

The Vice-Chairperson, Marcia Gies, called the Board of Zoning Appeals meeting to Order at 7:30 P.M., in Council Chambers of City Hall, on Tuesday, June 15, 2004.

PRESENT: Kenneth Courtney
 Christopher Fejes
 Marcia Gies
 Mark Maxwell
 Thomas Strat

ABSENT: Michael Hutson
 Matthew Kovacs

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
 Susan Lancaster, Assistant City Attorney
 Pamela Pasternak, Recording Secretary

Motion by Maxwell
Supported by Fejes

MOVED, to excuse Mr. Hutson and Mr. Kovacs from this meeting.

Yeas: All – 5

MOTION TO EXCUSE MR. HUTSON & MR. KOVACS CARRIED

ITEM #1 – APPROVAL OF MINUTES – MEETING OF MAY 18, 2004

Motion by Courtney
Supported by Fejes

MOVED, TO APPROVE THE MINUTES OF THE MEETING OF MAY 18, 2004 AS WRITTEN

Yeas: 4 – Maxwell, Strat, Courtney, Fejes
Abstain: 1 – Gies

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 – VARIANCE REQUEST. MR. & MRS. PRADEEP, 3839 WAYFARER, for relief of the rear yard setback to construct additions to their home, which would result in 35.23' rear yard setbacks where Section 30.10.04 requires a 40' minimum rear yard setback in R-1C Zoned Districts.

ITEM #2 – con't.

Petitioners are requesting relief of the rear yard setback to construct additions to their home. The site plan submitted indicates separate dining room and master bedroom additions on the rear of the home with proposed 35.23' rear yard setbacks to each one. Section 30.10.04 requires 40' minimum rear yard setbacks in R-1C Zoned Districts.

This item first appeared before this Board at the meeting of April 20, 2004 and was postponed until the meeting of May 18, 2004 to allow the petitioners to meet with the Architectural Committee to bring back their recommendations to the Board.

This request was postponed from the meeting of May 18, 2004 to this meeting at the request of the petitioners.

Ms. Gies stated that this Board had received a written request from the petitioner to withdraw this request. No further action taken by the Board of Zoning Appeals.

ITEM #3 – VARIANCE REQUEST. MR. & MRS. MASAO TAKAI, 4412 WHISPER WAY, for relief of the rear yard setback to construct a porch enclosure, which would result in a 37.5' setback to the rear property line where Section 30.10.02 requires a 45' minimum rear yard setback in R-1B Zoning Districts.

Mr. Stimac explained that the petitioners are requesting relief of the Zoning Ordinance to construct a porch enclosure. The site plan submitted indicates a rear porch enclosure with a proposed 37.5' setback to the rear property line. Section 30.10.02 requires a 45' minimum rear yard setback in R-1B Zoning Districts.

Mr. Rick Hadad of Mr. Enclosure was present, representing Mr. & Mrs. Masao Takai. Mr. Hadad explained that this property is on a curve and this sunroom would not be visible to surrounding property due to mature trees and foliage. Mr. Hadad also said that this was the only location for this sunroom in order for it to be aesthetically pleasing and also match the roofline of the house. Mr. Hadad further stated that presently there is an existing deck and gazebo on the property and this room would actually encroach less than the deck to the rear yard setback. A smaller room would not be functional and Mr. Hadad said would not benefit the homeowners. This room would also have the same pitch as the existing roofline, as well as matching shingles. There is ample room to put this addition to the side, however, Mr. Hadad said this would result in a room that looks like a box and would not match the rest of the home.

Mr. Courtney asked if Mr. Hadad had prepared the application and he stated that he had not. Mr. Courtney asked why the shape of the lot is stated as the hardship and Mr. Hadad said he had not prepared the application, and the shape of the lot is not applicable in this instance. Mr. Courtney then asked why the room could not be placed where the bay window is located, and Mr. Hadad said that is the location of the living room and would necessitate removing the bay window, blocking natural light in the living room and it would be the least pleasing solution.

ITEM #3 – con't.

Mr. Fejes asked if the deck was going to be increased and Mr. Hadad said that the deck goes out 14' and they are proposing to only go out 10'. In addition they are removing the deck and the gazebo. Mr. Fejes also asked why the homeowners wished to add this room and Mr. Hadad explained that they are a retired couple and spend all their time at home and this three-season room would enable them to enjoy their yard in the evenings. Mr. Fejes then asked about the roofline. Mr. Hadad said that if the room were added anywhere else, the roofline would not match the existing roofline of the home.

Ms. Gies opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are no written approvals or objections on file.

Mr. Stimac asked whom Darryl Meyers, the person that signed the application for appeal was and Mr. Hadad stated that he is the owner of Mr. Enclosure and he is the person who signs all applications.

