



**MEETING MINUTES**  
**ZONING BOARD OF APPEALS**

Tuesday, September 25, 2018

7:00 PM

Civic Center, 2100 Ridge Avenue, G300

Members Present: Lisa Dziekan, Violetta Cullen, Mary Beth Berns, Myrna Arevalo,  
Scott Gingold, Mary McAuley, Kiril Mirintchev

Members Absent:

Staff Present: Scott Mangum, Melissa Klotz

Presiding Member: Mary Beth Berns

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**Declaration of Quorum**

With a quorum present, Chair Berns called the meeting to order at 7:00 p.m.

**Minutes**

Ms. Cullen motioned to approve the meeting minutes of September 4, 2018, which were seconded by Ms. Dziekan, and approved 4-0 with 3 abstentions.

**Old Business**

**413 Grove St.**

**18ZMJV-0068**

Jeffrey K. & Janet H. Clements, property owners, appeal the Zoning Administrator's decision to partially deny minor zoning relief (case number 18ZMNV-0029) to construct a one-story addition with 34.6% building lot coverage where 30% is allowed (Zoning Code Section 6-8-2-7). The appellant was granted approval for 33.1% building lot coverage to allow a smaller one-story addition. The Zoning Board of Appeals is the determining body for this case.

With a pending vote for approval of 3-1, ZBA members who were absent from the September 4, 2018 ZBA hearing acknowledged they reviewed the meeting minutes and/or video and cast their votes for a total of 4-3 to approve the proposal.

**1943 Sherman Ave.**

**18ZMJV-0073**

Angie Radman, property owner, applies for major zoning relief to convert a single family residence to a 3-unit multiple family residence in the R5 General Residential District. The applicant requests a 22' rear yard setback for a three-story stair (yard obstruction) where 22.5' is required (Zoning Code Section 6-4-1-9), and an increase of zero additional parking spaces where 3 additional parking spaces are required, for a total of 1 parking space on-site where 5 parking spaces are required for a 3-unit multiple family residence (Zoning Code Section 6-16-3-5 Table 16-B). The Zoning Board of Appeals is the recommending body, and the City Council is the determining body for this case.

Ms. Klotz explained the applicant requests a continuance on the case. The homeowner is not in attendance, the architect is not in attendance, and no additional information that was requested has been provided. Therefore, staff recommends the continuance not be granted and the ZBA move forward with the case.

Attorney Shawn Jones explained the property owner did not want to attend tonight's meeting without the architect who could not attend tonight, and therefore requests the continuance.

Ms. McAuley asked how tonight will affect the court case that is scheduled for Friday, and Mr. Jones stated whatever happens at ZBA will be reported to the court on Friday.

Mr. Gingold suggested the ZBA move forward with the case and the information that has been provided thus far to ensure a resolution to the case can be made in a timely manner.

Mr. Jones stated he has no additional documents or information to present.

Deliberation:

Ms. McAuley noted she did not attend the August 28, 2018 ZBA hearing but reviewed the video. Ms. McAuley suggested the ZBA recommend denial, unless the applicant provides adequate information with a timetable for completion that is adequate to the City Council.

Mr. Gingold stated information has not been provided to show the Standards have been met, therefore the case should be recommended for denial. Mr. Mirintchev agreed.

Ms. Arevalo felt that it is not feasible to hold a certain timeframe for completion of work because permits allow for construction to be ongoing without a specific timeframe. Other ZBA Members disagreed, stating there are concerns from neighbors about when violations will be rectified and when the building aesthetics will be improved, therefore it is acceptable to condition the proposal on a certain timeframe for construction completion.

Standards:

1. No
2. No
3. Yes
4. No
5. Yes
6. No
7. No

Chair Berns noted Standards that have not been met are due to a lack of information.

Ms. McAuley motioned to recommend denial of the proposal, including conditions (should the case be granted) for submittal of architectural plans, statement of explanation of work by property owner, elevations and building materials, and timeframe

for completion of work, seconded by Ms. Cullen and unanimously recommended for denial with conditions.

### **New Business**

#### **1919 Dempster St.**

**18ZMJV-0080**

James E. Olguin, attorney, applies for a special use permit for a Type 2 Restaurant, McDonalds, and a special use permit for a Drive Through Facility, at 1919 Dempster Street in the C2 Commercial District (Zoning Code Section 6-10-4-3). The applicant proposes a 91 square foot building addition for a new Drive-Through window, and a second ordering lane for a dual Drive-Through Facility. The Zoning Board of Appeals makes a recommendation to City Council, the determining body for this case.

