



Board of Zoning Appeals
Jim Hrivnak Randy Duncan Janice Hitzeman Greg Short Ryan Brickner

MEETING MINUTES July 1, 2021

Chairman Jim Hrivnak called a meeting of the Board of Zoning Appeals to order on Thursday, July 1, 2021 at 6:29 p.m. Members present included Jim Hrivnak, Randy Duncan, Janice Hitzeman; Gregory Short; and Ryan Brickner. Also, present were Claudia Husak, Planning Director; Elise Schellin, Development Planner; Karen J. Mitchell, City Clerk; Sandra D. Kin, Certified Senior Digital Reporter, US Court Support and interested parties.

HEARING OF VISITORS FOR ITEMS NOT ON THE AGENDA

Chairman Hrivnak opened the citizen participation session for items not included on the agenda. Hearing none, he closed the public comment session.

APPROVAL OF MINUTES

MOTION: Board Member Brickner moved to approve the minutes of June 3, 2021. Board Member Duncan seconded the motion.

VOTE: Y-5 N-0

APPLICATION FOR VARIANCE (Case 2021-27V)

Applicant: 3 Pillar Homes
Location: 67 Grace Drive South
Existing Zoning: Downtown Business District (DB)
Request: Review and approval of a variance to increase the maximum front yard setback from 25 feet to 81.55 feet, and reduce the northern side yard setback from 25 feet to 21 feet for a new single family home.

Claudia Husak, Planning Director confirmed that this meeting and the notice required are being held in accordance to the Charter.

Elise Schellin, Development Planner reviewed the Staff Report and recommends approval. (Exhibit 1 - Staff Report)

Variance Standards:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property.
2. Whether the variance is substantial.
3. Whether the character of the neighborhood would be adversely affected or whether adjoining properties would suffer an adverse impact as a result of the variance.
4. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage).
5. Whether the property owner purchased the property with knowledge of the zoning restriction.
6. Whether the property owner's predicament feasibly can be obviated through some method

other than a variance.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Chairman Hrivnak administered the oath to Adam Rainwater, 3 Pillar Homes, 50 S. Liberty St., Applicant.

Mr. Rainwater: The variances we seek are to create a better atmosphere for the house. It is an amazing lot. From Grace Drive, the elevations steps up and it steps down a little more gradually. As you get to the midpoint in the lot, it fans out rather nicely before it gets to the flood zone and creates a nice spot for the house to sit. It also helps with privacy and safety for the homeowners. Grace Drive is a busy road and to create this space in front of the home for them to use for privacy and to be outdoors, we think, is a very valuable asset to the property.

A third item we were curious about was the requirement for the sidewalk on Grace Drive. It would currently be the only stretch of sidewalk on that side of the road. The properties to the north are owned by the Kirkham family, and there are currently no plans to develop it and to the south is more lot. From there as you head down toward Powell Road, the flood plain comes almost all the way to Grace Drive. So we were wondering what the Board's opinion was on the feasibility of putting a 127 feet of sidewalk on land that would remain vacant for the near future.

Ms. Husak: That item is out of scope for this Board and not part of tonight's discussion.

Board Member Short: I only had a question with respect to the Bartholomew Run flood zone. What will be done to protect the homeowners from being flooded out? Is there any retaining wall or anything like that to be done to protect against flooding farther downstream?

Mr. Rainwater: We placed the home so that we would be just distant enough so that we would not affect that area. Therefore, we do not have any fears of being flooded. During construction, we would put measures in place to not affect these areas. We do not want to touch those because we do not even wish to mess up the aesthetic of it for the homeowners as we build this house.

Board Member Brickner: Does the setback to the north prevent the house from going into the flood plain? What are the benefits for that setback?

Mr. Rainwater: It helps. It adds a little bit of buffer from the flood plain. We would be 4-foot closer to it if we did not move it to the north. However, it is also based on the property to the north; the 25-foot requirement was set because of that property and that property to the north currently does not have any structures remotely close. Therefore, we placed that just to have the best seating for the house, the driveway, but it does definitely help with getting further from the flood plain during construction.

Ms. Schellin pulled up an overview of the property for the Board and pointed out the flood plain area.

Ms. Husak: It is slightly awkward in terms of what the Code allows for single-family homes to be in this district. The Code was written for commercial in this area to have buildings be close to the street. That is what we are up against - uses versus siting regulations.

