



Meeting Minutes - Final License and Variance Board

Wednesday, February 22, 2017

10:00 AM

Council Chambers

1. Roll Call

Present: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

Also Present: 2 - Joey Staubes and Heather Corn

2. Call to Order

Chairperson Tammi Saddler-Jones called the February 22, 2017 meeting of the License and Variance Board to order at 10:01AM.

3. Business

A. Public Hearing - Variance Request - V17-008 - Allow encroachment into City 50 ft. Undisturbed Buffer and 75 ft. Impervious setback - 0.50 acres - Land Lot 626 - 1747 Cedar Ridge Court - Miguel Cristech

Chairperson Tammi Saddler Jones read the following background for this item:

This is a variance request (V17-008) to allow encroachment into City 50 ft.

Undisturbed Buffer and 75 ft. impervious setback on 0.50 acres, Land Lot 626 located at 1747 Cedar Ridge Court by the applicant Miguel Cristech.

The applicant is requesting a variance to allow encroachment into the City's 50 ft. Undisturbed Stream Buffer. The applicant is proposing a deck in the rear yard at an existing single family residence. Regulations regarding stream buffers are located in Chapter 46, Article VI - Stream Buffer Protection.

The applicant, Miguel Cristech was present and invited to the podium by Chairperson Sadler-Jones. He was asked to explain his project to the board. He stated that he wanted to build a deck in the backyard and move the above ground pool.

Boardmember Roy Acree wanted to clarify the current sewer easement location. To him it looked as if there was an existing deck that encroached into the sewer easement and he asked if the current deck would be torn down and removed to build the new deck. The applicant responded in the affirmative.

Boardmember Scott Stokes asked if there was an existing above ground pool and attached deck. The applicant said, "Yes". Boardmember Stokes asked if the applicant intended on replacing the pool and putting it in the same location and the applicant said that it would be moved to a different location in the yard.

Boardmember Acree stated that the issue the Board struggled with was there was no formal survey or architectural plans that indicated any of these things and all they had was a hand drawn map to go by. The Board was going to need additional information and detail to render a decision.

Mr. Stokes recommended the applicant hire a civil engineer or surveyor to do a professional drawing with all the attributes on the property showing all distances and locations and then bring that to Community Development for review and resubmittal to the License and Variance Board.

The Board would vote to table indefinitely to allow the applicant to complete the

survey as requested.

Chairperson Saddler-Jones noted there was no need to have staff give additional background at this time.

The Public Hearing was called and no one came forward to speak in opposition to or make comment regarding this item.

A motion was made by Boardmember Scott Stokes to table indefinitely to allow for the applicant to obtain a formal survey for item V17-008, a variance request (V17-008) to allow encroachment into the City's 50 ft. Undisturbed Buffer and 75 ft. Impervious setback on 0.50 acres, Land Lot 626 located at 1747 Cedar Ridge Court by the applicant Miguel Cristech; seconded by Boardmember Roy Acree. The motion carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

B. Public Hearing - Variance Request - V17-010 - Allow increase in fence height from four feet to six feet on corner lot - 0.22 acres - Land Lot 527 - 1206 Kingsview Drive - Taiwo Ogundipe

Chairperson Tammi Saddler-Jones read aloud the following background:

This item is for a variance request (V17-010) to allow an increase in fence height from four feet to six feet on corner lot on 0.22 acres, Land Lot 527 located at 1206 Kingsview Drive by the applicant Taiwo Ogundipe.

The applicant is requesting a variance to increase the allowable fence height in a front yard from four feet to six feet at 1206 Kingsview Drive for the purpose of installing a six foot wooden privacy fence on a corner lot. The maximum height of 4 ft. for a fence in the front yard is required based upon the standards associated with Section 501.10 of the Zoning Code. The subject parcel is a corner lot with frontage on Kingsview Drive and King Springs Road, thus creating two front yards.

The applicant was invited to the podium by Chairperson Saddler-Jones and Ms. Ogundipe came forward introducing herself.