The applicant requested a continuance to the October 16, 2018 ZBA hearing to allow time for revisions to the proposal. Ms. Cullen motioned to continue the case to October 16, 2018, which was seconded by Ms. Dziekan and unanimously approved.

#### **2626 Reese Ave.**

**18ZMJV-0078**

William James, contractor, applies for major zoning relief to construct a single family residence and detached garage in the R1 Single Family Residential District. The applicant requests 42.5% building lot coverage where a maximum 30% is allowed (Zoning Code Section 6-8-2-7), a 3' south interior side yard setback where 5' is required for the principal structure (Zoning Code Section 6-8-2-8-A-3), a 3.5' street side yard setback (Hartzell Street) where 15' is required for the principal structure (Zoning Code Section 6-8-2-8-A-2), an 8.5' street side yard setback where 15' is required for a deck, 10' street side yard setback where 15' is required for the accessory structure (detached garage) and a 1' street side yard setback where 15' is required for open parking (Zoning Code Section 6-8-2-8-C-2). The Zoning Board of Appeals is the recommending body, and the City Council is the determining body for this case.

Ms. Klotz read the case into the record, and noted 6 additional letters of opposition were passed out at the beginning of the hearing.

Matt Rodgers, consultant, explained the proposal:

- Proposal includes a lower building height with less massing to match the rest of the neighborhood
- Front porch is now recessed in to eliminate a variation
- Garage has been reduced to a 1-car garage to improve sight lines to the alley as requested by neighbors
- A 2 bedroom house is quite modest.
- The first floor is as small as possible, with a family room and eat-in kitchen. There is no dining room, no mudroom, etc.

Mr. Gingold noted two big concerns: drainage and water runoff onto the sidewalk with such a small street side yard setback, and construction so close to a neighboring home. Mr. Rodgers explained by constructing a home on the property, stormwater runoff can be designed to direct water to certain areas. In this case, a splash pad will be constructed under the deck to send the water towards that. Other options will be considered in conjunction with City staff. Chair Berns stated the stormwater issue will be addressed by City staff in the permit process, which is rigorous for new construction

such as this. Ms. McAuley asked if the civil engineering information will be provided to the immediate neighbor, and Mr. Rodgers agreed it would be.

Ms. Klotz explained the current proposal is 66 square feet smaller than the previous proposal for this property, excluding garages/parking.

Mr. James stated he does not have a sale price set for this home yet, but expects approximately \$360,000 based on the square footage.

Kit Newman, 2833 Hartzell, explained most properties in the area have one-story bungalows. Street parking is difficult because people from Central St. park in the neighborhood. It is better that they have 2 parking spaces on site.

Richard Horsting, 2624 Reese Ave., stated he took the photos of the rain ponding on the property some time in July, and then submitted a packet of information. Mr. Horsting explained the variations requested are up to 94% over the requirements. The structural engineer Mr. Horsting discussed the proposal with determined there would be structural damage to his house if construction is done that close to the property line. The building lot coverage proposed is far higher than the surrounding homes, and Mr. James overstated what the building lot coverage of adjacent homes are. The house would be a total of 5'9" from Mr. Horsting's house.

Dawn Larbalestier, 2627 Lincolnwood Dr., stated drainage is a concern. There is flooding in the neighborhood. The alley visibility is a concern too. Ms. Larbalestier submitted a copy of the flyer that was distributed to neighbors, which is different than what is within the ZBA packet.

Colleen Barkley, 2622 Reese Ave. has concerns about water since her property has a wet basement. The roots of a large heritage oak that is near the property would be impacted by the garage.

Andrew Naidech, 2619 Lincolnwood Dr. has concerns about the sight line from the alley even with the 1-car garage. Just a parking pad is better. Also, there are ground contaminants at the property that become long term health issues for occupants. Ms. McAuley asked staff if a Phase 1 Environmental study is required, and Ms. Klotz responded that is typically not required for single family construction, but could not speak to whether it is a requirement for properties with known contamination. If that is a concern, the ZBA could recommend it is as a condition for approval.

Lila Kirkpatrick, 2904 Hartzell St., asked how the house is considered a 2-bedroom house when there is clearly a bedroom in the basement even though it is labeled as an office. Chair Berns clarified basement bedrooms are not considered bedrooms in real estate terms, regardless of how they are labeled on the plans.

Mark Newman, 2833 Hartzell St., stated half the block of Hartzell St. is 2-3 feet narrower than other streets and has a lot of traffic. A large SUV parked on that parking pad will make it much more dangerous for people navigating the alley.

Ms. Klotz confirmed the lot is considered a buildable lot because it is already platted, but building is subject to the requirements of the Zoning Ordinance or variation approval.

