

ZONING BOARD OF APPEALS MINUTES

Sept. 14, 2020

7:30 p.m.

Virtual Meeting

The meeting was called to order at 7:30 p.m. by Chairman Gordon Glidden

PRESENT: Gordon Glidden, Joseph Claya, Mitch Meisner, Todd Sperl, Michael Wright, Adam Wallace, James Park

ABSENT: Ben Falik, David Hesano

Staff: Hank Berry

Approval of Agenda

Motion to approve the agenda by Mitch , seconded by Michael .

Yeas: Gordon Glidden, Joseph Claya, Mitch Meisner, Todd Sperl, Michael Wright, Adam Wallace, James Park

Nays: None

Approval of Minutes- August 10, 2020

Motion to approve the minutes from August 10, 2020 by Todd, seconded by Joe .

Yeas: Gordon Glidden, Joseph Claya, Mitch Meisner, Todd Sperl, Michael Wright, Adam Wallace, James Park

Nays: None

A) Matter of an appeal from Joe Zieldorf at 13347 Hart, for a variance to allow an accessory structure at 8' from the principal building contrary to Zoning Ordinance 40-6.03 Accessory Buildings, Structures and Uses, which requires 10', and 3' from the rear property line instead of the required 6'.

Sam Pereksi from Italy America Construction states that the homeowner would like to build a garage which presently has none. He would also be including a patio and an apron which Berry states meet the standards and do not require a variance. He needs a variance to build the garage due to the short length of his property (107') and close proximity to his home which requires a 10' setback and he is requesting 8'. The rear setback is 6' and he is requesting 3'.

Hank explained the request and the standards applicable to the variance request at the rear of the property. He states that the building official is in favor of the request if approved by the ZBA.

The lot is 107' and originally platted off of Coolidge and planned for storefronts. Hart St. had originally been planned to be commercial. Typically, lots are 125'. But due to its location abutting Coolidge and the fact that that area was first contemplated to be commercial, the lot is shorter than the average. This accessory structure will not negatively affect the neighborhood. Berry explains a garage is a reasonable and prudent use of the property. It has special and unique circumstances relating to this lot.

Standards met:

1. Special and unique circumstances exist which are peculiar to the land, structure or building involved and which are generally not applicable to other lands, structures or buildings in the same district.
2. The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.
3. The special conditions and circumstances do not result from the actions of the applicant.
4. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance: and that the variance is the minimum necessary.

Public Participation

Chairman Glidden opened the meeting to Public Participation.

Seeing no persons wishing to speak, Chairman Glidden closed Public Participation.

Motion by Adam Wallace, Seconded by Michael Wright to allow a variance at 13347 Hart to allow an accessory structure (garage) at 8' from principal structure instead of required 10' and the accessory structure 3' from rear instead of the required 6'.

Yeas: Gordon Glidden, Joseph Claya, Mitch Meisner, Todd Sperl, Michael Wright, Adam Wallace, James Park

Nays: None

B) Matter of an appeal from from Arik Green & Associates on behalf of Matthew and Stephanie Kates at 8211 Hendrie, for a variance to allow an a semi circular driveway in the R-1C zone district (Section 40-10.06 - Parking and Circulation.

Explanation by homeowner of first request for semi-circle drive at the home which is a corner lot and references a previous similar approved variance 26457 Huntington, with a 2 car garage and a drive too short to park cars on. This is due to drive that is too short to legally park cars on without overhanging sidewalk.

Comment by Arik Green, architect that states due to guy wire in side yard, parking is not available there.

Explanation of request by Berry to allow a semi-circular driveway due to existing short drive that does not allow for legal parking due to cars overhanging the sidewalk. The house is on a corner and both streets have fire lanes that does not allow for on street parking along the side and front of the house. There is a guy wire on the side yard making it impractical to park there.

Discussion by board regarding a previous variance with similar circumstances. Meets the 4 standards, and if there were a snow emergency there is no place to park cars on the property.

Standards met:

1. Special and unique circumstances exist which are peculiar to the land, structure or building involved and which are generally not applicable to other lands, structures or buildings in the same district.
2. The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.
3. The special conditions and circumstances do not result from the actions of the applicant.
4. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance: and that the variance is the minimum necessary.

Public Participation

Chairman Glidden opened the meeting to Public Participation.

25505 Wareham: Mark Nakisher is in favor of the request.

8246 Huntington: Linda Solomon does not want the neighborhood to change to all circular drives and does not want to set a precedent.

8233 Hendrie: Ira Zaltz next door neighbor is in favor of the request, due to lack of parking on street and speeds of cars on street.

25840 Concord: Gail Linden states the board should look at this case on its own merit, not a previous one that had been granted.

Chairman Glidden closed Public Participation.

Discussion by board

Motion by Sperl: Motion to grant this variance for a semi circle driveway in the R1C district as it meets the 4 standards, due to the he layout of the property and the regulations applicable to the two adjoining streets pose a practical difficulty for the ordinarily expected use of the property for off street parking, #1 the driveway between the sidewalk and the garage and sidewalk is too short and #2 both streets adjoining have fire lanes that prevent parking on the same side of the street as the house, those would qualify as practical difficulties that meet the requirements.

