

BOARD OF ZONING APPEALS

May 9, 2022

The meeting was called to order at 5:33 p.m. by Chairperson Niki Decker. Board members present were Scott Anderson, Niki Decker, Nathan Duricek, Brian Elmer, and Megan Wolfinger (5). Also present was Cody Grodi, Zoning Inspector.

APPROVAL OF MINUTES

Ms. Decker moved to approve the minutes of the April 21, 2022 meeting as written. Seconded by Mr. Duricek. Ayes: Decker, Duricek, and Wolfinger (3). Nays: (0). Abstain: Anderson and Elmer (2).

Ms. Decker administered an oath to those that would be speaking at the meeting.

APPLICATION 15-22 – Gretchen Leu is requesting a zoning variance to keep a recently installed driveway that exceeds the maximum width allowed. The property is located at 320 W. Second Street and is zoned R-3 (Single Family Residential).

NOTE: *Chapter 1250.51(c)(2) Residential 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 that would allow for a driveway with a width of twenty-eight (28) feet to remain on the property.

Recommendation:

1. The Zoning Inspector recommends approval of the variance based on meeting criteria for variances B, C, D, and E of Chapter 1275.02(c)(3). The applicant would have been permitted to install the driveway had they contacted our office for a pre-inspection prior to tearing out the driveway. The property owner is not looking to modify the footprint of the driveway, they are wanting to install a new driveway that will be identical to what was there previously.

Mr. Grodi reviewed Application 15-22. Gretchen (Leu) von Seggern was present, and confirmed that she replaced her existing driveway. Mr. Grodi noted that neighboring comments were not received. There were no further questions or concerns from the Board, nor the public.

Mr. Duricek moved to approve Application 15-22 as submitted, and finding B, C, D, and F of Chapter 1275.02(c)(3). Seconded by Ms. Wolfinger. Ayes: (5). Nays: (0).

APPLICATION 16-22 – John Wellstein is requesting a zoning variance to install a garage. The property is located at 145 W. Second Street and is zoned OS (Office and Service).

NOTE: *1250.61(f) Accessory Buildings and Uses:* The combined footprints of all accessory buildings on a lot shall not exceed the lesser of 5% of the lot size

or 4,000 SF. However, the Board of Zoning Appeals may consider an exception to the maximum size requirement providing that the requested size does not exceed 8% of the lot size.

1. The applicant is requesting a variance that would allow for 7.72% of the lot size in accessory structures. The property owner would add an additional stall onto the existing garage, making the overall square footage of the garage eight hundred and forty (840) square feet.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances C, D, E, and F of Chapter 1275.02(c)(3). The garage will allow for more off-street parking.

Mr. Grodi reviewed Application 16-22. John Wellstein was present. Mr. Elmer confirmed that Mr. Wellstein will be using the existing concrete footprint. Mr. Grodi noted that neighboring comments were not received. There were no further questions or concerns from the Board, nor the public.

Ms. Wolfinger moved to approve Application 16-22 as submitted, and finding C, D, E, and F of Chapter 1275.02(c)(3). Seconded by Mr. Elmer. Ayes: (5). Nays: (0).

APPLICATION 17-22 – Brian Patterson and Jennifer Bell are requesting a zoning variance to allow for a driveway to be installed. The property is located 238 E. Fifth Street and is zoned R-3 (Single Family Residential).

NOTE: *Chapter 1250.51(c)(2) Residential 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 applicants are requesting a variance that would allow for the driveway to extend thirty-six (36) feet in width along the alley.

Recommendation:

1. The Zoning Inspector recommends denial of the variance, as the request does not meet enough of the conditions required to grant a variance. The old driveway width measured fourteen (14) feet, installing the new driveway at the approved maximum of twenty-four (24) feet will make maneuverability into the garage easier. The request is substantial as the proposed driveway width is one and half times that of what would be allowed. Additionally, if the amount of parking of vehicles is a concern, on-street parking is permitted.