She explained the request for a higher fence for primarily for security and privacy. Boardmember Roy Acree noted for the records that pictures showing an already under constructed fence on the applicants property and noted the Marshal's office cited the property owner and explained to them they would have to submit a variance request.

Boardmember Roy Acree stated he believed some of the fence posts already installed would need to be removed and reinstalled in the correct locations. Some of what was currently in the ground would need to be changed to accommodate the sight distance issues.

Planner II Planner Joey Staubes came forward and reviewed additional background noting discussions with the applicant of acceptable fence locations and the submitted amended fence plan.

The applicant is requesting to deviate from the City's maximum allowable fence height in the front yard (Section 501.10 of the Zoning Ordinance) at 1731 Cedar Cliff Ct. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance. Community Development does believe there are sufficient privacy and security concerns that justify approval of the request. Additionally, several variances have been granted for similar requests throughout the City. At the time of this report Community Development has not received any opposition regarding the request. Therefore, Staff

recommends approval of the requested variance.

There are existing street trees planted that could possibly be on the property line and there might be conflict with those as well. If constructed as per Figure 5, Community Development would be supportive. He also noted that no complaints or questions from adjacent properties had been received.

Boardmember Stokes asked what the hardship was that created the variance request and Mr. Staubes responded it is for privacy and security primarily.

Chairperson Saddler-Jones asked the applicant if she had any further comments and the applicant responded that all the neighbors including the church had signed an agreement for the fence variance request showing they were in favor of it and had no objections.

Boardmember Acree commented that the drawing provided looked as if the posts were in the Right of Way and for that reason all the posts on King Springs needed to be removed and reset.

Boardmember Stokes mentioned the site distance requirement and stated the fence post currently located against the house next to the bathroom window would also need to be relocated to the rear of that window to be in compliance with the site requirements. The applicant indicated this was her bathroom window and her bedroom window.

Mr. Acree said the safety of the driving public had to come first and that staff had gone out and measured distances yesterday and the post against the house must be moved to be in compliance with the law.

Chairperson Saddler Jones called the public hearing and no one came forward to speak in opposition to or to make comment about this variance request.

A motion was made by Boardmember Roy Acree to approve item V17-010 for a variance request (V17-010) to allow an increase in fence height from four feet to six feet on corner lot, 0.22 acres, Land Lot 527 located at 1206 Kingsview Drive by the applicant Taiwo Ogundipe with the condition that the fence be constructed as per Figure 5 as submitted to Community Development and that the appropriate site distances are within the bounds of state and local laws and ordinances; seconded by Boardmember Scott Stokes.

The motion carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

C.

Public Hearing - Variance Request - V17-011 - Allow side setback reduction from 10 feet to 4 feet - 0.37 acres - Land Lot 555 - 3600 Lee Street - Peter and Diana Marino

Chairperson Tammi Saddler-Jones read the following background for this item:

This item is a variance request (V17-011) to allow side setback reduction from 10 feet to 4 feet - 0.37 acres - Land Lot 555 - 3600 Lee Street - Peter and Diana Marino.

The applicant is requesting a variance to reduce the side yard setback for 3600 Lee Street from 10 feet to 4 feet for a proposed addition to a single-family residence. The development standards established by the City for the R-15 zoning district require a minimum side yard setback of 10 feet.

The applicant, Diana Marino came forward and introduced herself and explained their request for enclosing the garage.

Boardmember Stokes asked the applicant if they will park in the driveway after the construction and she said yes. The enclosure of the garage would be to make a family room and future retirement master bedroom with closet and bathroom.

Planner II Joey Staubes gave the additional background as follows:

The applicant is requesting to deviate from the development standards established by the City for the R-15 zoning district, which requires a minimum side yard setback of 10 feet. The applicant is requesting a reduction of the side setback for 3600 Lee Street to 4 feet for the construction of an addition to a single-family home. According

to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards. Similar variances have been approved throughout the city so no negative precedent would be set. At the time of this report, Community Development has not received any phone calls regarding the variance request. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following condition:

1. Approval of the requested variance shall be conditioned upon the development of the property in substantial compliance with the site plan submitted with the variance application.