Second by: Claya

Yeas: Gordon Glidden, Joseph Claya, Todd Sperl, Michael Wright, Adam Wallace, James Park

Nays: Mitch Meisner

Second request by homeowner at 8211 Hendrie for a variance of 418 sq. ft, 394 is existing and 24.5 is new to enclose an area to the rear of the garage and four seasons room, it has 3 walls, we are requesting a wall and ceiling to enclose this space when exiting the garage and entering the house.

Explanation by Berry that 394' is legally nonconforming and existing, actual request of 24.5, Berry reviews the 4 standards. Clarification requested by Meisner on total Sq. ft. as it is only actual 24.5'. The 394' is to legitimize the entire nonconformity, if needed to rebuild in the future. Area not visible to the public, no adverse comments from neighbors, the house and layout was present when homeowners purchased property.

Standards met:

- 1. Special and unique circumstances exist which are peculiar to the land, structure or building involved and which are generally not applicable to other lands, structures or buildings in the same district.**
- 2. The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.**
- 3. The special conditions and circumstances do not result from the actions of the applicant.**
- 4. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance: and that the variance is the minimum necessary.**

Chairman opens public participation: None

Chairman closes public participation.

Motion by: Meisner to approve the 24'5 ft' variance.

Second by: Wallace

Ayes: Gordon Glidden, Joseph Claya, Mitch Meisner, Todd Sperl, Michael Wright, Adam Wallace, James Park

C) Matter of an appeal from John Avedian at 8366 Huntington, for a variance to allow a privacy fence further forward than the rear of the house. Section 40-10.10 - Fences, Hedges and Walls B. Height and Location for fences.

Introduction by the homeowner, he would like to put in a shadowbox fence between him and the joint property line of neighbors. He feels he needs the variance due to the opacity requirement of the ordinance. He would like to have the same fence as adjoining neighbors, would like to bring forward the fence of the one presently there. Both he and the neighbor have small dogs to contain, and a big problem with skunks entering yards. The style of fence will make it difficult for them to enter.

Neighbor comment, 8366 Hendrie, homeowner Ellie Mosko states they want it to look nice, they have children and are looking at the safety factor also. They are in favor of it. Explanation by Hank on the existing fence and requested fence. 4' fence request is fine, but request is a shadowbox fence and it has an opacity issue. Allowed to have a gate, and fence if board allows. The request meets the 4 standards and provides screening to the neighbors, the opacity is the issue, it a 312' section and meets standard 1, 2, 3, and 4. Fence is to keep unwanted animals out and keep their family safe.

Standards met:

1. Special and unique circumstances exist which are peculiar to the land, structure or building involved and which are generally not applicable to other lands, structures or buildings in the same district.
2. The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.
3. The special conditions and circumstances do not result from the actions of the applicant.
4. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance: and that the variance is the minimum necessary.

Chairman opens public participation: None
Chairman closed public participation.

Board discussion

Motion by: Meisner, I move to interpret zoning ordinance requiring fences with a sufficient degree of non-opacity to include a 4' fence in the side yard

Second: Joe Claya

Ayes: Gordon Glidden, Joseph Claya, Mitch Meisner, Todd Sperl, Michael Wright, Adam Wallace, James Park

Nays: none

D) Matter of an appeal by Brett Hoffmaster 13108 Lincoln looking for a variance on lot coverage, garage had previously been removed, 22 x 20, and is requesting to rebuild a garage of the same size on the same footprint

Introduction by Hank, lot is 50' x 100' deep, lot is small, smallest lot in the city. Garage was there just a few months ago and it is an expected use. Meets Standards 1,2,3,4. Asking for a basic 2 car garage. It will make lot coverage then 31.7 with garage. It is a practical difficulty for him to not have a garage on the property, the 100' depth is the issue, location of the sidewalk is also an issue. This lot and home predates the zoning ordinance, he will be exceeding lot coverage by 1.7%.

Standards met:

1. Special and unique circumstances exist which are peculiar to the land, structure or building involved and which are generally not applicable to other lands, structures or buildings in the same district.
2. The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.
3. The special conditions and circumstances do not result from the actions of the applicant.
4. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance: and that the variance is the minimum necessary.

Chairman opens public participation: Gail Linden asks what the garage size was that was there previously, when the garage was built it was conforming.

Motion by: Wright to approve variance based on property should have a garage, it is a practical difficulty of the size of the property and location of the lot line and it is the expectation to have a garage as an expected use.

Second by: Sperl

Ayes: Gordon Glidden, Joseph Claya, Mitch Meisner, Todd Sperl, Michael Wright, Adam Wallace, James Park

Nays: none

Other Business

Berry states minutes have been delayed and they are working on that, getting them more timely.

Chairman opens public participation, hearing none, closes.

Motion to adjourn by: Wright, seconded by Meisner.

Yeas: Gordon Glidden, Joseph Claya, Mitch Meisner, Todd Sperl, Michael Wright, Adam Wallace, James Park

Nays: None

Meeting was adjourned at 9:45 p.m.

Respectfully Submitted

Nikki Rallis

Recorder