Mr. Grodi reviewed Application 17-22. Brian Patterson was present, and added that the existing access to the alley and garage is thirty-three (33) feet wide and deteriorating. He added that they would like to add three (3) feet in width to the concrete pad for storage of their garbage cans. Elizabeth Schaf, 233 E. Sixth Street, and the homeowners at 246 E. Fifth Street, both called in favor of the variance request. Mr. Patterson added that this is a high traffic alley, and that the existing concrete has already been ripped out. Neighbor Will

Harbauer, 232 E. Fifth Street, was present and added that the request is a nice improvement and that he is in support of it. There were no further questions or concerns from the Board, nor the public.

Mr. Anderson moved to approve Application 17-22 as submitted, and finding B, C, D, and G of Chapter 1275.02(c)(3). Seconded by Ms. Decker. Ayes: (5). Nays: (0).

APPLICATION 18-22 – Matt Dennis is requesting a zoning variance to exceed the maximum height of a fence in a side yard. The property is located at 1015 Walnut Street and is zoned R-3 (Single Family Residential).

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

R1-R5 Zoning: 4' Maximum in Front Yard
4' Maximum in Side Yard
6' Maximum in Rear Yard

1. The applicant is requesting a zoning variance for a six (6) foot fence to be placed in the side yard, past the midpoint of the structure. The fence will be set back a few feet from the front of the house.

Recommendation:

1. The Zoning Inspector recommends denial of the variance, as the request does not meet enough of the conditions required to grant a variance. The character of the neighborhood could be altered as other homes adjacent to the property do not have privacy fences that go to the front of the house. There are other options for the homeowner if privacy is a concern. If matching the existing privacy fence on the property is a concern, a transitional six (6) foot to four (4) foot privacy fence would be recommended. It would allow for the same style of fence and it would meet the fence height regulations.

Mr. Grodi reviewed Application 18-22. Matt Dennis was present, and said that he would like to install a six (6) foot fence past the midpoint of his house due to the neighboring property which is an eyesore. Mr. Grodi noted that the neighboring property may be a property maintenance violation, and confirmed that neighboring comments had not been received. Mr. Patterson noted that the proposed fence would be flush with the garage and that he is not a fan of the tapered look with fence heights going from four (4) feet near the front of the house to six (6) feet past the midpoint of the house. Mr. Duricek said that he is having a hard time finding four criteria from Chapter 1275.02(c)(3) to be true to grant this variance request. There were no further questions or concerns from the Board, nor the public.

Mr. Duricek moved to deny Application 18-22 as submitted, due to not being able to find four supporting criteria of Chapter 1275.02(c)(3) to be true. Seconded by Mr. Anderson. Ayes: (5). Nays: (0).

APPLICATION 19-22 – Pete Huffman is requesting a zoning variance in order to construct an addition. The property is located at 600 Louisiana Avenue and is zoned R-3 (Single Family Residential).

NOTE: *Chapter 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 variance to construct an addition on the rear of the house. The addition will be set back no closer than five (5) feet off of the front property line.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances C, D, E, and F of Chapter 1275.02(c)(3). The addition will not encroach into the front yard any more than the existing house.

Mr. Grodi reviewed Application 19-22. The applicant was not present. Mr. Grodi said that this variance request is for an open-air porch off the rear of the house with frontage on Sixth Street. Neighboring homeowner at 601 Louisiana Avenue said that they are in favor of the request. There were no further questions or concerns from the Board, nor the public.

Ms. Wolfinger moved to approve Application 19-22 as submitted, and finding B, D, F, and G of Chapter 1275.02(c)(3) to be true. Seconded by Ms. Decker. Ayes: (5). Nays: (0).

APPLICATION 20-22 – Jeffrey Muszynski is requesting a zoning variance for the location of an accessory structure. The property is located at 516 Ballybay Court and is zoned R-3 (Single Family Residential).

NOTE: *1250.61(a)* 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 zoning variance to allow for a shed to remain in the front yard. The property is a corner lot.

Recommendation:

1. The Zoning Inspector recommends denial of the zoning variance as it does not meet enough of the criteria needed to grant a variance. The homeowner has other options for the location of this structure which would be permitted by code. Although this lot is a corner lot and has two front yard, I do not believe this is enough of a hardship to grant a variance for a shed to be located in the front yard. Other corner lots do not have accessory structures located in their front yards.

