

MINUTES
Board of Zoning Appeals
March 8, 2022

The Wyoming Board of Zoning Appeals met on March 8, 2022, 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
Jen Eismeier
Bob Kearns

Absent:

Chris Woodside

Staff:

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

Approval of February 8, 2022, 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.

720 Stout Avenue, Case #4-22, Side Yard Setback Variance Request

Ms. Bere provided the background for this case. LuAnn Gedeon, owner of the subject property, as represented by Designer Donald Schehr, is requesting a side yard setback variance to construct an addition to the front of her house. The building program also includes an addition and deck to the rear of her house. The property is in the A, Single-Family Residence District and is required to meet a minimum side yard setback of 7 feet for one-story elements, per Section 1155.04(b) of the Code. As indicated on the site plan, the proposed front addition would sit approximately 6.5 feet from the side property line, which is consistent with the existing house. The proposed front addition fails to comply with the provisions of the Code and a variance is being sought on this basis.

Mr. Scheher, designer representing the applicant, was present and added that the new addition will consist of a master bedroom and the exterior wall of the addition will be in the same plane with the existing house line. Ms. Gedeon added that to meet the required setback of the home the addition would have had to be set back approximately six inches on the front of the house and it would have looked out of place.

Mr. Bueckman asked clarification if the new siding will match the existing. Ms. Gedeon stated that all the siding will be replaced.

Mr. Jahnigen asked if any of the neighbors that were notified provided feedback. Ms. Bere stated that Denny Kraus reviewed the plans but made no comments, he was simply curious about what was being done.

Mr. Kearns asked clarification of how far out the proposed addition will sit from the existing front wall of the home. Mr. Scheher stated that the addition will sit 10' from the front of the house.

With no further questions from the members or discussion, Mr. Bueckman moved to approve the request for variance as submitted. Mr. Kearns seconded the motion. By roll call vote, 4-0, all voted yes, the motion carried.

96 Burns Avenue, Case #5-22, Side Yard Setback Variance Request

Ms. Statt Blake provided the background for this case. Coral and Nicholas Dill, owners of the subject property, as represented by Architect Sara Aschliman, are requesting a side yard variance to construct an addition to the rear of their home. The property is in the A, Single-Family Residence District and is required to meet a side yard setback of 12' for two-story elements of the house, per Section §1155.04(b) of the Code. As shown, the proposed addition would be 9'-10" from the northern side property line. The proposed addition fails to comply with this setback requirement and a variance is being sought on this basis.

It was noted that this is a contributing property within the Village Historic District and has been reviewed and approved by the Historic Preservation Commission and Architectural Review Board (HPC-ARB), under the provisions of Chapter 1336 of the Wyoming Codified Ordinances (*Historic Review*).

Ms. Aschliman stated that before applying for the variance several alternative options were considered including an attached garage and an addition above the single-story den, but were rejected due to increased cost, increased front façade change, and increased paved land. Moving the footprint of the addition to the south to avoid the side yard setback infringement was also considered but was found undesirable as it would either sacrifice interior space, shift the new massing too far off-center from the existing structure, or create an elongated new form that would be unbalanced with the original home. The plan before the Board now reflects the smallest and simplest solution to meet the clients' needs with the most minimal impact to the existing property.

Ms. Eismeier asked how the stormwater will be managed. Ms. Aschliman stated that to the north, there are two sets of gutters that the addition will tie into and will continue to run out to Burns Avenue as is the current design. Ms. Eismeier commented that the addition

will add additional storm water to the City's existing system and this new amount of storm water volume warrants learning how it will be managed. Ms. Aschliman added that the north side of the addition would be the biggest concern as it is the closest elevation to the neighbors. Ms. Statt Blake clarified that generally, the City allows curb cuts for downspouts to daylight into the street. Tapping into the City's existing storm sewer lines is a very complex process, but it is something that could be reviewed.

Mr. Jahnigen asked if any neighbors who were notified of the meeting provided feedback. Ms. Statt Blake stated that no comments were received.

Ms. Eismeier asked clarification if the concrete wheel strips will be removed from the driveway. Ms. Aschliman stated that the existing wheel path driveway will be replaced with a larger paved area. Mr. Dill added that the Historic Preservation Commission asked if he would be willing to plant landscaping materials on the south side of the driveway before it widens, and he agreed as it would be beneficial to controlling the additional storm water that a fully paved driveway may generate. Ms. Eismeier added that the proposed improvements to the house will add value.

With no further questions from the members or discussion, Mr. Kearns moved to approve the request for variance as submitted. Mr. Bueckman seconded the motion. By roll call vote, 4-0, all voted yes, the motion carried.

