

SUMMARY MINUTES OF BOARD OF ADJUSTMENT ACTION HELD SEPTEMBER 15, 2015

CALL TO ORDER – 7:03 P.M.

PLEDGE OF ALLEGIANCE -

ROLL CALL OF MEMBERS – Those Present: T.O. Owens, Chairman; Dave Marquez, Vice Chairman, Jenny Wolfschlag, Secretary, Kathy Drulard, Christine Duncan

Not Present: Ted Terranova

ALSO PRESENT: Reid Betzing, Sr. Ass't. City Attorney; Rob Smetana, Planning Manager, Gary Hammond, Senior Planner; James Cramer, Planner I, Jodi Baros, Recording Secretary

APPROVAL OF MINUTES FOR August 25, 2015 – The minutes for August 25th stand approved as printed.

PUBLIC HEARING –

**VAR2015-0017 Krystal Phillips, 6630 Depew Ct.**

The public hearing was opened.

The property was posted and the fee was paid.

Krystal Phillips, 6630 Depew Ct. is asking to build a 24 by 24 or 576 square foot detached garage and she is requesting a five foot side and rear setback. The property is not a perfect square and the topography slopes.

Ms. Phillips shared photos marked as Exhibit A and went into great detail of the angle of the garage to allow full turning radius. She is going to convert the existing one car garage into part of the living space in her ranch style home, if this variance is approved.

Additional Comments from Staff

No comments from staff

Ms. Riley asked if she has talked to her neighbors to the east or the south?

Ms. Phillips did speak to neighbors to the south and they do not have any concerns with her building this garage. The property adjacent does not have any issues and the other two neighbors to east did receive the letters and did not come back with any concerns.

Ms. Riley asked if other ways were looked at in order to place the garage another place in the yard.

Ms. Phillips stated that she did discuss several options with James Cramer and this is really that only way that will be the most beneficial way to place the garage.

Ms. Drulard asked is there would be a concrete pad under the garage.

Ms. Phillips stated that it does require a permit and yes that she would be placing a concrete pad if the variance is approved.

Mr. Marquez commended Ms. Phillips for a job well done in researching all the possible outcomes. He asked if the garage conversion is taking place?

Ms. Phillips stated that no, it has not started and she prefers a garage be in place before the conversion starts.

Mr. Owens closed the Public Input portion of the Hearing

Mr. Marquez stated that he does believe that the location is acceptable, as long as it is signed off by Xcel, and that he will approve this variance. He does see the grade as an encumbrance.

Ms. Kreutzer agrees with Mr. Marquez and she will be supporting this variance.

Ms. Riley stated that she can support this variance and she does see that it cannot be placed any other way on the property.

#### DISCUSSION OF MOTION:

#### MOTION:

It was moved by Ms. Riley that variance request VAR2015-0017, Krystal Philips, 6630 Depew Ct., to construct a 576 square foot detached garage, for a total of 813 square feet of garage space on the property, to be setback five feet from the side (south) property line when Section 6.2.1 of the LDC requires a minimum side setback of ten feet, be granted.

This motion is based on Findings No. 1 through 8 on Page 15 of the Staff Report.

As to Finding No. 1, the special circumstance or condition includes the shallowness of the lot and the slope of the property.

The following votes were cast on the motion:

Those voting Yes: Kreutzer, Owens, Riley, Drulard, Duncan, Marquez

Those voting No:

Those absent: Terranova

Those abstained:

The variance is granted.

It was moved by Ms. Riley that variance request VAR2015-0017, Krystal Philips, 6630 Depew Ct., to construct a 576 square foot detached garage, for a total of 813 square feet of garage space on the property to allow the detached garage to be five feet from the rear (east) property line when Section 6.2.1 of the LDC requires a minimum side and rear setback of ten feet, be granted.

As to Finding No. 2, the special circumstance or condition includes the shallowness of the lot, the slope of the lot and the placement of overhead power lines on this property.

The following votes were cast on the motion:

Those voting Yes: Kreutzer, Owens, Riley, Drulard, Duncan, Marquez

Those voting No:

Those absent: Terranova

Those abstained:

The variance is granted.

VAR2015-0018 Stoyka Agova, 7400 Webster St.

The public hearing was opened.

The property was posted and the fee was paid.

Stoyka Agova requested if Dylan Skelton could speak on her behalf as he can explain better than she can. He is the builder of the fence.

Dylan Skelton 3182 S Evanston Way, stated the fence was already under construction and we were stopped, she has a big family and large dogs and wanted a privacy fence installed. We were told that we need to get a variance. The fence is being installed to give privacy for the bedroom windows on the side of the house.

Marina Spahitch also spoke about the case and stated that the fence will go behind the tree and they have measured from the property line to make sure that it is placed in the proper place.

Mr. Owens asked if there are, Additional Comments from Staff?

Mr. Cramer replied, No comments from staff.

Mr. Owens closed the Public Input portion of the Hearing.

Ms. Kreutzer asked if what was already constructed will be taken down and if the fence will be behind the tree.

Ms. Spahitch stated that yes it would be behind the tree and what is there will be taken down and put back up in the right location.