Motion by Fejes
Supported by Strat

MOVED, to grant Mr. & Mrs. Masao Takai, 4412 Whisper Way, relief of the rear yard setback to construct a porch enclosure, which would result in a 37.5' setback to the rear property line where Section 30.10.02 requires a 45' minimum rear yard setback in R-1B Zoning Districts.

- Variance is not contrary to public interest.
- Variance does not establish a prohibited use in a Zoning District.
- Variance does not have an adverse effect to surrounding property.
- Encroachment into rear yard will be less than existing deck and gazebo.
- Lot is somewhat odd in shape.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

ITEM #4 – VARIANCE REQUEST. MR. & MRS. TIMOTHY CAROWICK, 2018 JOHN R. (PROPOSED ADDRESS), for relief of the Zoning Ordinance to construct a new house, which will result in a total of 14' side yard setbacks where Section 30.10.06 requires a 15' minimum total for both side yard setbacks in the R-1E Zoning District.

ITEM #4 – con't.

Mr. Stimac explained that the petitioners are proposing to construct a new house on an existing lot at 2018 John R. Because this property is a legal non-conforming lot of record as regulated by Section 40.50.02, the construction of a house is permitted even though the lot does not meet width and area regulations. Building setbacks, however, must still comply with Section 30.10.06, which requires a 15' minimum total for both side yard setbacks. The plot plan submitted indicates both side yard setbacks total 14', (5' on the north side and 9' on the south side).

Mr. & Mrs. Carowick were present and stated that they had looked at different plans for houses that would fit on this lot, but they did not have attached garages. Mr. Carowick explained that a detached garage would take up most of the yard and they would prefer to have an attached garage. This is a pre-built home, and the manufacturer does not make any homes smaller than this one with an attached garage.

Mr. Maxwell asked what the square footage of this home was and Mr. Carowick stated that it is a two-story home, that is approximately 1,641 square feet. Mr. Maxwell then asked how far this home would be from the house next door and Mr. Carowick said he thought it was nine and one-half feet. Mr. Maxwell then asked how far they would be from the nearest structure to the north and Mr. Carowick said he thought it would be between 65 and 70 feet. Mr. Maxwell then suggested that this proposed home be moved further north, which would make it farther away from the home to the south.

Mr. Courtney asked what the minimum side yard setbacks were in this Zoning District. Mr. Stimac replied that in the R-1E Zoning District, the minimum side yard setback would be five feet and a total of 15' for both side yard setbacks. Mr. Stimac also said that if this proposed home was moved farther north, it would result in a side yard setback of less than 5' and a new Public Hearing notice would have to be published before a vote was taken on this proposal.

Mr. Carowick said that they hoped to update this section of John R. and also took into consideration the future widening of John R., when they determined the location of the home.

Ms. Gies opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one (1) written approval on file. There is one (1) written objection on file.

Mr. Courtney asked how long ago the home at 2006 John R. was built and Mr. Stimac stated that he was unable to find any permits that were issued after 1954, and felt that this home was constructed sometime in the early 50's. Mr. Courtney then asked about the ownership of the property, and Mr. Stimac said that after investigation it was determined that this parcel has been separately owned since 1955.

ITEM #4 – con't.

Mr. Strat asked if there was a garage on the north side of 2006 John R. Mr. Stimac said that there is not an attached garage on 2006 John R., but there is a detached garage at the east end of the property.

Motion by Maxwell
Supported by Fejes

MOVED, to grant Mr. & Mrs. Timothy Carowick, 2018 John R. (proposed address) relief of the Zoning Ordinance to construct a new house, which will result in a total of 14' side yard setbacks where Section 30.10.06 requires a 15' minimum total for both side yard setbacks in the R-1E Zoning District.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Size of home is reasonable for the size of the lot.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 – VARIANCE REQUEST. RWT BUILDING, LLC, 1309 BOYD (PROPOSED ADDRESS), for relief of the Zoning Ordinance to divide a parcel of land, which will result in two 7,200 square foot parcels, where Section 30.10.06 of the Ordinance requires a minimum lot area of 7,500 square feet in the R-1E Zoning District.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to divide a parcel and construct a new single-family residence. The existing home at 1321 Boyd is located on Lot #29 with a portion of the attached garage located on Lot #28. Although these two lots are shown as two separate parcels for tax purposes, since the same individual owns them, Section 40.50.02 of the Zoning Ordinance considers this to be an undivided parcel. Individually these lots are only 7,200 square feet in area. Section 30.10.05 of the Ordinance requires a minimum lot area of 7,500 square feet in the R-1E Zoning District. The plans submitted propose to remove the garage, separate the lots creating two 7,200 square foot parcels, and build a new home on Lot #28.