2. Gutters and downspouts will be installed to divert stormwater away from adjacent properties.

He also noted the current property was a pie shaped lot with the house sitting at an angle towards the rear of the property. This request would not add additional impervious area.

The public hearing was called and no one came forward to speak in opposition to or to make comment regarding this item.

A motion was made by Boardmember Scott Stokes to approve item. V17-011 for a variance request (V17-011) to allow side setback reduction from 10 feet to 4 feet on 0.37 acres, Land Lot 555 located on 3600 Lee Street by the applicant Peter and Diana Marino with the following conditions:

1. Approval of the requested variance shall be conditioned upon the development of the property in substantial compliance with the site plan submitted with the variance application.

2. Gutters and downspouts will be installed to divert storm water away from adjacent properties.

Seconded by Boardmember Roy Acree.

The motion carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

D.

Public Hearing - Variance Request - V17-012 - Allow increase in fence height from four feet to five feet on corner lot - 0.52 acres - Land Lot 526 - 3571 King Springs Road - Kwang Yi

Chairperson Tammi Saddler-Jones read the following background:

This item is a variance request (V17-012) to allow an increase in fence height from four feet to five feet on corner lot on 0.52 acres, Land Lot 526 located at 3571 King Springs Road by the applicant Kwang Yi.

The applicant is requesting a variance to increase the allowable fence height in a front yard from four feet to five feet at 3571 King Springs Road for the purpose of installing a five foot iron fence on a corner lot. The maximum height for a fence in the front yard is required based upon the standards associated with Section 501.10 of the Zoning Code. The subject parcel is a corner lot with frontage on Cliffwood Drive and King Springs Road, thus creating two front yards.

Chairperson Saddler-Jones invited the applicant forward and he introduced himself and remarked that this was a request to replace the existing fence in the same location with a metal type fence and add an additional foot in height.

Planner II Joey Staubes reviewed that the applicant was requesting to deviate from

the City's maximum allowable fence height in the front yard (Section 501.10 of the Zoning Ordinance) at 3571 King Springs Road. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance. Community Development does believe there are sufficient privacy and security concerns that justify approval of the request. Additionally, several variances have been granted for similar requests throughout the City. At the time of this report Community Development has not received any opposition regarding the request. Therefore, Staff recommends approval of the requested variance.

This was an existing 4 foot wooden picket fence that the applicant would like to replace with an aluminum or iron style fencing utilizing the existing columns and adding 1 foot of height to a total of five feet.

Boardmember Stokes asked if the fence would not be opaque to qualify with site distance requirements and Mr. Staubes said it would not be opaque.

Chairperson Saddler-Jones called the public hearing and no one came forward to speak in opposition to or to make any comments regarding this item.

A motion was made by Boardmember Roy Acree to approve item V17-012 a variance request (V17-012) to allow an increase in fence height from four feet to five feet on corner lot on 0.52 acres, Land Lot 526 located at 3571 King Springs Road by the applicant Kwang Yi; seconded by Boardmember Scott Stokes.

The motion carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

E.

Public Hearing - Variance Request - V17-013 - Allow front setback reduction from 35 feet to 30 feet - 0.29 acres - Land Lot 376 - 2621 Linnwood Drive - Jose Gustavo Sassman

Chairperson Tammi Saddler-Jones gave the following background for this item:

This is a variance request (V17-013) to allow front setback reduction from 35 feet to 30 feet on 0.29 acres, Land Lot 376 located at 2621 Linnwood Drive by the applicant Jose Gustavo Sassman.

The applicant is requesting a variance to reduce the front yard setback for 2621 Linnwood Drive from 35 feet to 30 feet for the construction of a front porch on a single-family residence. The development standards established by the City for the R-15 zoning district require a minimum front yard setback of 35 feet.

The applicant, Mr. Sassman, was invited to the podium where he was asked to introduce himself and explain his request. He stated that this was a single family home that he had reconstructed the front porch, making it wider across the front of the home as well as extending out to the road. He indicated he had already completed construction and that he was notified that the project was not permitted and that he needed a variance for the construction.

