

MINUTES
Board of Zoning Appeals
July 10, 2023

The Wyoming Board of Zoning Appeals (BZA) met Tuesday, July 10, 2023 in the Council Chambers of the City Building. The meeting was called to order at 6:00 p.m. by Charlie Jahnigen, Chair. Attendance was as follows:

Members:

Charlie Jahnigen, Chair
Jennifer Eismeier
Abigail Horn
Bob Kearns

Staff:

Megan Statt Blake, Community Dev. Director
Tana Bere, Community Dev. Specialist

Absent:

Chris Woodside

Approval of June 13, 2023 Meeting Minutes:

Ms. Eismeier moved to approve the minutes as written. Mr. Kearns seconded the motion. By voice vote, all voted yes, the motion carried.

Case #7-23, 422 Worthington Avenue Front, Yard Setback Variance Request

Mr. Jahnigen swore in the witnesses, Mary Beth Fischer, applicant and Mike Hock, 314 Grove Avenue. Ms. Statt Blake provided a background of the case. Mary Beth Fisher, owner of the subject property, is requesting a variance to construct a front deck which is an extension of the existing front porch within the limits of the front yard setback. The property is located in the A, Single-Family Residence District, and Section 1155.04(a)(1) of the Code requires front yard setbacks to not be less than the average of the front yard setback of the adjoining lots. According to the site plan, the deck would need to meet a front yard setback of 32'-7", which is the average of the front yard setback of 418 Worthington Avenue and 401 Crescent Avenue. As shown on the site plan, the proposed setback of the deck is 29'-4", resulting in a front yard setback variance request of 3'-3".

Mr. Hock introduced himself as Ms. Fischer's father and noted that he served on the Board of Zoning Appeals for approximately 20 years. He stated that the proposal involves the extension of the existing front porch from its existing position to the front corner of the house. The house and the existing front porch were constructed prior to the current zoning code. He explained that the existing 8' x10' porch is currently being repaired under a building permit.

Mr. Hock said that after submitting the application for a variance request, he thought the size of the porch should be expanded so that it follows the contour of the existing bay window. The new porch will be in keeping with the design of the existing front porch and

there will not be a roof over this portion of the porch. The area around the bay window would then extend from 39" in depth to 66" inches in depth. If the extension to contour around the bay window is not approved, the porch will simply carry straight across the front of the house to the front corner as proposed.

Jerry Carter, 417 Worthington Avenue, addressed the Members stating that he lives across the street from Ms. Fischer. He too has a front porch stretching across the width of his home. He stated that Ms. Fischer has made many improvements to her home since she has owned it. He has no negative comments to provide about the proposed work and is in favor of the proposal.

Ms. Fischer addressed the Members and stated that she does not have an engineering degree like her father but said that she grew up sitting outside on the front porch talking with neighbors and people passing by. She suggested the porch follow the bump out of the bay window because with the little space now, people bump into each other. The expansion of the porch would provide more leg room for people to move around better.

Ms. Statt Blake commented that she received an email from Betty Hull at 418 Worthington Avenue, the Bernay residence at 415 Worthington Avenue, and the Kleinschmits at 422 Grove Avenue. All three of these neighbors expressed support of the proposals.

Ms. Horn stated that she is in support of the proposal with the additional space to contour around the bay window. Ms. Eismeier stated that she is in favor of the proposal but would add a stipulation to any motion that revised plans be submitted to the City with details of the contour as far as the placement and location of additional footers that would be necessary. Mr. Kearns concurred with Ms. Eismeier.

Mr. Kearns moved to approve the request as submitted with the addendum that the porch be extended outward to contour around the bay window and not be more than 6' from the front plane of the house. Revised plans must also be submitted to the City in order for the building permit to be approved. Ms. Eismeier seconded the motion. By roll call vote, all voted yes, the motion carried.

Case #8-23, 19 Worthington Avenue, Side Yard Setback and Fence Height Variance Request

Mr. Jahnigen swore in the witness, Sara Aschliman. Ms. Bere provided the background. Michelle and Bill Fitzpatric, owners of the subject property, as represented by Architect Ms. Aschliman, are requesting side yard variances to construct an attached deck and above ground pool, and a fence variance to construct a screen wall. The property is located in the AAA, Single-Family Residence District, and is required to meet a minimum side yard setback of 10' for one-story elements attached to or within 5' of the residence, per Section 1153.04(b) of the Code. Additionally, a swimming pool is required to meet a minimum side

yard setback of 10' per Section 1183.10(a)(10) of the Code. Furthermore, the screen wall presents as a fence and fences cannot exceed 6' in height measured from grade to the top of the fence per Section 1183.10(a)(6)(A) of the Code. As shown on the site plan, the deck is setback 5' from the side property line, the pool is setback 8' from the side property line, and the screen wall is 10.5' in height. The project fails to comply with these provisions of the Code and variances are being sought on this basis.