Mr. Deagle of RWT Building, LLC asked that this request be postponed until the meeting of July 20, 2004.

Motion by Maxwell
Supported by Fejes

ITEM #5 – CON'T.

MOVED, to postpone the request of RWT Building, LLC, 1309 Boyd (proposed address), for relief of the Zoning Ordinance to divide a parcel of land, which will result in two 7,200 square foot parcels, where Section 30.10.06 of the Ordinance requires a minimum lot area of 7,500 square feet in the R-1E Zoning District.

- To allow the petitioner the benefit of a full Board.

Yeas: 4 – Strat, Fejes, Gies, Maxwell

Nays: 1 – Courtney

MOTION TO POSTPONE REQUEST UNTIL JULY 20, 2004 CARRIED

Mr. Fejes stated that he would not be at the meeting of July 20, 2004 as he would be out of town.

ITEM #6 – VARIANCE REQUEST. MR. & MRS. KEVIN LINDSEY, 6890 NORTON, for relief of the Ordinance to park a camper in the front yard of residential property where Section 40.65.02 requires parking of recreation vehicles behind the front face of the principal building.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to park their camper in the front yard of residential property. Section 40.65.02 of the Zoning Ordinance requires that recreational vehicles be parked in a building or behind the front face of the principal building on residential property.

Mr. & Mrs. Lindsey were present. Mr. Lindsey stated that he and his wife have been tent campers for twenty-five (25) years, and they bought this camper because their daughter had back surgery and they wanted to make camping more comfortable for her. When they bought this camper they thought they had enough room to store this camper on the property. Mr. Lindsey also explained that his home is considered a Historic property and before they can do any alterations they have to get permission from the Historic Commission. Mr. Lindsey also stated that there is an existing barn on the property, but it was built in 1830 and is timber framed and also the camper is too wide to fit inside the barn. Mr. Lindsey further stated that this property goes from a flood plain to a hill and the hill is not accessible to park the camper. There are also several trees, a stone garden and a historic cobblestone building, which is labeled as a shed, behind the front face of the home, which also prohibits parking the camper in this location. Mr. Lindsey said that they would have to alter the barn in order to fit the camper inside, which would require approval from the Historic Commission. Mr. Lindsey also said that they are a family of six, with three children in college and all of their children drive and putting the camper in the barn would make access to the driveway very difficult, and storing the camper offsite would be an expense that they did not count on.

ITEM #6 – con't.

Mr. Lindsey said that this property was known as the Norton Farm, and he did obtain a variance to move the barn across the property line. Mr. Lindsey also said that they did not want to destroy the barn, and in this location, the camper is shielded by many trees and therefore not very visible to surrounding property.

Mr. Courtney asked Mr. Lindsey about moving the barn. Mr. Lindsey said that they had moved the barn 20' over the property line. Mr. Courtney thought that Mr. Lindsey could alter the barn to fit the camper inside without destroying the barn. Mr. Lindsey said that they had measured the camper, and it was too wide to fit inside the barn. Mrs. Lindsey said that she had looked at the possibility of enlarging the barn door, and said that there is only one board that could be removed without affecting the main structure, and she did not believe that would give them enough clearance to get the camper inside.

Mr. Maxwell asked how large the camper was and Mr. Lindsey said that it was a 10' box.

Mr. Strat asked if the barn was slab on grade and Mr. Lindsey said that it was. Mr. Strat said that the entrance to the barn could be made larger in order to fit the camper inside without destroying the appearance of the barn. Mr. Strat also asked where the camper would be stored during the winter months and Mr. Lindsey said that they have left it outside and that was what they thought they would continue doing.

Ms. Gies asked how long Mr. & Mrs. Lindsey have owned the camper and Mr. Lindsey said that it's been slightly over a year.

Mr. Courtney said that many of his neighbors have campers and they park them off-site at storage facilities during the winter months. He further stated that if the Historic District Commission would not grant approval for the modifications to the barn they could request removal from the Historic District list to remove the restrictions.

Mr. Stimac said that the decision as to whether or not the petitioner's property stayed on the Historic List ultimately was City Council's. Mr. Lindsey would have to make a petition to City Council to have his property removed and City Council would have to amend the Ordinance to take this property off the Historic District property list. Mr. Courtney then stated it was the petitioner's choice as to whether they buy the property or not.

Mr. Strat asked what modifications could be made and still maintain the Historic Property classification. Mr. Stimac said that the Historic Commission is concerned with the exterior appearance of structures and changes could be made to the inside of the building, which would not effect the outside appearance. The Historic District Commission is the Board, which would have to approve outside alterations, rather than inside alterations.

ITEM #6 – con't.