Boardmember Scott Stokes asked the applicant if he was the property owner and he responded in the affirmative and also asked if he had a copy of a platted survey for this property to which the applicant responded, No.

Boardmember Stokes also asked what the 80' line that was drawn on the given map was referencing. The applicant stated it was the line where the yard dirt meets the curb.

Boardmember Acree said when he measured from the back of the curb to the house it was 47' and 41' to the front of the porch. He remarked we are contemplating a variance to encroach into the front set back but we have no survey to make an

informed decision off of. The applicant said the porch was built to the same location as the previous porch. He also noted the stairs had been turned from the street. Existing non-conforming is when it is the same as previously but when you change the construction you are subject to various variances and following ordinances. Planner II Joey Staubes came to the podium and reviewed the following background: The applicant is requesting to deviate from the development standards established by the City for the R-15 zoning district, which requires a minimum front yard setback of 35 feet. The applicant is requesting a reduction of the front setback for 2621 Linnwood Drive to 30 feet for a front porch on an existing single family home. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards. Similar variances have been approved throughout the city so no negative precedent would be set. At the time of this report, Community Development has not received any phone calls regarding the variance request. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance.

This is an existing single family home and aerial photography was used to measure the front setback. There was previously an existing stoop of stairs to a platform. When it was remodeled, the applicant was issued a warning to get a permit for the construction and he was instructed that he needed a variance to complete this project. Mr. Staubes believes that the measurements he made are within the allowable variance approval.

Boardmember Acree asked how we as a staff came up with the measurements for the variance of 35' to 30'. Mr. Staubes responded by using provided aerial photography. There was also photography from the tax assessors that showed the old deck on the home. There was some estimation used, but the porch is the same depth as the stoop was. The new deck is just longer across the front of the home. He thinks there is probably 7' feet from the back of the curb to front property line. It is probably more along 32' and we are calling it 30' to err on the side of caution. The approval recommendation is as the deck is built currently.

Boardmember Stokes asked what the right of way on that road was and Mr. Staubes responded he thought it was 40'. Mr. Stokes said he was at the point of thinking he may not need a variance if he had a survey and Boardmember Acree also said we don't know where those boundaries are and are just speculating.

Mr. Staubes responded that we previously followed the same guidelines when considering weighing the cost to the applicant for an as built survey vs. a variance that costs much less than the survey itself and we've given some discretion to staff to make those determinations. He went on to say that if that's a change in policy we are going to go by then I need to know to apply that equally to everyone.

Boardmember Acree said, since you made that comment I would argue that anything this body has done has reflected equal application from the first applicant to the last. Mr. Staubes said he was not accusing but as applications are being accepted I need to know what's acceptable otherwise we don't get to this point where we have a hearing and have to get more information.

Chairperson Saddler-Jones asked the applicant to return to the podium and inquired as to how long he thought it would take to acquire a survey for the property? He answered that this was a rental property for him and so he would have to make some calls and find out the cost to see how long it would take for him to pay for it because the property didn't make any money.

Chairperson Saddler-Jones called the public hearing and no one came forward to speak in opposition to or to make comment regarding this item.

A motion was made by Boardmember Scott Stokes to table indefinitely to allow the applicant to obtain a survey for item V17-013 for a variance request (V17-013) to all front setback reduction from 35 feet to 30 feet on 0.29 acres, Land Lot 376 located at 2621 Linnwood Drive by the applicant Jose Gustavo Sassman; seconded by Boardmember Roy Acree.

The motion carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

4. Approval of Minutes:

A. Approval of the minutes for the February 8, 2017 meeting of the License and Variance Board.

A motion was made by Boardmember Roy Acree to approve item 2017-68 for the approval of the minutes for the February 8, 2017 meeting of the License and Variance Board; seconded by Boardmember Scott Stokes.

The motion carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

5. Adjournment

Chairperson Tammi Saddler-Jones adjourned the meeting of the License and Variance Board for February 22, 2017 at 10:47AM.