

## BOARD OF ZONING APPEALS

MAY 12, 2014

The meeting was called to order at 5:30 p.m. by Chairperson Becky Williams. Board members present were: John Brown, Jason Decker, Eric Nicely, Jonathan Smith, and Becky Williams (5). Also present was Brody Walters, Planning and Zoning Administrator.

Mr. Smith moved to approve the minutes of the April 14, 2014 meeting as written. Mr. Nicely seconded and the minutes were unanimously approved.

**ZONING VARIANCE, 06-14** – Kyle Sniecinski requests one (1) zoning variance to permit the construction of a 6' fence in a side-yard. The subject property is located at 12164 Jefferson Street and is zoned R-4 (Single-Family Residential).

**NOTE:** *1250.42 Fences, Walls and Structural Screens*

6' Structural Screens are permitted in residential side yards with the approval of the Board of Zoning Appeals.

1. The applicant is requesting permission to install a 6' tall fence along the side of his residence for the keeping of dogs. The proposed fencing includes approximately forty feet of 6' tall fencing in the side yard.

### **Recommendation:**

1. It is recommended to deny the applicant's request. Based on the variance criteria of Chapter 1275.02(c)(3) it is believed that only criteria B, C, and D would be satisfied. It should be noted that recommendations to approve 6' high fences in the side yard have previously been provided by the Planning and Zoning Administrator and will continue to be as deemed appropriate. This application does involve 6' fencing in side yard but solely for animal containment rather than privacy as other applications have indicated.

Mr. Walters reviewed Zoning Variance 6-14. Mr. Sniecinski apologized for not pulling a permit before erecting the fence. He said that the fence is not only for dog containment, but would be used to screen his garbage and recycling totes, and would prevent people from cutting through his yard to gain access to the pond at the rear of his yard. Ryan Pickut, 12170 Jefferson Street, said that originally he had no objections to the fence, but he is not sure about the placement of it and whether it will have an effect on his property value. Brinda Caulkins, 1826 Woods Hole Road, said that she is the President of the Homeowners' Association, and that the fence violates their regulations and she is totally against it. It was noted that the City does not enforce Homeowner Association regulations. Mr. Brown asked if we have established if the fence is on Mr. Sniecinski's property. Mr. Sniecinski said that it is 5-6 inches on his property. Mr. Walters stated that fence permits state that the fence has to be at least 4 inches off the property line, and if there is a question regarding where the property line is, that needs to be resolved by the

property owners. Mr. Smith clarified that Mr. Pickut's issue with the fence is the placement of it and Mr. Pickut said that is correct.

Mr. Smith moved to deny Zoning Variance 6-14 because only three of the criteria (B, D & E) of Chapter 1275.02(c)(3) are satisfied. Mr. Decker seconded the motion and it was unanimously approved.

**ZONING EXCEPTION, 07-14** – Edwin Glynn of Greenworks Remodeling on behalf of Todd Welborn requests one (1) zoning exception to permit the construction of a residential addition within 8' of a side property line. The subject property is located at 442 W. Sixth Street and is zoned R-3 (Single-Family Residential).

**NOTE:** *1230.01 Intensity and Dimensional Standards*

R-3 Zoning:

Front Yard = 35'

Rear Yard = 35'

Side Yard Min = 8'

Side Yard Total = 20'

1. The applicant is requesting a zoning exception to reduce the required side yard setback. The exception would permit the smallest side yard to be 6.5', rather than the normally required 8'.

**Recommendation:**

1. The Planning and Zoning Administrator recommends approval of the zoning exception based on the existing conditions including the proximity of the existing house to the property line.

Mr. Walters reviewed Zoning Exception 7-14. Mr. Brown asked if any questions or comments were received from neighbors regarding this application. Mr. Walters said that nothing was received in the Planning and Zoning office. Ms. Williams said that she spoke to the property owner when she visited the site. Mr. Decker moved to approve Zoning Exception 7-14. Mr. Nicely seconded and it was approved 4-0. Ayes: Brown, Decker, Nicely, Williams (4). Abstain: Smith (1).