Mr. Strat then asked how large the barn was and Mr. Lindsey stated that it is 18' x 24' and is one and one-half stories. Mr. Strat again stated that he thought this structure could be modified to accommodate this camper and felt that the petitioner should get a report from a structural engineer on a potential modification of this barn.

Ms. Gies opened the Public Hearing.

Mr. Timothy Northrup, 642 Amberwood, who lives at the property directly to the north was present, and stated he is in favor of this variance request. Mr. Northrup said that this location for the camper is very well hidden and feels that this is the best place to store this camper.

No one else wished to be heard and the Public Hearing was closed.

There are three (3) written approvals on file. There are two (2) written objections on file.

Motion by Courtney
Supported by Strat

MOVED, to postpone the request of Mr. & Mrs. Kevin Lindsey, 6890 Norton, for relief of the Ordinance to park a camper in the front yard of residential property where Section 40.65.02 requires parking of recreation vehicles behind the front face of the principal building until the meeting of July 20, 2004.

- To allow the petitioner the opportunity to determine if the existing barn could be used to store this camper.

Yeas: All – 5

MOTION TO POSTPONE REQUEST UNTIL THE MEETING OF JULY 20, 2004
CARRIED

Mrs. Lindsey asked what the Board wished them to do and Mr. Courtney stated that the first step was to determine if the barn could be altered structurally to house the camper and then they could approach the Historic District Commission for approval. Mr. Strat suggested that any approvals from the Historic District Commission be put in writing and presented to this Board.

ITEM #7 – VARIANCE REQUEST. DARRELL TIEDEMAN, 649 TROYWOOD, for relief of the Ordinance to construct a new 900 square foot garage where Section 40.57.04 of the Ordinance limits the size of an accessory building on this site to 600 square feet.

ITEM # 7 – con't.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a detached garage at 649 Troywood. The permit application indicates removing an existing 600 square foot detached garage and replacing it with a new 900 square foot detached garage. Section 40.57.04 limits the area of all accessory buildings on a site to 600 square feet or one-half the ground floor area of the main building whichever is greater. The house footprint is 1,200 square feet; therefore, accessory buildings are limited to 600 square feet on this site.

Mr. Tiedeman was present and stated that his lot is 94' wide and 250' deep and requires a lot of equipment to maintain. Mr. Tiedeman stated that this work cannot be done with a riding mower alone as there are ditches. Mr. Tiedeman also said that they plan to use this building as their primary garage and the existing building is very old and will be demolished. They had explored the possibility of adding an attached garage, however, the cost would be double and because he would remove the existing building, the new structure would add value to his property as well as improve the appearance of his lot. Mr. Tiedeman further stated that his home is 1200 square feet, his proposed garage would be 900 square feet and his lot is 23,500 square feet, and the addition of the proposed building would result in using 9% of his lot.

Mr. Courtney asked how much space was required for the lawn equipment. Mr. Tiedeman stated that the vehicles take up approximately 500 square feet, which leaves him with 89 square feet to store the lawn equipment, patio furniture and also enough room to get in and out of the building. Mr. Courtney stated that people in his neighborhood fit two cars plus lawn equipment in a standard two-car garage. Mr. Tiedeman stated that he found that hard to believe and believes that his lot would support a larger garage.

Mr. Strat asked if Mr. Tiedeman planned on using this building for any type of business equipment. Mr. Tiedeman said that his vehicle was 20' long and would not fit into a standard garage. Mr. Strat then pointed out that he was adding another 10' in length of the building and also 10' in width. Mr. Tiedeman also said that he was adding two 10' doors. Mr. Strat asked how wide this vehicle was and Mr. Tiedeman stated it was 8' wide, measuring mirror to mirror. Mr. Strat then confirmed that Mr. Tiedeman was asking for a building that was 30' x 30' in order to store his vehicles and equipment. Mr. Tiedeman stated that he felt this would be a sufficient size.

Ms. Gies opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are two (2) written approvals on file. There are no written objections on file.

Ms. Gies asked how large the garage was across the street from this address. Mr. Tiedeman stated that it was approximately the same size.

ITEM #7 – con't.

Mr. Strat stated that he thought the homes in this area were very well maintained and he was quite impressed with this area.

Motion by Maxwell
Supported by Courtney

MOVED, to grant Darrell Tiedeman, 649 Troywood, relief of the Ordinance to construct a new 900 square foot garage where Section 40.57.04 of the Ordinance limits the size of an accessory building on this site to 600 square feet.

- Property is large enough to sustain a building of this size.
- Petitioner needs to have the space available to store the equipment to maintain this lot.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- This will be the only accessory building on this lot.

Yeas: All – 5

MOTION TO GRANT VARIANCE GRANTED

The Board of Zoning Appeals meeting adjourned at 8:23 P.M.



Marcia Gies – Vice Chairperson



Pamela Pasternak – Recording Secretary