Ms. Aschliman explained that people who are inside the Wyoming Civic Center can look out the windows and see into the Fitzpatrick's family room and onto their deck. Recently, the deck was destroyed by a downed tree and her clients would like to rebuild the deck and add privacy measures from onlookers from the Civic Center. Additionally, if the Civic Center were a single-family house there would likely be no privacy issue but because of the height of the main floor of the Civic Center and the Fitzpatrick's main floor level, there is virtually no privacy.

Mr. Jahnigen noted that there are no adjoining property owners present to testify to the proposal. Ms. Bere commented that she received an email from the Stough residence at 357 Beech Avenue and they expressed no objections to the proposal.

Mr. Jahnigen asked what the pool depth is. Ms. Aschliman stated that the pool will be partially buried. She is unsure what the depth will be, but it will be a lap pool and they are not usually deep. Mr. Kearns asked if the plan as submitted gives any consideration to the existing trees on the property. Ms. Aschliman said that the owners plan to install the widest lap pool that they can without damaging the trees or their roots; but if the pool needs to be narrowed to do that, the applicants are willing to reduce the width. Mr. Kearns commented that he believes the trees will die if a pool is constructed. Ms. Aschliman commented that one tree has already fallen on the deck and destroyed it. Mr. Kearns said that he does not feel that the applicants have indicated that they understand the potential risk to the healthy trees on the property. Ms. Eismeier added that the loss of any trees on the property would make the privacy situation even worse. She asked clarification as to what is planned for the back of the house. Ms. Aschliman explained that the deck will wrap around from the side of the house to the rear and then will drop down to a ground level deck.

Mr. Kearns commented that he is in favor of adding a screen fence element between the house and the Civic Center and is not in favor of the pool element. He is concerned that unless an arborist is consulted, they cannot be sure that the trees will not die if a pool is installed.

Ms. Horn expressed concern about the screen wall and imagining how it would look like from the street. Ms. Aschliman commented that there is a lattice skirting element at the top of the edge that abuts the side porch. A person would have to walk into the applicant's side yard to be able to see the screen fence.

Ms. Eismeier commented that the fence is tall even if it is aligned with the height of the porch. Landscaping will be imperative to reduce the illusion of how tall the fence is. She stated that there is value in mature trees, and it would be very helpful if an arborist visited the site and provided their opinion.

Mr. Jahnigen stated that he too has concerns regarding the trees around the pool. He suggested that perhaps the applicants are provided an opportunity to consult with an arborist and for Ms. Aschliman to confirm the depth of the pool, and then return to the Board with additional details. He commented that although it appears the wall is set back on the property, he would prefer to see its precise location and what it might look like with landscaping.

Ms. Aschliman questioned that if the pool were not part of the plan and excavation were not an issue, is the proximity of the fence line to the property line an issue. Mr. Kearns stated that he is in favor of the proposed deck and the need for privacy screening is a unique situation. Ms. Aschliman commented that if the pool were narrowed to 9' it would not require a request for variance.

Ms. Eismeier asked if it is a challenge to consult with an arborist. Ms. Aschliman commented that she does not think anyone wants to lose any of the trees, she is attempting to determine what parameters she must work within and to meet her client's wishes. She speculated that if a tree on the Civic Center property dies within the next year if her clients' construction will be blamed. Ms. Aschliman asked the Board to grant a continuance so she may gather additional information. All Members agreed.

Miscellaneous

Ms. Statt Blake commented that the Board will meet on August 8, 2023 to hear four cases plus the continuation of 19 Worthington Avenue.

Adjourn

With no further business before the Board, Ms. Eismeier moved to adjourn the meeting. Mr. Kearns seconded the motion. By voice vote, all voted yes, the motion carried. The meeting adjourned at 6:47 p.m.

Respectfully submitted,

Debby Martin, Executive Assistant

Charlie Jahnigen, Chair