

MINUTES
Board of Zoning Appeals
August 10, 2021

The Wyoming Board of Zoning Appeals met on August 10, 2021 in the Council Chambers of the City Building. The meeting was called to order at 6:00 p.m. by Mr. Charlie Jahnigen, Chair. Attendance was as follows:

MEMBERS:

Charlie Jahnigen, Chair
Jennifer Eismeier
Jeff LeRoy

ABSENT:

Lynn Bueckman
Bob Kearns

STAFF:

Megan Statt Blake, Community Development Director
Tana Bere, Community Development Specialist

Approval of July 13, 2021 Meeting Minutes

The approval of the meeting minutes was deferred until the next meeting.

44 Mt. Pleasant Avenue, Case #8-21, Circular Driveway Variance Request

Rod Sidley, Architect on behalf of property owners Claire and David Kappa, is requesting a variance to construct a circular driveway in the front yard at 44 Mt. Pleasant Avenue. The property is located in the AA, Single-Family Residence District. §1153.06 of the Code prohibits such driveways unless all of the following requirements are met:

1. The lot is not less than 100' wide.
2. The front setback of the house is not less than 60'
3. The total surface area of all pavement in the front yard shall not exceed 25% of the area of the front yard.

As proposed, the circular driveway does not meet 2 of the 3 requirements. The front setback is approximately 38', and the proposed driveway would cover 35% of the front yard. Based on these facts, the request cannot be given administrative approval, therefore a variance is being sought.

Mr. Sidley was present and added that the 60' requirement would not be able to be met as the house is currently set at 33'-2" from the front property line. Additionally, the 25% maximum area of pavement in the front yard cannot be met due to the shallow front yard.

Claire Kappa, homeowner, was present and added that it is unsafe to back out of the driveway as there are many joggers and speeding cars traveling on Mt. Pleasant, a blind spot due to trees, as well as the driveway being aligned with Charles Street which creates a challenge with three-way traffic. The design of the proposed driveway is to provide a safe, forward-facing exit onto Mt. Pleasant. Mr. Sidley added the proposed location was planned in order to preserve the mature trees in the front yard.

Ms. Statt Blake read into the record a letter received from the neighboring property owners, Bette and Tom Sherman, 30 Mt. Pleasant. The Shermans expressed approval of the proposal and stated that they have no objection to the Kappas' request for a variance. Ms. Eismeier commented that, setting the safety issues aside, the City is proud of its urban forest and allowing a large paved surface in a front yard is a cause for concern. She asked if consideration was given to installing a turn-around in the side yard where one could back out of the driveway and turn around to exit forward-facing. Mr. Sidley stated that there is not enough width adjacent to the garage to create a turn-around area. She asked what steps, if any, were taken to reach a design solution that met the Zoning Code. Mr. Sidley stated that with a full driveway tree roots would be damaged and Ms. Kappa added that such a layout would be less aesthetically pleasing.

Ms. Eismeier explained that whenever additional asphalt is added, the property produces additional storm water runoff into streams and drains. In past similar requests, the Board has asked homeowners to install pavers or gravel or some combination of more pervious material in order to help control storm water runoff. Mr. Sidley stated that he believed the gravel driveways were not permitted in the City. Ms. Kappa added that there is a slight incline to the front yard and she believes that people may slip on the gravel. Ms. Eismeier stated that the Board will typically ask landowners to consider plans that do not have so much impervious surface.

Mr. LeRoy questioned if Mt. Pleasant will be reconstructed in the near future. Ms. Statt Blake explained that the reconstruction of Mt. Pleasant is listed on the City Council's five year Capital Improvement Plan for budgeting and planning purposes but the project has not been funded and is at least a few years out still. There is a plan to reconstruct the road but the engineering has not yet been done and funding has not yet been allocated.