Ms. Schellin: The Downtown Business District is really our downtown core. This property is on the outskirts of the downtown business district and is surrounded by residential to the north. As Adam stated, the homes are going to be placed very far away from each other and are closer to Sharp Street with large back yards with heavily wooded rear yards. This will allow screening between the new single family home and the existing residential. Therefore, this single family home will almost be sitting on an island.

Chairman Hrivnak: The parcel you are showing us, is that all one piece? [Ms. Schellin: Yes, it is all one piece.] The flood plain comes out close to the road so a third of the lot is probably not even buildable. [Ms. Schellin: That is correct.] To the north, there is one existing structure. Are there other parcels that are still buildable or are those all one owner?

Ms. Schellin: I believe they are all built on, but the same family that is building on this lot owns all those parcels too.

Chairman Hrivnak opened this item up to public comments. Hearing none, he closed the public comments

portion.

MOTION: Board Member Short made a motion to approve the variance for the front yard setback as submitted. Board Member Hitzeman seconded the motion.

VOTE: Y-5 N-0

MOTION: Board Member Hitzeman made a motion to approve the variance for the side yard setback as submitted. Board Member Duncan seconded the motion.

VOTE: Y-5 N-0

APPLICATION FOR VARIANCE (Case 2021-28V)

Applicant: Megan & Sean Lawrenz

Location: 7737 Bachman Drive

Existing Zoning: Planned Residence District (PR)

Request: Review and approval of a variance to reduce the rear yard setback from 30 feet to 27 feet to build a screened porch on the rear of the existing home.

Ms. Schellin confirmed that this meeting and the notice required are being held in accordance to the Charter and reviewed the Staff Report. (Exhibit 2 - Staff Report)

Variance Standards:

1. **Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property.**
2. **Whether the variance is substantial.**
3. **Whether the character of the neighborhood would be adversely affected or whether adjoining properties would suffer an adverse impact as a result of the variance.**
4. **Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage).**
5. **Whether the property owner purchased the property with knowledge of the zoning restriction.**
6. **Whether the property owner's predicament feasibly can be obviated through some method other than a variance.**
7. **Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.**

Chairman Hrivnak administered the oath to Sean Lawrenz, Owner of 7737 Bachman Dr.

Mr. Lawrenz: The main reason we are asking for the variance is that extra 3-feet is the difference between two people enjoying the patio and the entire family enjoying the patio with a bit of breathing room. I have letters of support from the neighbor directly behind me as well as the neighbor to the north.

Chairman Hrivnak opened this item up to public comments. Hearing none, he closed the public comments portion.

Board Member Hitzeman: Other than the two letters of support, were there any other comments received from adjacent property owners?

Ms. Schellin: No. We sent out postcards to every property owner within 250 feet, and we have not had any response other than the two letters of support.

Board Member Short: And has the HOA has approved it?

Ms. Schellin: Yes.

MOTION: Board Member Hitzeman made a motion to approve the variance as submitted. Board Member Short seconded the motion.

VOTE: Y-5 N-0

Ms. Husak: For the record and Sean's benefit, procedurally, once he applies for a building permit, we will supply the record of this variance for approval of the permit in and of itself.

OTHER COMMISSION BUSINESS

Chairman Hrivnak: I wanted to take a moment to thank Staff for their very thorough reports that you provide. We sit up here and do not need to ask too many questions because we have such a good Staff report and exhibits that it does not leave much in question for us.

Ms. Husak: We will be having a meeting on August 5 and received an application for that meeting. It will be a complicated issue that may have neighborhood opposition, so I wanted to let you know that is coming your way.



As we talked about last time we met, in your next packet, we will provide a draft Rules and Regulations for the BZA to peruse it to see what we are proposing for this group moving forward. There will be no need to act on it at this time; it is just being provided for your review right now.

Board Member Hitzeman will not be available for the August 5 meeting due to a prior commitment.

ADJOURNMENT

MOTION: Board Member Duncan moved to adjourn the meeting at 6:58 p.m. Board Member Short seconded the motion. By unanimous consent of the remaining members, the meeting was adjourned. The next meeting will be August 5, 2021.

DATE MINUTES APPROVED:

 _____ Jim Hrivnak Chairman	<u>8-16-21</u> Date	 _____ Pam Friend Planning & Zoning Clerk	<u>8/16/21</u> Date
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