



Agenda Board of Zoning Appeals

Date: February 5, 2025

To: Board of Zoning Appeals

From: Mark Easterling, Deputy Planning & Zoning Administrator

Re: **Items for the February 10, 2025 Meeting**

1. Call to Order - 5:30 PM
2. Roll Call
3. Approval of January 13, 2025 Meeting Minutes
4. Administer Oath
5. Zoning Permit Obligation
6. New Business

APPLICATION 05-25

ALEXIS PEREGOY, ON BEHALF OF NATURALLY ODD LLC, IS REQUESTING A ZONING VARIANCE TO CONSTRUCT A NEW FREESTANDING SIGN IN THE FRONT YARD. THE PROPERTY IS LOCATED AT 111 E. SECOND STREET AND IS ZONED C-2 (CENTRAL BUSINESS).

NOTE: CHAPTER 1250.33(A) PERMANENT FREESTANDING SIGNAGE

ZONING DISTRICT: C-2

MAXIMUM HEIGHT: 6'

MAXIMUM SIZE: 24 SQUARE FEET

MINIMUM SETBACK: 30' SETBACK

QUANTITY: 1

NOTE: CHAPTER 1250.39 VARIANCES

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. A FINDING OF SUCH SPECIAL CONDITIONS OR CIRCUMSTANCES SHALL BE BASED ON A REVIEW OF FACTORS INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

(1) EXCEPTIONAL NARROWNESS, SHALLOWNESS OR SHAPE OF A SPECIFIC PROPERTY ON THE EFFECTIVE DATE OF THIS CHAPTER OR AMENDMENT; OR

(2) EXCEPTIONAL TOPOGRAPHIC OR ENVIRONMENTAL CONDITIONS OR OTHER EXTRAORDINARY SITUATION ON THE LAND, BUILDING OR STRUCTURE; OR

(3) THE IMPACT ON THE PROPERTY OF USES OR DEVELOPMENT OF IMMEDIATELY ADJOINING PROPERTY OR PROPERTIES.

(4) WHETHER THE APPLICANT WAS AWARE OF THE RELEVANT CODE LIMITATION WHEN THE PROPERTY WAS SOLD OR LEASED TO IT.

(5) WHETHER THE PROPERTY IN QUESTION WILL YIELD A REASONABLE RATE OF RETURN IN THE ABSENCE OF THE PROPOSED VARIANCE, OR WHETHER THERE CAN BE ANY BENEFICIAL USE OF THE PROPERTY WITHOUT THE PROPOSED VARIANCE.

(6) WHETHER THE ISSUE COULD BE RESOLVED BY SOME OTHER METHOD, EVEN IF THIS ALTERNATE METHOD IS LESS CONVENIENT OR MOST COSTLY TO ACHIEVE.

(B) THAT GRANTING THE VARIANCE WILL NOT CAUSE A SUBSTANTIAL ADVERSE EFFECT TO PROPERTY OR IMPROVEMENTS IN THE VICINITY OR WILL NOT 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, GARBAGE).

(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 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 VARIANCE TO INSTALL A FREESTANDING SIGN TWO (2) FEET FROM THE FRONT PROPERTY LINE.

Recommendation:

1. The Deputy Administrator recommends approval of the variance. The sign setback would require the sign to be placed up against the building, which, being set back so far, would have no visibility from the street approaching from both the east and west. The placement would be on par with all the freestanding signs in the Historic District.

APPLICATION 06-25

DAVID NUNN, ON BEHALF OF GRASS ROOTS RECYCLING TO REUSE NETWORK, IS REQUESTING A ZONING VARIANCE TO UTILIZE THE FREESTANDING SIGNPOST IN THE FRONT YARD. THE PROPERTY IS LOCATED AT 108 E. SECOND STREET AND IS ZONED C-2 (CENTRAL BUSINESS).

NOTE: *CHAPTER 1250.33(A) PERMANENT FREESTANDING SIGNAGE*
ZONING DISTRICT: C-2
MAXIMUM HEIGHT: 6'
MAXIMUM SIZE: 24 SQUARE FEET
MINIMUM SETBACK: 30' SETBACK

QUANTITY: 1

NOTE: CHAPTER 1250.39 VARIANCES

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. A FINDING OF SUCH SPECIAL CONDITIONS OR CIRCUMSTANCES SHALL BE BASED ON A REVIEW OF FACTORS INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

(1) EXCEPTIONAL NARROWNESS, SHALLOWNESS OR SHAPE OF A SPECIFIC PROPERTY ON THE EFFECTIVE DATE OF THIS CHAPTER OR AMENDMENT; OR

(2) EXCEPTIONAL TOPOGRAPHIC OR ENVIRONMENTAL CONDITIONS OR OTHER EXTRAORDINARY SITUATION ON THE LAND, BUILDING OR STRUCTURE; OR

(3) THE IMPACT ON THE PROPERTY OF USES OR DEVELOPMENT OF IMMEDIATELY ADJOINING PROPERTY OR PROPERTIES.

