

**BOARD OF ADJUSTMENT
MINUTES
April 23, 2018**

The Board of Adjustment held its regular monthly meeting on Monday, April 23, 2018 at 5:00 p.m. in the Council Chambers at City Hall.

Members Present

Chairman Lannis Nicholson
Vice-Chair Wendell Miller
Secretary Karen Yarbrough
Rob Caldwell
Steve Hubbard

Members Absent

None

Visitors Present: Mayor Horton, Alderman Brown, Juliet Richey/Carver, City Attorney Trey Smith, Jim Lynch/City Corp, Planning Assistant Lequitta Jones, Fire Marshal Setian, Aimee Sudmeyer McClaren, and Robert Curran.

Welcome Visitors

The First Order of Business was a request to review and approve the minutes of the April 2, 2018 Special Called Meeting.

Member Miller made the motion to approve the minutes as written. The motion was seconded by Member Hubbard and passed unanimously.

The Second Order of Business was a public hearing requesting approval to continue the variance indefinitely for a carport on home, located at 308 West Circle Drive. Submitted by Verlan Nordin Young, Wilma Whorton, and Everette Whitford. (BOA.18.04.3638)

Planner Juliet Richey with Garver said this proposal is for a continuance of a variance that was granted in 1997. The variance was valid for as long as the former owner owned the property. That's not the way that we would usually recommend that you do a variance, but that it be based on fact specific to the property and not particularly to the ownership. So we would recommend that you approve the continuation of it because you found it to be adequate in 1997. It doesn't appear at the present that circumstances for the property or area are substantially different from that time. And if you did deny it could be reviewed as discriminatory towards a new owner, as the original decision established a basis for allowing the variance.

Member Miller made the motion to approve the continuation of the variance indefinitely as requested. The motion was seconded by Member Caldwell and passed unanimously.

The Third Order of Business was a public hearing requesting approval for a 6-foot setback variance from the 10 feet required for the west side yard to construct a 24 x 24 sf two-car garage for property located 807 East Fir Street. Submitted by Robert Curran (BOA.18.04.36.39)

Planner Richey said in this case we are recommending denial. This request is for a variance to reduce the required side yard setback from 10 feet to 4 feet to allow construction of a 24 sf X 24 sf two-car garage. The applicant did state because of the utilities they couldn't construct on the east side, however, it's likely that there is side utilities on other properties within the neighborhood. The garage could also be construction on the rear portion of the property behind the house. There doesn't appear to be a unique factor on this property that is not shared by other properties in the area. So we would recommend denying this variance and maybe have the owner explore different ways to configure a garage on the property.

Member Caldwell asked if there was a code that has any effect on the width of the lot and the percentage that you can amend a side yard setback? I'm somewhat understanding that there is that you can amend up to 10% of that width. My question is which one of those variances got through and how a property owner that bought a bigger lot be penalized because his lot is bigger than maybe an interior lot. I understand the servitude on the right side of the property. I do understand being a builder that you can build that in 20 feet and probably be a little over that four foot. I didn't see any exact numbers, but there again I have to come back to somebody that knows more about this than me. I believe it is 10% to the width of a lot that can be amended? There is a code and it relates to residential R-1 and it is a percentage of the width that can be used to reduce your side yard setback.

Dave Garza said I think you are talking about the Lot of Record requirement.

Further, Member Caldwell said since you have such a collective mix out in that area that instead of just a flat out denial when he know the alternative is going to cost him an additional \$5,000 in driveway to get back to the back in addition to possibly pumping the concrete. So if it is feasible and common sense and definitely within the perimeter of the code, I would think that would be something before a decision would need to be made. I don't think anything he is asking for is out of the rim that would affect fire, safety of anyone. He is just asking because that is the only area he has to do it right at the front. He needs to find out if it is a *Lot of Record* then he could get it amended at least to that 10%. I would asked that you guys take a look at this objectively outside of the box instead of saying denial, is this feasibly, does it have any impact on the neighbors.

Dave Garza said Ray Lee Addition would not have lots of record. Lot of record lots are mostly downtown area and platted from 1910 to 1930. Member Caldwell said if that area is not Lots of or Record then it would have to be built in the rear.

Member Miller asked if we had any input from the neighbors. Mr. Curran said a letter was sent from James L and Mary L Brown, owner of the property located at 3100 North Hartford having no objection to the variance. Their home is to the left of this property.

Planner Richey said what I think you are saying there is multiple structures that are built in violation of building setbacks in that area. The problem is these setbacks are set in a place for a reason. What you don't want to do is aboard to set yourself up. What I'm hearing you say is perhaps there are some unique circumstances to this neighborhood that the staff was not aware of. What I would

recommend if you are having multiple issues in the neighborhood you might want to look at changing the setbacks altogether. If not what you are going to do is probably just end up granting variance after variance, which legally could become an issue you as a Board. If you are not finding issues where it is a problem with utility easements or character of the neighborhood then you may want to look at it on a larger bases. Just make that call and then you are able to treat everybody the same. What I'm saying it breaks down the integrity of your Board process, it puts you in legal jeopardy to do it, and I would say if you are having an issue with multiply variances or multiply violations then you need to look at it holistic manner because if you piece mill it like what you are wanting to do then it can cause problems for you and it makes people question what the integrity and intent.

Member Nicholson said he was concerned how close this is to the other property. Is this going to open up a room full of variances next month? I'm not sure as a Board that we are doing due diligence with the ordinances.

Member Yarbrough made the motion to table until the next meeting. The motion was seconded by Member Caldwell and passed unanimously.

Adjourned.

Chairman Lannis Nicholson