Mr. Grodi reviewed Application 20-22. Jeffrey Muszynski was present, and said that he contracted with Home Depot and Tuff Shed in 2013 to install their shed. He said that he only learned that his shed was in violation a few weeks ago after receiving a letter from the Planning & Zoning Division, and added that his neighbors are in favor of the placement of his shed. Mr. Anderson said that he does not see a place where the shed could be placed due to the existing utilities on the property. Mr. Muszynski said that Tuff Shed would charge \$1,000.00 to have it moved on the property. There were no further questions or concerns from the Board, nor the public.

Mr. Elmer moved to approve Application 20-22 as submitted, and finding D, E, F, and G of Chapter 1275.02(c)(3) to be true. Seconded by Mr. Duricek. Ayes: (5). Nays: (0).

APPLICATION 21-22 - Gauri Bhatnagar and Nate McIntosh are requesting a zoning variance to exceed the maximum height of a fence in a front yard. The property is located at 550 Canterbury Boulevard and is zoned R-4 (Single Family Residential).

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

R1-R5 Zoning: 4' Maximum in Front Yard
4' Maximum in Side Yard
6' Maximum in Rear Yard

1. The applicant is requesting a zoning variance for a four and a half (4.5) foot fence to be placed in the front yard. The property is located on a corner lot.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances B, C, D, and E of Chapter 1275.02(c)(3). The homeowners association only permits fifty-four (54) inch fences. The fence will not change the character of the neighborhood and other corner lots in this neighborhood have fences in a front yard. Strict application of the code would cause the homeowner to lose a larger percentage of what they deem their backyard.

Mr. Grodi reviewed Application 21-22. The applicants were not present. Mr. Grodi noted that the fence height of fifty-four (54) inches is required by the HOA, and since this is a corner lot it requires a variance. He added that other corner lots in Canterbury have received this variance approval. The neighbor at 106 Grey Bridge Court called in to the Planning & Zoning Division and said that he is not in favor of the variance request. There were no further questions or concerns from the Board, nor the public.

Ms. Wolfinger moved to approve Application 21-22 as submitted, and finding B, C, D, and G of Chapter 1275.02(c)(3) to be true. Seconded by Mr. Anderson. Ayes: (5). Nays: (0).

APPLICATION 22-22 - Thomas and Aimee Drescher are requesting a zoning variance to install a swimming pool. The property is located at 26566 W. River Road and is zoned R-1 (Single Family Residential).

NOTE: *Chapter 1250.58(c) Location of Swimming Pools:* Swimming pools, whirlpools, hot tubs, or similar features shall be permitted in the rear yard or within

the side yard if a variance is approved by the Board of Zoning Appeals. In all cases, swimming pools shall maintain a minimum setback of five (5) feet from a property line to any deck or patio and of fifteen (15) feet to the water's edge. In all cases, whirlpools, hot tubs or similar features shall maintain a minimum setback of five (5) feet from any property line. The allowable distance from a residence to the above features is subject to any applicable building codes. No such structures may be placed within recorded easements for any purpose.

1. The applicant is requesting a variance to install an in-ground swimming pool that will be located in the side yard.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances D, E, F, and G of Chapter 1275.02(c)(3). The rear yard of the property has multiple recorded easements that would make placement of a swimming pool difficult, as does the driveway that runs through the rear yard and the way the rear yard narrows closer to the alley. The swimming pool will be set off the property line approximately ninety (90) feet.

Mr. Grodi reviewed Application 22-22. Tom and Amy Drescher were present, and said that there is a dedicated access road that allows them to approach their property. Mr. Anderson noted that a pool would not be possible in the rear yard. Ms. Drescher said that they have gained approval for the pool in the side yard from their HOA, and that their pool is pending approval from the City. Neighbors at 26555 Carrington Boulevard said that they have no issues with the proposed location of the pool. There were no further questions or concerns from the Board, nor the public.