Beth Paradi, 2907 Lincolnwood Ave., stated the width of the house is too much for the lot. 3' setbacks are not enough.

Nancy Crain stated her property would be impacted by additional stormwater runoff. All regulations should be upheld.

Kathy Miller, 2831 Hartzell St., submitted a petition of opposition signed by neighbors. Ms. Miller also noted it is disingenuous for a builder to say they don't know how much they would market the house for. Trees, including street trees, will be severely impacted when the basement is dug and root structures are disturbed. Too many variations that are too large are requested.

Scott Kirkpatrick, 2904 Hartzell St., stated nothing has changed. The house is 3.4% smaller, which is not a significant change.

Mr. James confirmed the first floor is 925 sq. ft., which is 11 square feet smaller than the last proposal. The second floor is significantly smaller due to the gambrel roof and reduced head height.

Mr. Rodgers stated drainage concerns will be addressed in the permit process. There is no building by right on this property, but the City has stated it is a buildable lot with variations. Lifestyles have changed in the last 100 years since the other homes in the neighborhood were built, and people expect certain things in new construction today. The lot is legally nonconforming and substandard, which is a clear hardship. The gambrel roof reduced the bulk so the house fits appropriately with the neighborhood. The roofline starts stepping back at a height of 13'. It is understandable that the neighborhood enjoys the property as open space, but the highest and best use of the property is this appropriate single family residence.

Mr. Horsting noted it is disturbing that a house extending 12' further back than his own house would not impact his yard when people are in that house on the second floor looking into his backyard.

#### Deliberation:

Ms. Dziekan asked staff to elaborate on the concerns, comments, and recommendations raised by staff and DAPR with this proposal. Ms. Klotz stated she worked with Mr. James on multiple site plans and re-stated neighbor concerns until the proposal was scaled back to the extent possible to address the concerns. Mr. Mangum added the DAPR minutes are included in the packet and DAPR agreed the variations were minimized to the extent possible given the 25' lot width and the need for variations for the construction of any house.

Mr. Gingold agreed, and commended the applicant for listening to previous concerns and addressing those, but also noted the first floor footprint is only 11 square feet smaller. The lot is buildable, but the house could be smaller and the side yard setbacks are extremely small. The spirit of the open parking space increasing the sight line is there, but if there is an SUV there then the sight line is disrupted. Ms. Cullen agreed.

Ms. Dziekan asked ZBA Members who are architects to explain if they think the variations proposed are the minimum change necessary.

Mr. Mirintchev stated this proposal is significant progress that reduced the bulk of the structure, but there is still room for improvement. The lot is difficult. The biggest problems are the side yard setback to the neighbor and the overall building footprint. The other variations are reasonable. A significant portion of the footprint is the staircase, which is luxurious. The design should shrink the width of the staircase to reduce the footprint and width of the house. Those two variations are issues that could be further minimized.

Ms. Arevalo stated the lot only has a 5' buildable area with the setbacks taken into account. That is obviously not feasible. The staircase is 3' wide or maybe 3'2" on the interior, which is not luxurious. The alley sight triangle is 10' and is conforming by City standards and any traffic engineer. As long as that is met, she supports the project.

Mr. Gingold noted the aerial view of the neighborhood provided in the ZBA packet shows that the other houses in the area are more modest. The length of the house is overreaching. The side yard setbacks would be more appropriate if the length of the house was shortened to be similar to other existing homes.

Ms. Cullen stated something should be built on the lot, but this may not quite be the right proposal.

Chair Berns stated she is less concerned about the side yard setback to the neighbor because that is typical throughout the city, and is oftentimes less distance between two houses. The larger issue is the street side yard setback and distance to the sidewalk, which affects the entire neighborhood. The staircase is a bit more generous than it must be. Overall, the applicant did a nice job of working through the issues as best possible given the lot, but a few more adjustments are needed.

Ms. Dziekan stated that between staff, DAPR, neighbors, and the ZBA, there is no clear path provided to the builder. Mr. Gingold agreed, noting the applicant did listen to the concerns and addressed them as best he could given the myriad of concerns raised by everyone.

Standards:

1. No, because of the closeness of the house to the sidewalk. (Gingold - and the groundwater issue if it is not properly addressed).
2. Yes
3. Yes
4. Yes

5. No
6. Yes
7. No, there is a little more that can be reduced with the side yard setbacks and building lot coverage.

Ms. McAuley motioned the ZBA recommend denial to City Council, which was seconded by Ms. Cullen and unanimously recommended for denial.

The meeting adjourned at 9:10 pm.