Mr. Marquez asked if the whole fence will be removed and pushed back to twelve feet.

Ms. Stahitch stated that anything showing right now that is incorrect, will be removed.

Mr. Owens closed the Public Hearing.

Mr. Marquez stated that he believes that we see these corner setbacks on these types of lots and he does see a practical difficulty with the street dead ending in front of the house. He believes that he can support this variance for the twelve feet.

#### DISCUSSION OF MOTION:

#### MOTION:

It was moved by Mr. Marquez that variance request VAR2015-0018, Stoyka Agova, 7400 Webster St., requests a variance to construct a solid six foot fence set back 12 feet from the side (second frontage) property line when Section 6.5.8 of the LDC requires a 25 foot setback, be granted.

This motion is based on Findings No. 1 through 8 on Page 11 of the Staff Report.

As to Finding No. 1, the special circumstance or condition includes the orientation of the lot to include two front streets.

The following votes were cast on the motion:

Those voting Yes: Kreutzer, Owens, Riley, Drulard, Duncan, Marquez

Those voting No:

Those absent: Terranova

Those abstained:

The variance is granted.

---

**VAR2015-0019 Kenneth & Loretta Leichtle 6634 Newland St.**

---

The public hearing was opened.

The property was posted and the fee was paid.

Loretta Leichtle, stated we are asking to build a garage with a five foot setback on the east side of the garage and the south side of the garage. The issue that we have is that our lot is shallow at 10 and ½ feet from the property line and it will come right up to the back patio. We are asking to construct a 25 by 24 foot garage.

Ken Relyea, Affordable Garages, stated that the only other options is to put this garage on the north side and you would have to concrete the entire back yard and will make it difficult for positive drainage.

Mr. Owens asked if there are, Additional Comments from Staff?

Mr. Cramer replied, No comments from staff.

Mr. Owens closed the Public Input portion of the Hearing.

Ms. Kreutzer asked what the distance is from the front of the garage to the edge of the patio.

Ms. Leichtle stated that it is nine feet from the garage to the patio.

Ms. Drulard asked about safety issues and how old are your grandkids?

Ms. Leichtle stated that her oldest is 15 and her youngest is eight months. She has five.

Mr. Marquez asked what the actual size of the garage that you are asking for?

Ms. Leichtle stated that it is 24 by 25 feet. The original request was for 24 by 28 feet.

Mr. Marquez asked if a 20 foot wide garage will work for you?

Ms. Leichtle stated that she did not think that their two cars would fit in a 20 foot wide garage.

Ms. Riley asked what the elevation change is to the patio and then back to the yard?

Ms. Leichtle stated that it is one step up and one step back down to the yard.

Mr. Owens closed the Public Hearing

Ms. Kreutzer stated that she believes that she can support this variance due to the distance from the back patio and the fact that they did in fact make the size of the garage smaller.

Mr. Owens stated that he will not support this variance due to the fact that they can move this garage 5 feet from the property line. I am less than convinced that there is a practical difficulty in this case.

Mr. Marquez stated that he agrees with what Mr. Owens just stated except for the fact that it does seem like a shallow lot and he could support the one variance from the rear but not really the side setback.

Ms. Riley stated that she feels that they did scale back the garage to a smaller size and she appreciates that but it is not unique in size and cannot find a special circumstance.

Mr. Marquez thinks that the special circumstance is that how properties are utilized today and carport are not the same as a garage and he feels that they deserve a garage, if they want a garage.

Ms. Kreutzer requested to reopen the case.

Mr. Owens reopened the case.

Mr. Relyea stated that it is 110 feet distance in depth and that the elevation is an issue. It would be next impossible to build the driveway and not have drainage issues.

Mr. Owens closed the public hearing.

#### DISCUSSION OF MOTION:

#### MOTION:

It was moved by Ms. Drulard that variance request VAR2015-0019, Kenneth & Loretta Leichtle, 6634 Newland St., requests a variance to construct a 600 sq. ft. detached garage, for a total of 804 square feet of garage space on the property, to be setback five feet from the side (south) property line as well as a variance to allow the same detached garage to be five feet from the rear (east) property line when Section 6.2.1 of the LDC requires a minimum side and rear setback of ten feet, be granted.

This motion is based on Findings No. 1 through 8 on Page 11 of the Staff Report.

As to Finding No. 1, the special circumstance or condition includes the fact that there is an elevated patio.

The following votes were cast on the motion:

Those voting Yes: Riley, Marquez, Kreutzer

Those voting No: Owens, Drulard, Duncan

Those absent: Terranova

Those abstained:

The variance is denied.

As to Finding No. 2, the special circumstance or condition includes the fact that the depth of the lot is the special circumstance.

The following votes were cast on the motion:

Those voting Yes: Owens, Riley, Drulard, Duncan, Marquez, Kreutzer

Those voting No:

Those absent: Terranova

Those abstained:

The variance is granted.

OTHER ITEMS –

No other cases scheduled at this time.

MEETING ADJOURNED at 7:27 P.M.

---

Jenny Riley, Secretary

---

T.O. Owens, Chairman

---

Jodi Baros, Recording Secretary