Mr. Jahnigen stated that he understands the safety concerns; he travels Charles Avenue frequently and knows how it aligns with the applicant's driveway. Ms. Eismeier commented that she would not feel comfortable approving the plan as submitted with the significant amount of asphalt surface that is proposed. Safety is a concern and the Members do not want to prevent a landowner's safe exit from their property. Mr. LeRoy questioned if the Members would consider a revised plan from the appellants.

Mr. Sidley asked for clarification as to how much gravel and impervious surface would satisfy the Board. Ms. Eismeier stated that a minimal amount of impervious surface is the goal and she suggested 75% pervious surface, 25% impervious. In a past case, the Board approved a gravel circular driveway with a paver/concrete edging that contains the gravel.

There being no additional questions from the Board, Mr. LeRoy moved to grant the variance as submitted with the caveat that 75% of the proposed driveway surface contain 75% pervious material and 25% impervious material which does not include the driveway apron or the public sidewalk. Ms. Eismeier seconded the motion. By roll call vote, 3-0, all voted yes, the motion carried.

304 Burns Avenue, Case #9-21, Detached Garage Front Yard Setback Variance

Request

Rod Sidley, Architect on behalf of property owner Raye Allen, is proposing to construct a detached garage to the rear of the house at 304 Burns Avenue, with the garage doors facing Cooper Avenue. The property is a corner lot located at the intersection of Burns and Cooper Avenues. §1153.02 (f) of the Code mandates a minimum 60' setback from front lot lines for accessory buildings. The depth from Cooper Avenue is approximately 87', and the setback of the proposed garage is 43', though no survey of the property has been provided. The proposed building placement fails to comply with the minimum 60' front yard setback requirement from the Cooper Avenue frontage. A variance is being sought on this basis. Mr. Sidley added that the property has been without a garage since 1975. He has designed the detached garage to be consistent with the design of the home and therefore planned the roof of the garage with a 12:12 slope. To conform to the required side yard setbacks, there is no other way to construct a usable garage for the residence. Essentially, there is no way to build a detached garage on this particular property without a variance.

Ms. Eismeier asked where the water runoff from the garage will go. Mr. Sidley stated that it will be channeled underground. Ms. Eismeier commented that the current driveway pad is gravel and she asked how the new driveway will be constructed. Mr. Sidley stated that the homeowner would like to have an asphalt driveway as she would like to be able to shovel it in the winter. In this particular case, the driveway would be the only paved area on the site. He added that the large oak tree adjacent to the existing driveway will not be impacted by the project.

Ms. Statt Blake asked clarification that the new driveway will align with the existing curb in the driveway apron. Mr. Sidley confirmed that it will align with the curb and will then taper out into the yard area.

There being no further questions or comments from the Members, Mr. LeRoy moved to approve the request for a variance as submitted. Ms. Eismeier seconded the motion. By roll call vote, 3-0, all voted yes, the motion carried.

30 E. Mills Avenue, Case #10-21, Deck Side Yard Setback Variance Request

Anthony and Jennifer Schlegel, the owners of the subject property, are requesting a side yard setback variance to construct a deck to the rear/north side of their house. The property is located in the AA, Single-Family Residence District and is required to meet a minimum side yard setback of 10 feet for one-story elements, per §1153.04(b) of the Code. As indicated on the submitted survey, the existing side yard setback from the neighboring property at 36 E. Mills Ave. is 7.6'. The applicant is proposing a side yard setback of 2.1' for the proposed deck.

It is noted that the same owners were granted a side yard variance in 2018 (Case #4-18) in order to construct a two-story addition on the rear of the house. That addition sits at the 7.6' side yard setback (versus the required 15' setback), as shown on the submitted site plan.

Mr. Schlegel noted that in addition to the proposed deck he plans to construct a shed and a detached garage in the rear yard.

Ms. Statt Blake clarified for the members that the variance before the Board is for the deck only at this time. She asked Mr. Schlegel if the garage, as envisioned, will meet the required setbacks. Mr. Schlegel indicated that he believes the proposed garage will require a variance but he has not planned its placement on the lot at this time.

