

MINUTES
Board of Zoning Appeals
November 9, 2021

The Wyoming Board of Zoning Appeals met on November 9, 2021 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
Lynn Bueckman
Jennifer Eismeier
Jeff LeRoy
Bob Kearns

STAFF:

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

Approval of October 12, 2021 Meeting Minutes

Ms. Eismeier moved to approve the minutes as written. Mr. Kearns seconded the motion. All voted yes, the motion carried.

671 Reily Road, Case #14-21, Driveway Width Variance Request

Ms. Bere provided the background. Alyssa and Carl Adkins, owners of the subject property, are requesting a driveway width variance to expand their existing driveway. The property is located in the AAA, Single-Family Residence District. Section §1151.06(d) of the Code allows driveways within the front yard to be a maximum of 13 feet wide, when not otherwise serving a front entry garage. As indicated on the site plan, a portion of the proposed driveway is approximately 29 feet wide. The proposed driveway fails to comply with the provisions of the Code and a variance is being sought on this basis.

Mr. Carl Adkins, 671 Reily Road, addressed the members. He explained that the home was built in 1925 and the size of the existing garage reflects the size of cars from that era. Today, only one car fits in this garage and only a small to mid-size car will fit. Additionally, in order to fit any car into the existing garage a two or three point turn up and back is necessary to maneuver in and out of the garage. Therefore it not very useful. Mr. Adkins stated that he is, by separate building permit, going to be constructing a full-sized garage in front of the existing garage. He added that the home sits very far back from the road, and the new construction will be to the side of the house, it will not be in an area where one can park. Additional parking has been added to the rear of the home and which is not the purpose of the variance request. He would prefer to be able to come up the driveway and turn into the garage. Mr. Adkins added that attempt was made to explore several other

options and no other options work given the layout of the property. The proposal will be an improvement to the neighborhood particularly with the replacement of several rock walls that have been on the property for decades and have integrity compromises. Additionally, the landscaping will be vastly improved as well. He has spoken to the immediate neighbors and they have expressed favorable opinions to the project.

Ms. Eismeier asked clarification as to an existing turn around area of the driveway on the north side of the property. Mr. Adkins explained that there is an existing small parking pad, you have to pull past it and back in to it, and this pad is nowhere near the garage.

Discussion was held regarding the size and placement of the flare of the driveway and its proximity to the proposed addition. Mr. Adkins had clarified that there will not be enough room for a car to ultimately be able to park in front of the house.

Mr. Jahnigen asked question of the proposed driveway material. Mr. Adkins stated that the current driveway is blacktop and the new portion of the proposed driveway will be blacktop as well.

Mr. Adkins explained that he has hired a landscaper who will plant new trees and decorative landscaping in addition to rebuilding the four foot new stone wall. It will be a dramatic improvements to the look and feel of than property for him and for his neighbors. Mr. Kearns asked if any of the existing larger trees will be lost for the project. Mr. Adkins explained that there are currently four dead trees on the property adjacent to the existing driveway that will be removed. One of these trees is growing into the power line and last year a large limb from this tree fell on the power lines and created a small fire. The next door neighbor has expressed appreciation that the dead trees will be removed.

Mr. Bueckman stated that he does not feel there are any major issues with the proposal.

Ms. Eismeier commented that she feels a precedence is being set given the large amount of pavement being proposed in front of the house. If this were a smaller lot, in a more visible place, the proposed amount of pavement would have an impact. She understands the applicant's concerns related to the property and turning around and so forth, and the trees, but he felt that these things can be mitigated in other ways. It is important for the Board to consider what message it is sending by granting a variance with the driveway in front of the house even though for this particular lot, she agrees with the applicants that the visual impact for this particular property is minimal.

Mr. Kearns commented that the Board considers variances on a case-by-case basis and each property is different and could have mitigating circumstances for which a variance is reasonable that may not be present in a different case.