915 Reily Road, Case #6-22, Front Yard Fence Variance Request

Ms. Bere provided the background. Mr. Bretton Lammi, occupant of the subject property, with permission from the property owner Jeffrey A. Wiater, Trustee, is requesting a variance to construct a fence within the limits of the front yard along Oliver Court. The property is in the AA, Single-Family Residence District. Section 1183.09(a)(4) of the Code allows non-enclosing decorative fences without gates, that do not exceed 25% of the length of the front lot line or of the portion of a side lot line forward of the actual front building line, that do not exceed four feet in height to be placed within the limits of the front yard. As indicated on the site plan, the proposed enclosing non-decorative privacy fence is 6 feet in height and is forward of the front building line facing Oliver Court. The project also includes constructing a split rail fence along the northern property line. The proposed privacy fence fails to comply with the provisions of the Code and a variance is being sought on this basis.

Ms. Bere added that the City has received numerous comments from the neighbors on the proposed fence along Oliver Court and none of the feedback received was positive or was in favor of the proposal.

Mr. Lammi addressed the Members and added that the house belonged to his parents and he and his wife moved in to care for his mother. He stated that he would like to erect the

fence to allow his dogs to exercise while not being on a leash. The proposed privacy fence would be set back 25 feet from the property line along Oliver Court rather than the 55 feet required by the Code.

Mrs. Judith Van Ginkle, 516 Oliver Court, was present and stated that she has lived in her house since 1970 and prior to that she had lived on Fleming Road since 1960. She stated that in speaking for all her neighbors when talking about the aesthetics of the large fence proposal, all the neighbors have had dogs and fences, but they have had split rail fences with wire which is a lot different than a solid privacy fence. She appreciates the opportunity to provide comments to the Board and that she and her neighbors were able to express their opposition to these major changes on a very small cul-de-sac street. She does not want to see a large, solid fence as the first thing visible on Oliver Court.

Mr. Jahnigen asked the applicants if other methods for maintaining the dogs have been considered other than a fence. Mr. Lammi stated that he considered an invisible fence, but he felt that his dogs would constantly bark at pedestrians and other dogs walking by. He added that he felt that his dogs could likely break through the invisible fence to fight other dogs walking by.

Mr. Kearns asked clarification if there are many dogs living nearby. Mr. Lammi stated that there are many dog owners walking their dogs along Reily Road, but many do not walk down Oliver Court because it is a dead-end street. Mr. Kearns asked Mr. Lammi if his dogs are aggressive enough that they bark at everything. Mr. Lammi stated that the dogs generally do not bark at people alone but rather people who are walking other dogs. Mr. Kearns asked the applicants if they have considered planting a landscaping area with tall plantings in front of the proposed privacy fence to soften the appearance. Mr. Lammi stated that he plans to landscape in front of the fence along the street facing side however the planning materials have not yet been selected.

Mr. Jahnigen asked for clarification with respect to the request that the fence is to be placed 25' back from the curb. He noted that the Board has received six letters from neighbors opposed to the proposal, which has never happened before. He asked the applicants if the fence could be pushed back further than the proposed 25'. Mr. Lammi stated that if the Board provides a choice of either rejecting the fence proposal or selecting another option, he will select another option.

Ms. Statt Blake commented that in the 1970s, a white fence was installed which pre-dated the Zoning Code. There is a pool in the back yard which also predates the Zoning Code as well. Mr. Jahnigen stated that, in his opinion, the proposed fence is very utilitarian, plain brown in color, and likely the cheapest solution on a highly visible residential intersection. If other fence styles and/or screening mechanisms were looked at, it would likely soften the request before the Board and be more amenable with the neighbors as well. The

landscaping does not have to be installed by a professional; the goal would be the same which would be the screen the fence.

Mr. Bueckman asked what other alternatives might be available given that there are many neighbors expressing concern as to the appearance of the proposed fence. The alternative(s) may go a long way to settling the concerns of the neighbors. Mr. Jahnigen added that the height of the fence, as well as its appearance, is also a concern. Ms. Lammi stated that if the fence were shorter than 6' then the dogs would be able to jump over it. Mr. Lammi stated that if a split rail fence with mesh would be installed it may be an option to consider. Mr. Jahnigen stated that a split rail rather than a privacy fence may be more attractive on this corner intersection. Ms. Statt Blake noted that the location of a fence on the Oliver Court frontage would still need a variance regardless of the type of fence installed, because the property is a corner lot.

Mr. Jahnigen summarized that if the case were tabled for this evening and the applicants returned to the next meeting with a plan for a split rail fence with landscaping between the fence and the curb it would likely avoid a lot of neighbor concerns. The City has never received as many letters of concern from neighbors as it has for this case.