Mr. Elmer moved to approve Application 22-22 as submitted, and finding D, E, F, and G of Chapter 1275.02(c)(3) to be true. Seconded by Ms. Decker. Ayes: (5). Nays: (0).

APPLICATION 23-22 - Frank Karafa is requesting two zoning variances to install a garage. The property is located at 732 Findlay Street and is zoned R-3 (Single Family Residential).

NOTE: *1250.61(f) Accessory Buildings and Uses: The combined footprints of all accessory buildings on a lot shall not exceed the lesser of 5% of the lot size or 4,000 SF. However, the Board of Zoning Appeals may consider an exception to the maximum size requirement providing that the requested size does not exceed 8% of the lot size.*

NOTE: *1250.61(a) 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 that would allow for 7.2% of the lot size in accessory structures. The property owner would construct a garage that is eight hundred and sixty four (864) square feet, this is in addition to an existing shed.

2. The applicant is requesting a zoning variance to allow for a garage to be constructed in the front yard.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances D, E, F, and G of Chapter 1275.02(c)(3). The small lot sizes would not allow for the desired garage size. The garage will allow for more off-street parking and storage of equipment.
2. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances A, D, E, and F, of Chapter 1275.02(c)(3). The lot that has been purchased next door does not sit as far back as the homeowners' lot. Trying to place a structure in the rear yard is impossible, and placing it in the side yard would be very limiting. The structure is set back thirty-five (35) feet off of the road.

Mr. Grodi reviewed Application 23-22. Architect David Munger and applicant Frank Karafa were present. Mr. Munger stated that the geometry of the lot makes it difficult to install a garage without a variance. He added that Mr. Karafa is currently in the process of a survey to have the two lots combined, and said that the garage doors will face the existing driveway. Mr. Karafa said that he will remove the existing driveway at the vacant lot and replace the sidewalk. Mr. Grodi noted that the calculations are based on the two lots being combined into one. There were no further questions or concerns from the Board, nor the public.

Mr. Elmer moved to approve variance (1) of Application 23-22 as submitted, and finding D, E, F, and G of Chapter 1275.02(c)(3) to be true. Seconded by Ms. Decker. Ayes: (5).
Nays: (0).

Mr. Elmer moved to approve variance (2) of Application 23-22 as submitted, and finding A, D, F, and G of Chapter 1275.02(c)(3) to be true. Seconded by Ms. Decker. Ayes: (5).
Nays: (0).

APPLICATION 24-22 - 138 E. Third Street LLC is requesting two zoning variances in order to install a sign. The property is located at 138 E. Third Street and is zoned C-2 (Central Business).

NOTE: Chapter 1250.33(a) Permanent Signage
C-2 Zoning District:
Maximum Height: 6'
Maximum Size: 24 Square Feet
Location: 30' Setback
Quantity: 1 per Street Frontage

1. The applicant is requesting a variance to re-install a freestanding sign, which lost its legal non-conforming status. The sign will be setback two (2) feet off of the property line.
2. The applicant is requesting a variance to re-install a freestanding sign, which recently lost its legal non-conforming status. The sign will be installed at a height of sixteen (16) feet.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances B, C, D, and E of Chapter 1275.02(c)(3), with the condition that a barrier or curbing be installed around the base of the sign for safety purposes. Due to the open design of the parking lot and the closeness to the road, I believe this would enhance the safety of this area.
2. No recommendation provided.

Mr. Grodi reviewed Application 24-22. Tony Shamas was present, and added that the sign was pre-existing but was damaged by a box truck and so it was removed for a period of time. Mr. Elmer confirmed that the original sign was sixteen (16) feet tall. There were no further questions or concerns from the Board, nor the public.

Ms. Wolfinger moved to approve variances (1) and (2) of Application 24-22 as submitted, and finding B, D, E, and C of Chapter 1275.02(c)(3) to be true. Seconded by Mr. Anderson. Ayes: (5). Nays: (0).

OTHER BUSINESS

There being no further business, the meeting adjourned at 6:43 p.m.

Respectfully submitted,

Heather Alfaro