Mr. LeRoy stated that the house sits quite a ways back from the road and with the vegetation in the spring and summer and even the fall one will not be able to see the new garage or the home from the street. It was noted that the proposed garage setbacks meet the code and does not need a variance. Mr. LeRoy commented that he cannot envision how the garage can be accessed without the modifications to the driveway.

Ms. Eismeier asked how many cars may be parked in the driveway outside of the new garage, near the house, at any given time. Mr. Adkins stated that he and his wife will park in the garage. They currently have three children, two of which will be out of the house in about two years, and the two additional cars will be parked outside of the garage in the driveway area that extends past the house.

Mr. LeRoy moved to approve the request for variance as submitted. Mr. Bueckman seconded the motion. By roll call vote, 4-1, with Ms. Eismeier voting no and all others voting yes, the motion carried.

1243 Garden Circle, Case #13-21, Detached Garage Side Yard Variance Request

Ms. Statt Blake provided the background. Marla and Ronald Williams, owners of the subject property, as represented by Rod Sidley, architect, are requesting a side yard variance to reconfigure their existing detached garage. The property is located in the A, Single-Family Residence District. Section 1183.06(a) of the Code allows single-story accessory structures in side and rear yards provided they maintain a minimum setback from both the side and rear property lines of 5 feet. As indicated on the site plan, the proposed addition to the front of the garage would sit approximately 6 inches from the side yard. Additionally, an existing encroachment of the rear of the garage onto the neighboring property to the south, which is the City's green area space in Ritchie Preserve, will be resolved, with the new rear yard setback being approximately 1 foot. The original garage pre-dates the City's permit records.

Mr. Jahnigen and Ms. Eismeier commented that on the site plan the driveway appears to encroach into the neighboring property. It was noted that the existing garage was constructed at the same time as the house and it appears the driveway encroachment has existed for approximately 90 years.

Mr. Jahnigen asked what the desire is for adding the third garage bay. Mr. Williams explained that he has three cars and he needs additional space for tools and such. Mr. Jahnigen asked whether there will be an appropriate area for turning around. Mr. Williams explained that his daughter parks on the side of the garage now because there is a graveled spot there now to the right of the existing garage. The current driveway configuration will remain the same.

Mr. Bueckman asked to clarify that the only portion of the proposed addition that is non-

compliant is the section of the addition that sits within the five foot setback requirement. Ms. Statt Blake confirmed that is correct and noted that the amount of variance requested is six inches.

At Mr. Kearns' request, Ms. Statt Blake reviewed the provisions of Section 1137.04 of the Code which outlines what applicants are supposed to include in their submittals to the Board. Mr. Kearns expressed concern that the applicant had not addressed these questions in their letter.

Mr. Bueckman noted that from the street the appearance of the garage within the setback area does not change other than the construction of a more modern structure.

Ms. Eismeier asked for clarification as to the extent of the construction and how much is being dismantled and how much would be new construction. Mr. Williams explained that the only new construction will be the five foot area to the front of the existing garage and the proposed extension of the existing garage that will sit at a diagonal to the existing structure. The rear portion of the existing garage that encroaches into the property to the rear will be demolished. Ms. Eismeier asked the applicant how the storm water will be handled. Mr. Williams stated that the storm water from the driveway and from the existing garage roof run down the back yard hill into the Ritchie creek. The storm water from the proposed additions to the garage will be the same.

Ms. Eismeier asked for clarification as to the Code's guidelines on how storm water can be piped. Ms. Statt Blake explained that generally the protocols that the City follows is that a downspout pipe may daylight a minimum of 10 feet away from any common property boundaries. It is ultimately a civil matter that is governed by Ohio Drainage Law. If a development requires development plan review, for example a commercial property or a new subdivision, the storm water plan would be reviewed and accepted by the City's engineer. However, that level of review is not required for piecemeal residential redevelopment.

Mr. Jahnigen commented that the variance request is for a 5' x 4'6" addition to the existing garage. The existing garage is non-confirming and there is some improvement by removing the portion of the garage that extends beyond the homeowners' rear property line.

