allow for them to install two six (6) foot panels (approximately ten feet) in the side yard.

Recommendation:

1. The Zoning Inspector recommends denial of the zoning variance as it does not meet enough of the criteria to grant a variance. The predicament can be feasibly resolved through another method other than a variance. There is still beneficial use of the property without the variance.

Mr. Grodi reviewed Application 31-18. Mr. and Ms. Ruhe were present. Mr. Ruhe stated that they made a significant investment with an addition to their home recently which was then abutted their existing six (6) foot fence. He added that they swung the fence out, and up about ten feet towards the front of the home. Ms. Ruhe added that if they would have put the fence back ten (10) feet then they would be accessing their yard closer to their neighbor's property, which would have limited their access to the rear yard. Mr. Ruhe noted that the neighbors across the street stated that they love the fence. There was a brief discussion about other available options, rather than requesting a variance. Mr. Ruhe added that they were just extending the six (6) foot fence that was already there. Mr. Elmer explained that when the Ruhe's added on to their home that it actually made their house longer, which had an impact on the midpoint of their home. Ms. Ruhe added that their lot currently does not fit zoning as it is. Mr. Elmer asked for clarification of where the six (6) foot fence would be built. Mr. Vela confirmed that the board is just considering the two panels that are a ten (10) foot section. Mr. Vela confirmed that the neighboring properties were notified, and Mr. Grodi added that they were.

Mr. Decker moved to approve Application 31-18 finding B, C, D, and E of Chapter 1275.02(c)(3) to be true. Seconded by Mr. Vela. Ayes: (4). Nays: (0).

APPLICATION 32-18 – Randolph Meyers is requesting one zoning variance that would allow for the installation of a driveway exceeding the maximum width allowed for a residential driveway. The property is located at 240 East Front Street and is zoned R-3 (Single Family Residential).

NOTE: *Chapter 1250.51(c)(2) Curb Cuts and Driveways: Residential driveways shall be a minimum of ten (10) feet wide and a maximum of twenty-four (24) feet wide where it meets the curb, alley or street.*

1. The applicant is requesting a variance to install a driveway that would have a greater width than the maximum twenty-four (24) feet allowed. The applicant is seeking a variance that would allow for an approximate sixty-four (64) foot wide driveway.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance with the condition that the driveway be reduced to forty (40) feet in width. There is currently a stone driveway off of the alley that allows for access to the garage. Only forty (40) feet of curb cut would be necessary for the purpose of a driveway, anything behind that would be excessive. If the condition is attached to the request, I would find that B, C, D, and E of Ch. 1275.02(c)(3) are met. The footprint of the existing stone driveway will not be expanding, instead it will be changing from stone to brick pavers and concrete or asphalt when located in the City right-of-way.

Mr. Grodi reviewed Application 32-18. Mr. Meyers was present. Mr. Grodi added that a letter was received by a neighboring property in favor of the driveway. Mr. Meyers added that he was intending to create a smooth transition of what he had before, and what other neighboring properties have. He noted that this transition would be better for the alley, rather than having three different surfaces. There was a brief discussion about the City right-of-way within the alley. Mr. Meyers stated that he originally met with Mr. Easterling, Deputy Planning and Zoning Administrator, to discuss his options. It was noted that the alley is currently asphalt. Mr. Vela asked if there was a smooth edge curb cut there prior, and Mr. Grodi confirmed that it was there as a stone driveway with a smooth edge. Mr. Duricek confirmed that the variance is only good for one year.

Mr. Elmer moved to approve Application 33-18 finding A, C, D, and E of Chapter 1275.02(c)(3) to be true. Mr. Vela moved to amend the approval to the original request that would allow for a sixty-four (64) foot wide driveway. Seconded by Mr. Vela. Ayes: (4). Nays: (0).

APPLICATION, 33-18 – April Shaneck is requesting one zoning variance that would allow for the installation of a six (6) foot fence in the front yard. The property is located at 865 Little Creek and is zoned R-4 (Single Family Residential).

NOTE: *Chapter 1250.42 Fences, Walls, Structural Screens, Hedges, and Screen Plantings:*

	Max Height	
	Permitted	*Restricted
Front Yard	4'	6'
Side Yard	4'	6'
	*Requires BZA Approval	

1. The applicant is requesting a variance that would allow for the installation of a six (6) foot fence in the front yard. The property has two front yards as it is located on a corner lot.

Recommendation:

1. The Zoning Inspector recommends denial of the zoning variance as it does not meet enough of the criteria to grant a variance. The predicament can be feasibly resolved by installing the six (6) foot fence straight back from the corner of the house. There could be potential issues with the clear vision zone at the street intersection due to the six (6) foot fence being installed in the front yard.

Mr. Grodi reviewed Application 33-18. Ms. Shaneck was present. Ms. Shaneck added that they were unaware that the six (6) foot fence in the front yard was not permitted. She stated that they would like to install a six (6) foot vinyl fence to directly replace the existing four (4) foot split-rail fence that is falling apart. Ms. Shaneck added that her dogs can jump over the four (4) foot fence, so a six (6) foot fence is needed. Mr. Elmer questioned the current placement of the fence, and Ms. Shaneck noted that the fence is currently not seen due to the neighbor's pine trees blocking the view. Mr. Elmer asked for clarification on the location of Ms. Shaneck's request. There was a brief discussion about existing privacy fences within the neighborhood. Mr. Duricek suggested that the fencing be brought further back a bit closer to the AC units. Ms. Shaneck added that the white vinyl is not a cheap material, so that it will be a high quality fence. She said that they were having security problems with their neighbors, which is also why the privacy fence is needed. Mr. Vela asked if any comments were received from neighbors, and Mr. Grodi said no comments were received. Ms. Shaneck added that she spoke with one of her neighbors directly next to them, and she stated that they did not have any problems with the proposed fence. Ms. Shaneck stated that she was willing to work with conditional approval. There was a brief discussion about the height of the fencing.

Mr. Duricek made a motion to approve Application 33-18 finding B, C, D, and E of Chapter 1275.02(c)(3) with the conditions that the fence is brought to the back corner of the house, and also brought inside the tree line. Seconded by Mr. Elmer. Ayes: (4). Nays: (0).

There being no further business, the meeting adjourned at 6:34 p.m.

Respectfully submitted,

Heather Alfaro