**ZONING EXCEPTION, 08-14** – Kenneth Haas requests one (1) zoning exception to permit the construction of a front porch addition to an existing residence. The subject property is located at 508 Colony Ct. and is zoned R-3 (Single-Family Residential).

**NOTE:** *1230.01 Intensity and Dimensional Standards*

R-3 Zoning:

Front Yard = 35'

Rear Yard = 35'

Side Yard Min = 8'

Side Yard Total = 20'

1. The applicant is requesting a zoning exception to reduce the required front yard setback. The exception would permit the front yard to be 31', rather than the normally required 35'.

**Recommendation:**

1. The Planning and Zoning Administrator recommends approval of the zoning exception.

Mr. Walters reviewed Zoning Exception 8-14. Mr. Haas was present to answer any questions the Board had. Mr. Brown asked if any comments were received from neighbors. Mr. Walters said nothing was received. Mr. Nicely moved to approve Zoning Exception 8-14. Mr. Smith seconded and it was unanimously approved.

**ZONING VARIANCE, 9-14** – Steve Taylor, on behalf of Taylor Hyundai, requests one (1) zoning variance to permit the modification of an existing free-standing sign. The subject property is located at 12681 Eckel Junction Road and is zoned C-4 (Highway Commercial).

**NOTE:** 1250.32(a) *Permanent Signs Allowed C-4 Zoning:*

| <u>If sign height is ≤ 10'</u> | <u>If sign height is ≤ 20'</u> | <u>With &gt; 200' of freeway</u>      |
|--------------------------------|--------------------------------|---------------------------------------|
| Max size – 72 SF               | Max size – 48 SF               | <u>Frontage</u> , one additional sign |
| Setback – 10'                  | Setback – 40'                  | ≤ 200 SF area                         |

**NOTE:** 1250.39 *Other Administrative Procedures*

The Board of Zoning Appeals may grant a variance only if it finds that all of the following apply:

- (a) That the literal enforcement of the requirements of this chapter would involve practical difficulties based on the presence of special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district. (see factors 1-6 which typically include dimensional irregularities of the lot, impact on neighboring properties, beneficial use of the property, alternative options that are less convenient or costly)
- (b) That granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will materially impair the intent and purposes of the requirement being varied or of this chapter, and is the minimum variance necessary to provide relief.
- (c) That the variance would not adversely affect the delivery of governmental services (e.g. water, sewer, refuse).
- (d) That the variance as granted would not confer on the applicant any special privilege, or deprive the applicant of rights, when compared with those rights commonly enjoyed by immediately adjoining properties.

(e) That the variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.

1. The applicant is requesting a zoning variance to permit a sign that is 56 SF larger than otherwise permitted. The total square footage of the sign is proposed to be 256 SF.

**Recommendation:**

1. It is recommended to deny the applicant's request based on the perceived inability to convincingly address conditions A, B, D and E of Ch. 1250.39. However, it is recommended to request the applicant's testimony as it relates to these criteria and any issues that may not have been identified by the applicant in the submission.

Mr. Walters reviewed Zoning Variance 9-14. Garrett Padgett of Adam Signs was present and stated that the new sign will be the same size as the existing sign; it is just being updated with the current colors and fonts. He said that this change is required by Hyundai. The Board pointed out that the application states that the new sign will be 56 square feet larger than the existing sign. Mr. Smith asked what part of the sign would be lit. Mr. Padgett said that it will be backlit at night. Ms. Williams noted that the application states it will have the Taylor name on it, but the graphic does not show that. Mr. Padgett was not sure if that would be on the sign or not. The Board stated that they do not feel they have enough information to make a decision on this application. They asked Mr. Padgett to find out what size the sign will be and if it is over the permitted amount, if it can be made smaller. They also asked whether Taylor's name will be on it and what part of the sign will be lit. Mr. Smith moved to table Zoning Variance 9-14. Mr. Nicely seconded and it was unanimously approved.