Marilyn Thomas, 510 Oliver Road, was present and addressed the Members. She commented that the applicants have indicated that they need a 6' privacy fence to contain two German Shepherd dogs and stated that she has owned two Doberman Pinschers and has always had a split rail fence and has never had a problem with them jumping over her 4' tall fence.

With no further questions or comments, Mr. Kearns moved to table this case until the April 12, 2022, meeting to provide the applicants an opportunity to revise their application. Ms. Eismeier seconded the motion. By roll call vote, 4-0, all voted yes, the motion carried.

637 Oak Avenue, Case #7-22, Side and Rear Yard Setback Variance Requests

Ms. Statt Blake provided the background. Jim Tinkham of Homewood Development, owner of the subject property, is requesting side and rear yard variances to construct a house on the recently re-platted lot at 637 Oak Avenue. The property is in the B, Two-Family Residence District and is required to meet a side yard setback of 12' for two-story elements of the house and a rear yard setback of 30' for two-story elements, per Section 1159.05 of the Code. As shown, the proposed house would be 8.9' from the southern side property line and 22.4' from the rear property line, which fails to comply with the setback requirements. The purpose of this placement is to locate the house outside of the main root area of the significant Oak tree located at the front of property and was a condition of the City's Housing Infill Project, for which Homewood Development was selected following a Request for Proposals. Additionally, as part of the project, the City's Architectural Review Board has reviewed the plans and layout and recommended approval.

Mr. Tinkham was present and added that he submitted a proposal to the City's for its Request for Proposals to develop the two properties on Oak Avenue and his plan was chosen. His house design/type with new, modern amenities was chosen to address prior blight challenges in the area. The two lots are small, and the homes will be small but will have current amenities with enough space to live comfortably but without being tight. He added that he will be doing everything possible to preserve the large Oak tree in the tree lawn area.

Mr. Jahnigen summarized that the request for a variance for 637 Oak Avenue is for the rear yard setback and the variance request for 641 Oak Avenue is for the front yard setback. Mr. Bueckman asked if there have been any comments received from residents who may be affected by the houses on the Grove Avenue side. Ms. Statt Blake stated that all adjacent neighbors were notified. She spoke with the rental property owner on Oak Avenue to the south of 637 Oak Avenue, Amy Christian, who asked questions about storm water runoff, which Mr. Tinkham has addressed with her. Mr. Tinkham added that Ms. Christian stated that she is very happy that construction will soon be starting and she believes that the homes will significantly improve the neighborhood, as she owns several rental units on Oak Avenue.

Mr. Tinkham added that the Architectural Review Board had requested that the proposed home at 641 Oak Avenue be placed closer to Wentworth Avenue to better align with the setbacks of the nearest homes fronting Wentworth. Additionally, the placement of 637 Oak Avenue is such to save the large Oak tree at the front of the lot.

Mr. Bueckman applauded Mr. Tinkham for the work that he has put into the proposal which was laid out very well. Ms. Eismeier commented that she appreciates the endeavors to save the large Oak tree and the front porch appeal of the homes.

With no further questions or comments from the Members, Ms. Eismeier moved to approve the request for variance as submitted. Mr. Bueckman seconded the motion. By roll call vote, 4-0, all voted yes, the motion carried.

641 Oak Avenue, Case #8-22, Corner Lot Front Yard Setback Variance Request

Ms. Statt Blake stated that Jim Tinkham of Homewood Development, owner of the subject property, is requesting a front yard variance to construct a house on the recently re-platted lot at 641 Oak Avenue. The property is in the B, Two-Family Resident District and is a corner lot with frontages on Oak and Wentworth Avenues. The Wentworth Avenue front yard is determined by the existing front yard setback of the residence on the adjoining lot fronting the same street, per Section 1159.05 of the Code, which is 642 Grove Avenue having a front yard setback of 33.8'. As shown, the proposed house would be 16' feet from the Wentworth right-of-way at its closest point, which fails to comply with this setback requirement. As part

of the City's Housing Infill Project, the Architectural Review Board has reviewed the plans and layout and recommended approval, in part to better align the front of 641 Oak with the house across the street at 644 Oak Avenue.

Most of the discussion for this case was combined with the review of 637 Oak Avenue. The Members had no further questions for Mr. Tinkham and as such, Mr. Bueckman moved to approve the request for variance as submitted. Ms. Eismeier seconded the motion. By roll call vote, 4-0, all voted yes, the motion carried.

Excuse Absent Members

Ms. Eismeier moved to excuse Mr. Woodside. Mr. Bueckman seconded the motion. By roll call vote, 4-0, all voted yes, the motion carried.

Adjourn

With no further business on the agenda to discuss, the Members adjourned the meeting at 7:00 p.m.

Respectfully submitted,

Debby Martin, Executive Assistant

Charlie Jahnigen, Chair