Mr. Bueckman commented that the project can be completed and be in substantial conformance with the Code with the exception of the front corner encroachment.

Mr. Kearns moved to approve the request for variance as submitted. Mr. LeRoy seconded the motion. By roll call vote, 5-0, all voted yes, the motion carried.

343 Compton Road, Case #15-21, Driveway Width Variance Request

Ms. Bere explained that Ryan and Jillian Prendergast, owners of the subject property, are requesting a driveway width variance for the recently expanded asphalt driveway. The property is located in the AAA, Single-Family Residence District. Expansion of the existing non-conforming driveway recently occurred without approval by the City and in violation of §1151.06(d) of the Code. This Code provision allows driveways within the front yard to be up to 13 feet in width unless they serve a front entry garage, in which case they may extend up to 2 feet beyond the edges of front entry garage doors, and not to exceed 25 feet. As indicated on the site drawing, the newly expanded driveway is up to 30 feet wide and extends approximately 12 feet beyond the outside edges of the garage door. Additionally, driveways within the limits of a front yard shall be designed for the primary purpose of facilitating the movement of vehicles to and from an approved parking area, garage, or carport which they serve and shall not create additional parking spaces in the front yard. The driveway fails to comply with these provisions of the Code and a variance is being sought on this basis. No survey of the property has been provided.

Ryan Prendergast addressed the Members. He explained that when he had the driveway surfaced he had all of the existing driveway resurfaced. There is an area that was added to the right of the existing driveway before he acquired the house, which was gravel and mud. So when he had the existing driveway resurfaced he added the gravel and mud area resurfaced and at that time, added the 6'x8' extension added. He apologized for not obtaining a permit for the work, his thought process got ahead of him and he lost sight of that requirement.

Mr. Prendergast explained that the parking area to the right side of the house is gravel due to the addition that was constructed on the back side of the house. In order to pass the final inspection of his addition, he had to find a way to control the flooding. He installed gravel in this area to control the water run-off that comes from his neighbor's downspout. The water run-off from the downspouts had already caused foundation issues.

Mr. Kearns asked if a tree had been removed at some time between the driveway and the street. Mr. Prendergast stated that there was a tree stump present when he moved in and he is unsure how long ago the tree had been removed.

Mr. Kearns asked if everything else about the driveway conforms to the Code. Ms. Statt Blake stated that the driveway configuration was considered legally non-conforming based on it previously existing. If it were a new design today, it would not meet zoning. She clarified that there was a turn around area/bump out that had been on site for years and then the other bump out area closer to the garage. The distinction with the work that happened recently is that it made the driveway further non-conforming. As long as the non-compliant configuration was left intact in perpetuity, it could remain non-conforming,

however once it is modified the design must become compliant with the current Zoning Code or achieve a variance.

Mr. Jahnigen questioned if there are plans to landscape or provide any additional improvements. Mr. Prendergast commented that he would eventually like to install additional trees or perhaps a fence. He explained that when the excavating was done on the side to get the area down to grade so that his yard didn't flood, he inadvertently encroached into his neighbor's yard by 1x30 feet at the top of the side yard, where the excavation area cut into the grade. At the time the encroachment occurred, he addressed it with the next door neighbor. He would have liked to had the situation remedied months ago however since the neighbor has become difficult to work with. Mr. Prendergast explained the work that needed to be done to fix the water in the garage and the grading work that was required as well as the heavy equipment that was needed on site to complete the work. He has offered to make it right and repair any damage that was done with the equipment, but again, it has been difficult in making progress with the next door neighbor.

Ms. Eismeier asked if there is a plan to install landscaping between the edge of the bump out and the street. Mr. Prendergast stated that he would like to grind the stump out first. Ms. Statt Blake explained where the typical right of way line is located. She stated that the City has recently been successful in obtaining grant funding that will involve extending the sidewalk on Compton Road past the applicant's home down to Mt. Pleasant Avenue. If any landscaping is planted between the edge of the road and where the driveway bump out begins, it will likely be removed when the sidewalk installation begins.