Ms. Schlegel added that the existing home does not currently have a fully usable outdoor space. Her family enjoys being outdoors and would benefit by having this outdoor space. They socialize with neighbors and would like to have the outdoor entertainment space.

Mr. Schlegel stated that he spoke with his neighbor to the east who indicated their approval of the plan as they believed it would be a nice addition to the property and will help increase the property value.

Mr. Jahnigen asked if any trees will need to be removed to make way for the deck. Mr. Schlegel stated that there is a pine tree on the north side of the property that is dead and leaning and will be removed.

Mr. Jahnigen acknowledges that there is a challenge with a property that is 50 feet wide. Ms. Eismeier commented that the improvement looks appealing, however she expressed concern with the proposed deck being two feet away from the property line as it is a

significant variance from the Code. Although the future plans call for the new detached garage to be moved away from the property line it too is shown too close to the property line.

Discussion was held regarding the placement of the proposed steps leading from the deck to the side yard. It was determined that the gap between the stairs and the house could be reduced or eliminated which would allow the deck to be shifted further away than 2.1 feet from the property line.

Ms. Eismeier commented that she would prefer that the deck be placed as far away from the property line as possible and would prefer that it be no less than 5'. Ms. Schlegel stated that they would prefer that the future new detached garage not take up too much of the play space in the yard by having it be shifted over, roughly to the center of the yard if the setbacks were required to be held firm. Mr. Schlegel added that the further the garage is placed away from the house the more yard will be lost. Ms. Eismeier commented that the applicants are asking for a large variance on a narrow lot.

Mr. Schlegel stated that moving the stairs closer to the house would be a compromise in that the issue is not so much with the placement of the deck but with the future placement of the detached garage which will be a significant structure.

Mr. Jahnigen asked the applicants if they would consider shifting the stairs on the deck over 18 inches towards the house which would place the deck 3' from the property line. If someone were to put a fence on the property line there would leave 36 inches between the deck and a fence. Mr. Schlegel stated that this is acceptable.

Mr. LeRoy motioned to approve the variance as submitted with the caveat that the deck be placed 3' from the property line rather than 2.1' as was submitted. Ms. Eismeier seconded the motion. By roll call vote, 2-1, with Mr. LeRoy and Mr. Jahnigen voting yes, Ms. Eismeier voting no, the motion carried.

(Amended) 245 Springfield Pike, Case #10-20

Rod Sidley, Architect, is requesting an amendment to a variance on behalf of Mor and Khadidiatou Diallo, the owners of the property located at 245 Springfield Pike, who are currently constructing a second-story porch over an existing one-story portion of their home. The Board approved a variance for the project in July 2020. He explained that the owners realized that having an open porch with tile floor on the corner of a heavily traveled intersection produces a lot of dirt inside the covered porch. Additionally, the owners feel that an enclosed space is more valuable than open space. For these two reasons the owners are requesting an amendment to the variance to allow them to enclose the new

second floor porch. The material changes would involve changing the openings to windows and instead of a railing there would be siding.

Ms. Eismeier asked clarification with regard to the exterior material selections. Mr. Sidley explained that the first story portion of the house is covered with brick and the top portion of the addition, which is the porch, will have composite siding that will match the color of the house. The trim will be white.

There being no further questions, Ms. Eismeier moved to grant the amended variance request as submitted. Mr. LeRoy seconded the motion. By roll call vote, 3-0, all voted yes. The motion carried.

Miscellaneous

The deadline for case submissions is August 13 and the City has received one variance application for the September 14, 2021 meeting.

Adjourn

Ms. Eismeier moved to adjourn the meeting. Mr. LeRoy seconded the motion. By voice vote, all voted yes, the motion carried. The meeting adjourned at 7:18 p.m.

Respectfully submitted,

Debby Martin, Executive Assistant

Charlie Jahnigen, Chair