

BOARD OF ADJUSTMENT & APPEALS

Council Chambers

March 23, 2016

Present: Charles Block, Donna Amandus, Tiffany Siefken, Tim Wondra, Council Liaison Chris Greenwald

Absent:

Staff: Doug Krogmeier, Emily Britton

Visitors: Sal Gonzalez, Tony Wilkerson, Larry Wright, Linda Lair, Mark Lair, Mike Rowland

Charles Block called the meeting to order at 5:30. A quorum was declared with four members present.

Minutes from the November 10, 2015 meeting were approved as written on a motion by Wondra; seconded by Amandus. Approval was unanimous.

NON-AGENDA ITEMS: none

Case File 16-01: Variance to reduce required rear yard setback at 2114 Ave I.

Staff reviewed case report.

Planning and Zoning Commission recommended denial of the variance. Amandus asked if Planning and Zoning Commission recommended denial because of the lack of a building permit. Krogmeier explained that was not necessarily the reason, they had taken into consideration the standards for variances and after completing the variance finding of fact they came to their decision to deny.

Block opened public hearing at 5:36pm.

Sal Gonzalez spoke in favor. He began with his complaints regarding the previous Planning and Zoning Commission meeting, where he alleged misconduct by the chairperson conducting the meeting. Block replied that information is not pertinent to this hearing as they only review and give recommendation and do not have a final say on the matter. Gonzalez then asked if the board received the pictures and neighbor signatures he had provided showing the structure is beneficial to the neighborhood. Block said they had received and reviewed them but the fact is the building is not compliant. Gonzalez then admitted fault for the issue and explained that, although he is not the owner, he had agreed to take care of the permit and simply did not do so, then continued to say the owner should not be penalized for his mistake. He stated the garage is not a nuisance like so many other properties are; to which Amandus replied nuisances and junk in other yards has nothing to do with the variance. She also asked if it is normal for him to put up buildings without permits. He said no, and urged the board to look at the positives of the garage such as the increase in property value which would increase tax revenue. Block asked if this is the first building he has built, and he said no but he did get permits before and continued to say there's no question he knew permits were required and still did not get one. Block then asked Krogmeier if projects are staked out and reviewed prior to construction. Krogmeier stated that setback requirements are discussed when someone requests a building permit, but they are not typically staked out unless it looks like there may be an issue. Gonzalez again asked the board to focus on the positives despite all the negatives being true, and pointed out the garage is a nice sturdy structure that benefits the neighborhood. He continued to say the edge of the alley is hard to see and nobody really knows where it is. Amandus clarified that if a building permit had been taken out the setback would have been discussed and Krogmeier could have specified where the edge of the alley is prior to construction. Block asked Gonzalez if he actually built the structure; he explained that he sold it and had agreed to take care of the permits but did not build it himself. Wondra asked if there are any requirements to be a contractor and Krogmeier said Gonzalez is only sales and has everything he needs to run his business in town. Block mentioned the previous negative neighbor comments from the Planning and Zoning Commission meeting. Amandus explained there is a procedure everyone has to follow that includes acquiring a building permit and abiding by the setbacks as described in the city code. Gonzalez agreed and admitted he had made a mistake. Amandus then asked Krogmeier what the options were and if there was a way to allow the variance while still addressing the lack of permit with a fine or penalty of some sort. Krogmeier clarified the options saying approval will make the garage complaint and denial will result in a 30 day notice for the

property owner to move the structure which will progress to a municipal infraction and possible court order if it is not brought into compliance, but there is not an option for a fine with approval of the variance. Block asked if there are footings or a cement pad, and how this will need to be changed if it is required to be moved. Krogmeier said it is a cement slab that will have to be extended to accommodate the building being moved, but he already ran electric through the current slab so that will be an issue for him too. Krogmeier continued with the definition of a variance and reminded the board they are to decide whether there is justification to allow a variance based on the standards for variances. Block then conducted the finding of fact.

Block closed the public hearing at 5:52pm.

Amandus pointed out that under normal circumstances and review prior to construction there would be no reason for a variance as the garage could have been set back another 18 inches and been compliant. Wondra commented that it is now set back further than other structures along the same alley so it is not really impeding anything. Krogmeier added that neighboring properties are often compared when considering variances.

Amandus moved, seconded by Wondra, to approve the variance to reduce required rear yard setback.

Vote: 0-yes, 4-no. Motion denied.

Case File 16-03: Variance request to exceed maximum allowable height of a residential accessory structure at 1520 Ave L.

Staff reviewed case report.

Block opened public hearing at 6:03pm.

Mike Rowland, of 1520 Ave L, explained that he did not know about the height requirement until Mr. Krogmeier brought it to his attention after construction. He admitted that he should have asked but hadn't even thought about it and did not initially plan on the structure being so tall. Amandus asked Krogmeier why exactly there is a height requirement. Krogmeier explained it is in place so garages do not exceed the height of houses causing them to stand out in an unappealing way. For example, houses in the neighborhood of Richards Dr. are primarily single story so a garage exceeding 15' in that neighborhood would be taller than surrounding houses. Block asked if the requirements are given to people when permits are issued. Krogmeier said there is nothing in writing given out but he discusses some of the most common requirements at the time the permit is issued such as setbacks. He continued to say he does not recall whether the height requirement had been mentioned when this permit was issued but with the size of the proposed garage it would not have seemed like a concern at the time.

Block closed the public hearing at 6:07pm.

Amandus commented that there are varying heights of structures in that neighborhood. Wondra added that this structure does not stand due to its height. Block asked if there were any neighbor comments received and there were none.

Amandus moved, seconded by Siefken, to approve the variance to exceed maximum allowable height of a residential accessory structure at 1520 Ave L.

Vote: 4-yes, 0-no. Motion passed.

Old Business: None

Other/New Business: Krogmeier discussed his idea to change the process for variances to eliminate the requirement for Planning and Zoning Commission to review. It was also discussed to change the meeting time from 5:30 to 6:00PM. With everyone in favor, future meetings will begin at 6:00PM.

Amandus moved, seconded by Siefken, to adjourn the meeting.

Vote: 4-yes, 0-no.

Meeting adjourned at 6:17PM.

Charles Block