Ms. Eismeier inquired about the parking plan for the driveway. Mr. Prendergast stated that his truck stays in the garage, he has a work van that parks next to it. This way, everyone else can get out of the garage and use the bump out to turn around to exit onto Compton Road forward-facing. He explained that he also has a portable basketball hoop stored in front of his truck and when his kids want to play, he backs his truck out to the edge of the driveway to prevent basketballs and soccer balls, etc. from coming out on to Compton Road. This also allows his two children, who are 8 and 10 years old, to be able to safely play in the driveway. There are two cars that are permanently parked in the driveway and two in the garage.

Johnny VanStyn, 347 Compton Road, introduced himself, he is the next door neighbor to the west of the applicants. Also, Michael Samuels, 278 Ritchie Avenue, introduced himself and indicated that he is Mr. VanStyn's attorney. Mr. VanStyn presented pictures of the work that has been done. He also had his property surveyed. He indicated points on the site plan the location of the excavation. He expressed concern that the area that used to be level ground that he could walk on has been dug out and created an angle 35-45 degrees from the lower level. He stated that there was nothing wrong with his downspouts and noted

that he has new gutters. His gutters release to the back and into the street. The ground has been disturbed now and he would like to have a wall built on his neighbor's property because of the excavation Mr. Prendergast completed. Mr. VanStyn stated that he does not believe that this is a civil matter, he believed it was a criminal matter and he had called the police to report the excavation. He believes that Mr. Prendergast has trespassed and defaced his property.

Mr. Samuels indicated that some pictures revealed where survey stakes were located months ago before the excavation but now there is some grass that has grown but the excavation can be seen as being located on his client's property. He believes now that erosion and instability will occur because the gradual slope that was there is now gone. There has been real damage done to Mr. VanStyn's property which will become worse and worse over time. Mr. VanStyn added that the hillside now contains grooves where the rain water has cut into the soil. Mr. Samuels stated that, in his opinion, this is clearly a trespassing issue. The Members noted that there were no photos available of the land between the two homes prior to the start of any improvements.

Ms. Eismeier asked for clarification if the addition that was constructed to the Prendergast's house needed a variance. Ms. Statt Blake stated that it did not, as the proposal met the provisions of the Code.

Mr. Jahnigen questioned in a case like this, if the homeowner knew ahead of time, that heavy equipment would be needed between the properties to fix the grading, and that there was going to be the potential that damage may be done during the excavation. Ms. Statt Blake stated that this is something that would be negotiated between the property owners and at their expense.

Mr. Samuels commented on the perception that bad precedence would be set in this case, if the applicants were not held responsible for the damage done to the neighbor's property. He suggested that everyone come back with a plan that is satisfactory to both parties for handling the erosion problems. Mr. LeRoy commented on an undated photo showing the land between the two homes before any work was done and it looks as though there is a small slope. Mr. VanStyn stated that there is an existing slight slope. Mr. VanStyn stated that there is an existing slope it is not flat. It was noted that the now current slope is steeper than it used to be and Mr. VanStyn added that he now is not able to walk on it. Mr. Samuels added that the land used to be fully vegetated and stable and now there is disturbed land with a much steeper slope.

Ms. Eismeier commented that to be clear, the applicant has a permitted addition that did not require a variance and did not come before this Board. Mr. Jahnigen confirmed that is correct. Ms. Eismeier commented that the damage that was incurred is not a result of a decision by this Board. She explained that the case before the Board this evening does not

involve the addition to the back of the house for which the incursion was caused. Mr. VanStyn stated that everything is now lower in altitude. Ms. Eismeier stated that the case before the Board did not result in the grade change. Mr. VanStyn commented that he had to call the police over this matter. He asked if Officer Carr spoke with Ms. Statt Blake following his visit and if so he asked what her decision was based on his report. Ms. Statt Blake stated that the discussion and outcome is between the complainant and the Police Department as her purview is the zoning matter at hand. If the Police Department deemed the situation to not be a chargeable offense then that is a decision of the Police Department who has jurisdiction in that particular instance.