**ZONING EXCEPTION, 10-14** – Cheryl Stieben Palicki requests one (1) zoning exception to permit the construction of a deck to the side of an existing residence. The subject property is located at 114 Pine Street and is zoned R-3 (Single-Family Residential).

**NOTE:** *1230.01 Intensity and Dimensional Standards*

R-3 Zoning:

Front Yard = 35'

Rear Yard = 35'

Side Yard Min = 8'

Side Yard Total = 20'

1. The applicant is requesting a zoning exception to reduce the required side yard setback. The exception would permit the side yard to be 5', rather than the normally required 8'.

**Recommendation:**

1. The Planning and Zoning Administrator recommends approval of the zoning exception subject to input provided by neighboring property owners prior to and/or during the meeting.

Mr. Walters reviewed Zoning Exception 10-14. Ms. Stieben-Palicki was in attendance and presented a letter from her neighbor, Matt Dewoods, 116 Pine Street, stating that he has no objections to this project. Mr. Nicely moved to approve Zoning Exception 10-14. Mr. Decker seconded and it was unanimously approved.

**ZONING VARIANCE, 11-14** - Nathan and Meaghan Duricek request a zoning variance to permit the installation of a 6' privacy fence in a front yard. The subject property is located at 302 E. Sixth Street and is zoned R-3 (Single Family Residential).

**NOTE:** *1250.42 Fences, walls, structural screens, hedges and screen plantings*

6' fences, walls and structural screens are permitted in residential front yards with the approval of the Board of Zoning Appeals.

1. The applicant is requesting a zoning variance to allow the installation of a 6' fence in a front yard. This variance would allow for the construction of a 6' fence, two feet taller than what is permitted without a variance.

**Recommendation:**

1. The Planning and Zoning staff recommends approval of the zoning variance due to the fact that the proposed fence location is substantially distant from the roadway and there does not appear to be any significant sight obstructions for motorists. (Ch. 1275.02(c)(3) – B, C, D, G). The right of way along Locust Street appears to end approximately 5' to the east of the sidewalk, therefore if the request is approved, it should be no closer than 5' to the sidewalk.

Mr. Walters reviewed Zoning Variance 11-14. Mr. Duricek stated that he would like to put up a 5' fence with a 4' panel and a 1' lattice top to define his backyard and contain his children. Mr. Duricek talked about the location of the fence relative to the property line. Ms. Williams noted that the Board is considering a 5' fence versus a 4' fence, and the location of the fence is an enforcement issue for the Planning and Zoning office. Mr. Nicely moved to approve Zoning Variance 11-14, based on finding B, C, D and G of Ch. 1275.02(c)(3) to be true. Mr. Smith seconded and it was unanimously approved.

**ZONING VARIANCE, 12-14** – Anastasia Willey requests one (1) zoning variance to permit the construction of a 6' fence in a front and side-yard. The subject property is located at 509 Mulberry Street and is zoned R-3 (Single-Family Residential).

**NOTE:** *1250.42 Fences, Walls and Structural Screens*

6' Structural Screens are permitted in residential front and side yards with the approval of the Board of Zoning Appeals.

1. The applicant is requesting permission to install a 6' tall fence to enclose the area behind the house to contain children and a pet.

**Recommendation:**

1. It is recommended to approve the applicant's request. Based on the variance criteria of Chapter 1275.02(c)(3) it is believed that criteria B, C, D, E and G would be satisfied. Additionally, the fence location is reasonably situated in relation to the existing structures on site and does not create any site obstructions.

Mr. Walters reviewed Zoning Variance 12-14. Ms. Willey was present as was her neighbor Roger Wallace, 440 W. Fifth Street. Mr. Wallace asked about the location of the fence. Once he was shown the location of the fence Mr. Wallace said he has no objections as it would benefit them both. Mr. Smith moved to approve Zoning Variance 12-14 based on finding B, C, D, E and G of Ch.1275.02(c)(3) to be true. Mr. Nicely seconded and it was unanimously approved.

There being no further business, the meeting adjourned at 6:35 p.m.

Respectfully submitted,

Mary Jo Sutton