

BOARD OF ZONING APPEALS

MEETING MINUTES

JUNE 30, 2016

AGENDA

1. **Carroll Residence – Rear Yard Setback** **7118 Snowdrop Court**
16-043V **Non-Use (Area) Variance (Approved 4 – 0)**

The Chair, Brian Gunnoe, called the meeting to order at 6:30 p.m. Other Board members present were Sarah Herbert, Jamie Zitesman, and Rion Myers. Martha Cooper was absent. City representatives present were Tammy Noble, Lori Burchett, Lia Yakumithis, Cameron Roberts, and Flora Rogers.

Administrative Business

The Chair introduced the Mayor, Greg Peterson, to perform the Oath of Office for Sarah Herbert who was appointed by City Council and Rion Myers who had been re-appointed by City Council.

Mayor Peterson expressed appreciation for the service this Board provides to the community on behalf of City Council and the City. He performed the Oath of Office for Sarah Herbert and then for Albert O. Myers.

Mr. Myers made a motion, seconded by Mr. Zitesman, to re-elect Brian Gunnoe as the 2016-2017 Chair. The vote was as follows: Ms. Herbert, yes; Mr. Myers, yes; Mr. Zitesman, yes; and Mr. Gunnoe, yes. (Approved 4 – 0)

Mr. Myers made a motion, seconded by Ms. Herbert, to elect Jamie Zitesman as the 2016-2017 Vice Chair. The vote was as follows: Mr. Zitesman, yes; Mr. Gunnoe, yes; Ms. Herbert, yes; and Mr. Myers, yes. (Approved 4 – 0)

Motion and Vote

Mr. Gunnoe moved, Mr. Myers seconded, to accept the documents into the record. The vote was as follows: Ms. Herbert, yes; Mr. Zitesman, yes; Mr. Gunnoe, yes; and Mr. Myers, yes. (Approved 4 – 0)

Motion and Vote

Mr. Myers moved, Mr. Zitesman seconded, to approve the March 31, 2016, meeting minutes. The vote was as follows: Mr. Gunnoe, yes; Ms. Herbert, abstain; Mr. Myers, yes; and Mr. Zitesman, yes. (Approved 3 – 0 – 1)

Communications

Tammy Noble thanked the Board for attending the recent Boards and Commissions training. She indicated that Greg Dale will be called upon to present additional training applicable specifically for this Board.

**1. Carroll Residence – Rear Yard Setback
16-043V**

**7118 Snowdrop Court
Non-Use (Area) Variance**

The Chair, Brian Gunnoe, said this is a request to allow the installation of a paver patio, seat walls, and outdoor fire pit to encroach 10 feet, 6 inches into the required rear yard setback on an existing single-family residential lot located within the Oak Park subdivision on the north side of Snowdrop Court, approximately 200 feet east of Oak Meadow Drive. He said this is a request for a review and approval of a Variance under the provisions of Zoning Code §153.231.

The Chair swore in anyone intending to address the Board with regard to this case.

Lori Burchett explained the 0.18-acre-site is zoned as part of a Planned Unit Development District. She said the property is surrounded by similar uses to the south, east, and west. She said there is a reserve area for Oak Park that is adjacent to the property to the north. She indicated the site has a typical rectangular shape and there is no significant grade change or environmental factors to consider. She stated there is an existing single-family residence on the site with a side-loaded garage constructed forward to the house and sits ±16.5 feet from the front property line creating a longer garage and causing the living area of the residence to be pushed further into the buildable area of the lot. She said the rear of the structure is located on the rear setback line so this layout impacts the amount of space provided in the rear yard.

Rion Myers said the report states it is front loaded but he knows that it is side loaded. Ms. Burchett confirmed the garage is on the front of the structure, with the entrance to the side.

Ms. Burchett said the proposed plan shows a paver patio with a seat wall and steps with the edges on the east landscaped for privacy. She noted that the residence is located at the 25-foot setback and the Zoning Code allows for an encroachment of 5 feet into the rear yard setback. She restated that the applicant is requesting a variance for the patio to encroach into the required rear yard setback by 10 feet at its widest point. She added there is a 10-foot easement at the rear property line.

Ms. Burchett presented photographs of the existing site conditions from the northwest and northeast corners of the property. She presented a three-dimensional rendering of the proposed patio that allows room for a table and chairs as well as additional seating and a fire pit.

Ms. Burchett stated Non-Use (Area) Variance review criteria has been met and recommends approval.

The Chair asked if any of the Board members had questions for Staff. [Hearing none.] He invited anyone from the public to speak in regard to this application. [There were none.]

Jamie Zitesman reported he visited the site and found the houses to be configured in a similar fashion. He said he liked the proposed patio but questions whether this will prompt all the other houses in the subdivision to request the same. He said he is concerned of the recurrent nature, even though this house is set back a little further than others. He indicated the developers have not shown any consideration for the backyards. He asked if this might be a workable design for the whole area. He suggested Staff look at the entirety of the area and possibly do a wholesale adjustment to the PUD.

Tammy Noble said she agreed with the points he was making and stated that Planning has considered updating the Zoning Code to provide other requirements for outdoor space. She stated the problem is most of our residential communities are PUD's and have their own restrictions. She also said that Planning has started working with developers at the initial stage of a project to identify where, and how large, outdoor space will be permitted. She stated that this allows property owners to make informed decisions when building their homes.

Tammy Noble stated that there are three factors special to this property that collectively result in staff's recommendation. The first is the location of the garage that pushes the house to the back. She said the second is that the house is on the rear yard setback and would only permit a maximum of five feet of patio space which is not usable space. She said the third factor is that the house is adjacent to a reserve or open space. She indicated there have been other cases the Board has approved based on these factors.

Ms. Noble said the lots could be re-platted but the technical side would be difficult. She noted there have been subdivisions that have altered the no-build zones.

Ms. Burchett said there are a variety of homes in this subdivision so the setbacks vary.

Sarah Herbert pointed out other lots that would have the same issues.

Mr. Myers noted that the corner lot has a zero yard. He said they see a lot of developments where a good size house is placed on a small lot.

Mr. Zitesman said we have seen this challenge with developers and planners before whereby they squeeze as much of a house on tight land to increase profit. He said he agrees with the Staff's presentation of the criteria met.

Motion and Vote

Mr. Gunnoe made a motion, seconded by Mr. Zitesman, to approve this variance of the required 25-foot rear yard setback to permit a patio that extends 10 feet into the rear yard setback because it meets the review criteria of §153.231(H)(2). The vote was as follows: Mr. Myers, yes; Ms. Herbert, yes; Mr. Zitesman, yes; and Mr. Gunnoe, yes. (Approved 4 – 0)

Mr. Gunnoe said the next regularly scheduled meeting is July 28, 2016, and adjourned the meeting at 6:55 p.m.

As approved by the Board of Zoning Appeals on August 25, 2016.