Mr. Jahnigen stated that the Board of Zoning Appeals is charged with hearing the case relating to the expansion of the asphalt driveway, and nothing more. We have a neighbor who is upset as a result of the overall development and activity on his neighbor's property. Mr. Bueckman added that it is his understanding that the Board of Zoning Appeals is not intended for handling neighbor disputes as this.

Mr. Samuels commented that the Board has prerogative in this case that the seven factors laid out by the Code are not satisfied to grant this variance. Did the property owner know of the restriction when they purchased the property? Mr. Samuels answered his question as yes. The spirit and intent behind the zoning requirement would not be observed by granting the variance. He stated that the Board is doing this for the convenience of a person who flouted the law. The Board can rectify a potential erosion problem by not granting the variance. Mr. Samuels added that he does not know why the Board would grant a variance when the neighbor has damaged his client's property and flouted the law.

Mr. Kearns reiterated that the charge before the Board this evening is in response to the expanded driveway. He would like to have all eight questions from the Code answered in the variance applications and any future variance requests from this application. He understands that there is a dispute. Hopefully, the neighbors can come to some solution other than frontier justice. He would like them to find an amenable resolution to the problem, but that is not what the Board is being asked to considered.

Mr. Bueckman commented that if the work had not been accomplished already, and that is taken out of the discussion, and if the Board were looking at the variance as it was presented, what decision would the Board then make? What would the Board's decision be in that case? Anything that goes beyond that which could have included damage to the neighboring property or destruction of the neighboring property or encroachment up on the neighboring property, goes outside the scope of this Board and that there are other means to resolve that outside of what this is and outside of denying the variance. Mr. Bueckman stated that he believes that the Board should not approve the variance because the work has already been done. Mr. Bueckman stated that he believes the Board needs to look at it as if it were its first review and the work had not already been done.

Ms. Eismeier commented that she would return to the case at hand which is the addition of the pavement on the driveway. She does not believe in any circumstance it would have led to any excavation of the neighbor's property. She can certainly render her opinion on the situation but she feels that it is already egregious enough that the work was done before the applicant came to the city about it. In terms of the driveway, these types of driveway alterations have been approved in the past, and it is always a balance between what looks good and what is felt to be necessary at the time or what construes as hardship. She stated that parking vehicles in front of your house or needing to do that constitutes a hardship. She believes there was already parking available in front of the applicant's house and she understands the applicant's desire to want their children to be able to play in the driveway. But the homeowners purchased the house knowing that it is on a busy street. And there were conditions of the home when it was purchased, that don't necessarily align with the uses that the owner is desiring. Additionally, this is a very large paved area and for someone who is seeing this, they may very well have no idea or any interest in the fact that there are pre-existing potentially mitigating factors here that allow this, the area of pavement in the front yard. Someone can come back to this board and say that this is a 3-0x80 area in someone's front yard and they are permanently parking two vehicles in it, once of which is a work truck, and she believes that this will be problematic. Ms. Statt Blake interjected by adding that the Code has language n restricting commercial vehicle parking in residential areas but it will depend on what type of vehicle is in question.

Mr. LeRoy asked Mr. Prendergast when he purchased the property and he replied that he has owned it for five years. Mr. LeRoy asked clarification to Ms. Eismeier that if the applicants were to have come to the board before the work was done, her points were raised to that effect. Ms. Eismeier affirmed that was correct and added that this could have come to the Board as a simple driveway variance request of two, 30' wide driveways and the Board would have been asked to allow that to be made whole by an 8'x6' infill.

Mr. LeRoy asked clarification of Ms. Statt Blake what the homeowner's options are if the variance is not granted. She indicated that there are a number of potential remedies one of which would be to restore the area to a landscaped area whether that is grass or some type of landscaping or ground cover. The other is to bring the driveway into compliance or provide the parking and circulation that is needed in a Code compliant manner. There are flare outs of driveways allowed if they lead to an approved parking area. So again, the issue here is that a non-conforming driveway became more non-conforming so whether it goes back to its previously non-conforming status or is modified in some other fashion, could be negotiated or discussed. At the very least the prior configuration could be restored and meet the protection of the non-conforming status.