(4) WHETHER THE APPLICANT WAS AWARE OF THE RELEVANT CODE LIMITATION WHEN THE PROPERTY WAS SOLD OR LEASED TO IT.

(5) WHETHER THE PROPERTY IN QUESTION WILL YIELD A REASONABLE RATE OF RETURN IN THE ABSENCE OF THE PROPOSED VARIANCE, OR WHETHER THERE CAN BE ANY BENEFICIAL USE OF THE PROPERTY WITHOUT THE PROPOSED VARIANCE.

(6) WHETHER THE ISSUE COULD BE RESOLVED BY SOME OTHER METHOD, EVEN IF THIS ALTERNATE METHOD IS LESS CONVENIENT OR MOST COSTLY TO ACHIEVE.

(B) THAT GRANTING THE VARIANCE WILL NOT CAUSE A SUBSTANTIAL ADVERSE EFFECT TO PROPERTY OR IMPROVEMENTS IN THE VICINITY OR WILL NOT 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, GARBAGE).

(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 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 VARIANCE TO INSTALL A FREESTANDING SIGN ONE (1) FOOT FROM THE FRONT PROPERTY LINE.

Recommendation:

1. The Deputy Administrator recommends approval of the variance. The sign would be hung on an existing signpost and would meet the size requirements of the district. The freestanding sign code section would not allow for a freestanding sign to be placed in most places in the C-2 district. While I would agree with the suggested distance for a traditional freestanding sign, the hanging signpost fits the character of the Historic District and this sign is supported by the Historic Landmarks Commission.

APPLICATION 07-25

DANIEL MCCORMICK IS REQUESTING A VARIANCE TO REDUCE THE FRONT YARD SETBACK FOR AN EXISTING DECK. THE PROPERTY IS LOCATED AT 429 W. FIFTH STREET 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 = 6' (LOT OF RECORD)

SIDE YARD TOTAL = 12' (LOT OF RECORD)

1. THE APPLICANT REQUESTS A FRONT YARD SETBACK VARIANCE TO ALLOW FOR A NEWLY CONSTRUCTED DECK TO REMAIN AT THE SINGLE-FAMILY RESIDENCE. THE VARIANCE WOULD PLACE THE STRUCTURE ELEVEN (11) FEET FROM THE FRONT YARD PROPERTY LINE.

Recommendation:

1. The Deputy Administrator recommends approval of the variance. The deck would not only meet the criteria for variances B, C, D, and E of chapter 1275.02(c)(3), but aerial imagery shows the original deck was built in 2010. The deck that replaced the original projects toward West Fifth Street into the setback at the same distance as the previous deck, and is smaller in size.

APPLICATION 08-25

JACOB GARLOCK IS REQUESTING A VARIANCE TO REDUCE THE SIDE YARD SETBACK FOR AN ADDITION TO THE HOME. THE PROPERTY IS LOCATED AT 332 E. FRONT STREET 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 = 6' (LOT OF RECORD)

SIDE YARD TOTAL = 12' (LOT OF RECORD)

1. THE APPLICANT REQUESTS A SIDE YARD SETBACK VARIANCE TO

ALLOW FOR A NEWLY CONSTRUCTED ADDITION TO THE SINGLE-FAMILY RESIDENCE THAT WOULD CONNECT THE PRIMARY STRUCTURE TO THE EXISTING GARAGE. THE VARIANCE WOULD PLACE THE STRUCTURE ONE (1) FOOT FROM THE SIDE YARD PROPERTY LINE.

Recommendation:

1. The Deputy Administrator recommends approval of the variance based on meeting criteria for variances B, C, D, and F of Chapter 1275.02(c)(3). The attachment of the garage and the addition would not get any closer to the side property line than what is already present. The addition meets all other setbacks and poses no safety or visibility concerns.

7. Other Business

8. Adjournment

The next meeting is scheduled for March 10, 2025, at 5:30 PM in the Municipal Building at 201 W. Indiana Avenue.

cc: Media