

BOARD OF ADJUSTMENT MEETING MINUTES

BOA_AF_08-19-2020

Acting Chair Blaser called to order the August 19, 2020, regularly scheduled meeting of the Board of Adjustment at 5:35 p.m. as an electronic Zoom meeting. Residents were allowed to attend through Zoom or in person in Council Chambers, City Hall, 4200 Mills Civic Parkway.

Roll Call: Blaser, Christiansen, Cunningham.....Present
Pfannkuch, Stevens.....Absent

Item 1 – Consent Agenda

Item 1a – Minutes of 6-17-20

Acting Chair Blaser asked for any questions or modifications to the meeting minutes of June 17, 2020.

Moved by Board Member Christiansen, seconded by Board Member Cunningham, the June 17, 2020 meeting minutes were approved as presented.

Vote: Blaser, Christiansen, Cunningham.....Yes
Pfannkuch, Stevens..... Absent

Motion carried.

Item 2 – Old Business

There were no Old Business items.

Item 3 – Public Hearings

Item 3a – Setback Variance - 117 S 33rd Street – Request approval of a 3’6” variance from the 35’ front yard setback to add a 3rd stall to the garage – VAR-004794-2020

Acting Chair Blaser opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. Development Coordinator Schemmel stated that the notice was published on August 7, 2020, in the Des Moines Register.

Moved by Board Member Christiansen, seconded by Board Member Cunningham, the Board of Adjustment accepted and made a part of the record all testimony and documents received at this public hearing.

Vote: Blaser, Christiansen, Cunningham.....Yes
Pfannkuch, Stevens..... Absent

Motion carried.

David Kruse with Carrie Norris, Grand Homes & Renovations, 1910 Normandy Dr, Carlisle,

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stated the applicant approached their design team to add a third stall to their garage as they have multiple vehicles at their residence and believe it would better suit the neighborhood to have fewer cars on the street. The addition of a third stall would encroach the front property line by 3' 2". Mr. Kruse presented drawings showing how the garage would match the existing structure. He stated they were making every effort to minimize the encroachment.

Matthew Campbell, 117 S 33rd Street, stated they have owned this property for five years and believe they need a third stall. They have five girls who attend Valley High School, and do not want their property to look like a used car lot.

Mr. Kruse added they explored the possibility of adding parking at the rear of the property but sideyard restrictions and topography would not allow that. He added that they have designed an addition to add value to the home and the neighborhood. They are proposing a lower profile, slightly flat roofed addition in keeping with the theme of the uniqueness of the home. Others in the neighborhood have added third stalls, and value to their homes.

Board Member Cunningham questioned whether the neighbor across the street had added a third stall. Mr. Campbell responded that at least two neighbors have added a third stall over the past twenty years. Board Member Cunningham asked if any had been required to obtain a variance. Mr. Campbell believed one neighbor would have needed one, as he is very close to the lot line.

Board Member Christiansen noted that items 2 and 3 of the variance requirements need to be met for the Board to approve a variance request.

Acting Chair Blaser questioned the applicant regarding the size of space marked on the drawing of the new garage. Mr. Kruse responded that this space represents just the extension for the garage, and that the applicant is relocating his laundry room to another part of the home to accommodate the 3rd garage.

Acting Chair Blaser asked for any questions or comments from the audience.

Paul Babikian, 201 S 33rd St, stated that he and his wife live next door to the applicant and are concerned because the neighbor's property slopes down toward his lot. He informed that he did landscaping this year to correct drainage issues already being created by the runoff from the neighboring property and he did not want to see this problem increase. Mr. Babikian concluded that he opposes the garage addition as it will obstruct their view to the street and could add to existing drainage issues from runoff. He stated that he had also submitted a letter stating his concerns.

Board Member Christiansen questioned the view obstruction, stating he was parked outside the applicants' drive and did not see the neighbor's window as there were bushes in the way. Mr. Babikian responded that they are able to see the street, the applicant's driveway and the trees and bushes from their kitchen window.

As there were no further comments from the public, Acting Chair Blaser declared the public

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hearing item closed.

Brian Portz, Development Services Planner, summarized staff findings, noting that Staff did not believe the variance meets conditions 2 and 3 of the requirements for approval. He summarized those conditions. He stated the house was constructed within the setback and met City code for offstreet parking requirements; adding a third stall is the applicant's own self-imposed hardship and that application of the zoning ordinance was not creating hardship for the applicant. Mr. Portz also noted the 3' 6" setback was adjusted by staff to allow some leeway in the addition location without the applicant needing to return for an additional variance.

Development Coordinator Schemmel stated Director Twedt had done a quick search and found no address on the street having been granted a variance. Mr. Campbell stated he believed the address may have been Jordan Grove. Planner Portz confirmed that he had also searched for a variance and did not find any having been granted in the area.

Board Member Cunningham inserted that this was his concern, whether the neighbors had required a variance; as to his view, none appeared to cross the setback lines. He noted the differences in standards required to be met between variances and special exceptions. He questioned how soon the City would pass an amendment allowing special exceptions. Planner Portz replied that the City Attorney's office was drafting that amendment, but it was not scheduled for Plan & Zoning Commission and City Council review yet.

Board Member Cunningham noted that this case might be better approved through as a special exception. Planner Portz stated he had proposed that to the applicant, however they were not willing to wait for the code amendment to be approved.

Mr. Kruse inserted that he had assisted another homeowner with presenting a variance before this Board a couple years ago, and that the Board had judged it reasonable to allow. He believed the Board could decide each individual case and whether the request was reasonable. He disagreed with the Staff Findings, noting that they believed they met condition 2 due to the topography and shape of the lot, as there was no other option viable with this property. Mr. Kruse noted that they could address Mr. Babikian's concerns regarding the runoff as part of this addition and improving the gutters. He concluded that the house was built 30 years ago and was unique, so that adding on to it is a challenge.

Acting Chair Blaser asked for continued discussion or a motion and a second for this item.

There was additional discussion related to whether it might be more advisable for the applicant to defer a vote until a full Board was able to convene, or wait until the City completed amending code to allow for special exceptions, which will not have the same requirements as a variance. Applicant representative Mr. Kruse stated that the City of Des Moines utilizes the special exceptions code in a streamlined manner, however the applicant was not willing to wait as long as it might be necessary to amend the West Des Moines code to allow special exceptions. He referenced a variance approved for another address, stating he believed the Board could apply judgment.

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Mr. Kruse concluded that the applicant does request a deferral of a vote on this item until the next Board meeting, which is scheduled for September 2, 2020.

Moved by Board Member Cunningham, seconded by Board Member Christiansen, the Board of Adjustment deferred voting on this item until September 2, 2020.

Vote: Blaser, Christiansen, Cunningham.....Yes
Pfannkuch, Stevens..... Absent
Motion carried.

Item 4 – New Business

There were no New Business items.

Item 5 – Staff Reports

There were no Staff Reports.

Item 6 – Adjournment

Acting Chair Blaser asked for a motion to adjourn the meeting.

Moved by Board Member Christiansen, seconded by Board Member Cunningham, the Board of Adjustment meeting adjourned at 6:36 PM.

Michael Blaser, Acting Chairperson

Jennifer Canaday, Recording Secretary