Mr. Samuels commented that he does not know the answer to his question but he believes that it is a reasonable question. He asked if you increased the non-conforming nature of

your use, can you bring it back and still maintain the non-conforming use. Ms. Statt Blake explained that a change in use and building are looked at differently. Uses have much greater restrictions. You cannot re-establish a non-conforming use. Mr. LeRoy stated that the Board has to look at the driveway configuration as it comes to them already non-conforming to the Code with the current non-conforming configuration that the applicants completed without permission.

Ms. Eismeier stated that Mr. Samuels is an attorney and presumably he would appear at this hearing prepared with the legal background to present his client's arguments to the Board. The Board is not considering the damage to his client's property. The Board of Zoning Appeals, as Mr. Samuels pointed out, has broad authority to make decisions about the cases before them, which is simply what they are considering. Any hypothetical scenarios Mr. Samuels is proposing as a legal matter, she would submit it to Mr. Samuels as being better answered by him, the attorney, and the Board will proceed with the authority granted to it.

Ms. Statt Blake stated that the guidance of our Code on non-conforming uses and non-conforming structures is silent on site improvement. It clearly defines how a non-conforming use or a non-conforming structure may be altered or restored, it does not get into the granular level of site improvements like flat work, driveways, fences, etc. There are provisions in the Zoning Code for appeals to the decisions of the Board of Zoning Appeals.

Mr. Bueckman surmised that, considering the Board's procedures, it takes the submission documents, they review them based on what is being submitted, and then it renders a decision. Ms. Statt Blake added that a decision could also not be made.

Ms. Eismeier stated that if this case would have come to the Board as a variance request she would not have voted to approve it. Sometimes these types of proposals are presented and they are approved but as turnaround areas on roads with higher traffic areas than Compton Road, rather than a permanent parking space. It is not about creating a play area in the front yard or creating a permanent parking area for cars, which would not look like what the homeowner has already created, but it would be more of a turn around area for maneuvering cars. It is hard to say what the conversation would have been because the Board is not able to have that conversation because the work has already been completed.

Mr. Bueckman asked for clarification if the variance application included the answers to the Code questions in Section 1137.04 and it was noted that it did not.

Mr. Jahnigen stated that before the Board is the consideration of granting a variance for the filling of a 6'x8' section of driveway as submitted. Ms. Eismeier moved to deny the approval of the variance as submitted. The motioned died for lack of a second to the motion. Mr. LeRoy moved to approve the request for variance as submitted. Mr. Kearns

seconded the motion. By roll call vote, 4-1, the motion carried with Ms. Eismeier voting no and all others voting yes. The motion carried.

425 Oliver Road, Case #16-21, Accessory Structure in Front Yard Variance Request

Ms. Statt Blake provided an overview of the case. The City of Wyoming and Wyoming City Schools are requesting a variance in order to construct a dumpster enclosure in the front yard of Hilltop School facing Reily Road to contain existing trash and recycling dumpsters, as well as provide an enclosure for a port-o-let to service Hilltop Park, which does not currently have restroom facilities. The property is located in the AAA, Single-Family Residence District. Hilltop School is a double-frontage lot (having frontage on both Oliver Road and Reily Road), the portion of the Reily Road frontage from the right-of-way to the school building is considered a front yard even though functionally, it is the rear of the campus facility. Section 1183.06(a) of the Zoning Code allows accessory structures only when placed with side and/or rear yards, therefore a variance is being sought on this basis.

City Manager Rusty Herzog was present to provide additional details to the Members. He stated that for as long as he can recall, the dumpsters at the school have been where they are currently located. He was presented with a problem of the lack of restroom facilities to service the park patrons and ball team players at Hilltop Park and he has been attempting to find a resolution to the issue. He spoke with the School Superintendent, Tim Weber, and they have been working together to find a solution. He had not realized the proximity of the homes across the street and how the dumpsters look from these homes. In order to resolve this the idea to enclose the dumpsters evolved.

Pictures of dumpster enclosures were shared and Mr. Herzog explained that an enclosure using a composite material that has some resiliency to the weather and won't need to be maintained as often by the maintenance staff of the schools and/or the city. The goal was to make the dumpsters not look like dumpsters, and then the idea came about to enclose a port-o-let within the dumpster enclosure. There would not be a closed-off area within the dumpster enclosure for the port-o-let, there would not be a door to open to go into the port-o-let area, and it would be one open area with the dumpster. The timing that the port-o-let will be on-site will be determined on the level of programming on the field at Hilltop Park. Currently, only girls' softball teams are using the field in the spring and the girls need a place to go to the bathroom. Additionally, the port-o-lets will be cleaned once a week.

Mr. Herzog stated that as a pro-active measure, he reached out to the homeowners at 671 Reily and 713 Reily Road; he shared the pictures of the proposed enclosure and both homeowners were comfortable with the proposal. Both had asked that some bushes be planted around the enclosure at some point in the future.

Mr. Herzog stated that the surface underneath the structure will be a gravel base; no

concrete will be poured. He believes that the dumpsters are currently sitting on the grass surface, so the gravel will be a better base for the structure.

Mr. LeRoy asked if Rumpke was consulted when designing the enclosure. Ms. Statt Blake stated that she consulted the driver that services the dumpster and he indicated the proposal was fine. Mr. LeRoy asked if the city or the school pays for the work. Mr. Herzog stated that the property belongs to the school but the Public Works Department will be doing the work. The cost will be split, 50/50, with the school system. There is another dumpster enclosure and port-o-let installation planned for Vermont School as well, however, that one did not require a variance. The one at Vermont School will cost approximately \$6,000 and the one at Hilltop will be approximately \$7,000. The use of a composite material is why it costs more than regular wood. The enclosure at Hilltop School will have a gate across it but the one at Vermont will not because it will take away too much of the parking area. The gates will need to swing outward to open which is why the gates will not be proposed for the one at Vermont School.

Mr. LeRoy commented that in his four years on Council this topic has been discussed for some time about getting a restroom installed at the park and/or access to the school. He applauded Mr. Herzog and Mr. Weber for creative problem solving for this problem. He asked about signage and how park patrons will know about the port-o-let. Mr. Herzog stated that signage will be installed at the field. Also, the City schedules when the teams will use the field and the coaches will be made aware of the port-o-let. If team programming on the field is increased to additional seasons, the port-o-let will be made available. The City has to pay for the port-o-let to be up there and so we do not want to pay for it when there are no teams needing to use it.

Mr. Jahnigen asked if yellow bollards will be installed to protect the structure. Mr. Herzog stated that there can be bollards installed however he believes that they will not be yellow. Ms. Statt Blake added that there are bollards inside the structure that prevent the dumpster from being pushed into the walls of the enclosure by the Rumpke truck.

Mr. Kearns asked for clarification as to the proposed height of the structure. Mr. Herzog stated that the enclosure will be eight feet high in order to reach the top roof of the port-o-let. Discussion was held regarding the placement of the port-o-let in relation to the placement of the dumpster and the entry points into the enclosure.

Ms. Eismeier moved to approve the request for variance as submitted. Mr. Bueckman seconded the motion. By roll call vote, 5-0, all voted yes and the motion carried.

MISCELLAENOUS

Ms. Statt Blake reported that the Board will meet next on December 14, 2021 at 6:00 p.m. and currently there is one case to be heard however the deadline to submit an application is at the end of the week.

ADJOURN

Mr. Kearns moved to adjourn the meeting. Ms. Eismeier seconded the motion. By voice vote, all voted yes, the motion carried. The meeting adjourned at 7:35 p.m.

Respectfully submitted,

Debby Martin, Executive Assistant

Charlie Jahnigen, Chair