

MEETING RECORD

NAME OF GROUP: CITY BOARD OF ZONING APPEALS

DATE, TIME AND PLACE OF MEETING: Friday, November 2, 2018, 1:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Maja Harris, Annette McRoy, Steve Miller, and Scott Sandquist; Vickie McDonald absent. Tim Sieh of the Law Department; Ron Rehtus of the Building and Safety Department; Dessie Redmond, and Amy Huffman of the Planning Department.

STATED PURPOSE OF MEETING: Regular City Board of Zoning Appeals meeting.

Chair Sandquist called the meeting to order and acknowledged the Open Meetings Act posted at the back of the room.

The first order of business was election of a new Chair. Miller nominated Annette McRoy; seconded by Sandquist and carried, 4-0: Harris, Miller, Sandquist and McRoy voting 'yes'; McDonald absent.

Sandquist handed the meeting over to Chair McRoy.

Chair McRoy called for a nomination for Vice-Chair. McRoy nominated Steve Miller; seconded by Sandquist and carried, 4-0: Harris, Miller, Sandquist and McRoy voting 'yes'; McDonald absent.

McRoy called for a motion approving the minutes of the City Board of Zoning Appeals hearing of June 15, 2018. Motion for approval made by Sandquist, seconded by Miller and carried, 3-0: Miller, Sandquist and McRoy voting 'yes'; Harris abstained; McDonald absent.

APPEAL NO. 18007, REQUESTED BY STEPHEN AND KELLI DODD, FOR A VARIANCE TO THE SIDE YARD SETBACK ON PROPERTY GENERALLY LOCATED AT 1918 TEAL CIRCLE.

PUBLIC HEARING:

November 2, 2018

There were no ex parte communications disclosed.

Stephen Dodd, 1918 Teal Circle, stated he has seen the letters in opposition and there are neighbors present to speak today. Their goal is to add a third stall in the best fashion possible. They are currently set back two feet from the existing front of the garage. They hope to do ten

feet, which would then extend into the setback by three feet; that is why they hope to obtain the variance of three feet, from 10 feet to seven feet. Although staff found other options, this proposed option is the best choice.

One alternate solution suggested would be to drop the garage back 11 feet so it would be 13 or 14 feet from the front of the existing. That would put us back into the 10 foot, but lots of usable space would be lost. The depth would only be 16 feet and a car would not fit. It would also not be visually appealing. That seems like a worse option for those who are opposed to it being built. We could also do a detached structure and drop back by 60 feet as long as it is at least six feet away from the existing residence. That does not seem like it would be any more acceptable to neighbors, but it is within the guidelines and so it would be allowed.

Dodd went on to say that they want to do what is best for the neighborhood. It was not stated in his letter that he owns a business. That was frowned upon and people think it should be located elsewhere. They have a large family and he is the breadwinner. It would not be good if he had to spend \$1,000 or \$2,000 on a storefront. People call him, and he goes out to their homes to work, so this does not increase traffic to his home. He is also working to alleviate the materials and equipment stored outside now. Having the larger garage would help to get the unsightly things from outside to inside. They do not want the property to be ugly to neighbors.

Harris asked what particular hardship created if the variance were not granted. Dodd said that the hardship would be the loss of 100 square feet of usable space. He would not be able to store his taller ladders with only 16 feet of depth.

Harris asked if there is anything specific about their property, compared with other lots in the neighborhood, which is creating an undue hardship that the neighbors do not have. Dodd replied that they live on a cul-de-sac so they have two large setbacks instead of just one. The way that the house is positioned on the lot also makes it difficult for anything additional to be built without encroaching into a setback.

Harris asked if they have a 2-stall garage. Dodd said yes. Harris asked if that is the prevailing size in the neighborhood. Dodd said it is. That is what was in demand when their house was built. Now people build 3-stall garages to hold two cars and have extra storage space. He said that they have five kids so with lawnmowers and bicycles, they need the space.

Miller asked if the 20-foot rear yard inhibits them from extending into the rear yard also. Dodd said yes; they can extend back six more feet and they are considering that, depending on the outcome today. Regardless of what happens today, they will do something, but they feel what they propose is the best option.

Sandquist asked about the location of surrounding houses and whether they are 10 feet off the lot lines. Dodd said they are. He has looked for variances throughout the neighborhood to see if any have been granted but has not found anything.

Proponents:

There was no testimony in support.

Opponents:

Mary Dewitt, 1924 Teal Circle, said they submitted a letter in opposition. This plan interferes with the purpose of the setback which is to allow for space and light between neighbors. They have proposed to extend right to the closest part of the two properties since both are right on the line; whoever designed the houses on the lots made use of every inch of space. That setback also allows for a utility truck to reach the utilities located at the end of the property. Mr. Dodd spoke to her husband about an addition, but this is not what they had in mind. They did not know about this until they received the notification letter on the 19th. They then spoke on the 26th to indicate their lack of support. All of the other corner lots in the area have the same space and all have 2-car garages. The driveways allow for extra parking so most of the neighbors have solved the problem of having extra cars by using that space.

Staff Questions:

Miller asked if the side setbacks allow for any encroachment at all. Redmond responded that staff does not have any authority to authorize approving any percentage of encroachment into a setback.

Miller asked if there is any risk in terms of public safety if there is encroachment. Redmond said once it encroaches within 2 feet, a firewall would become necessary. With this amount of space, there is no concern. Sandquist clarified that the requirement for a firewall is 3 feet. Staff agreed.

Harris asked if the suggestions for the detached or farther back options have any obstacles. Redmond said no. Harris asked if staff knows of any other neighbors who have done a similar stall addition or other modification to get around the setback. Redmond said she is not aware of any that were done with approval of encroachment by the Board of Zoning Appeals. Harris asked if most of the other lots in this neighborhood have room to add a third stall, or if this is common. Redmond said that generally, it would be difficult without encroaching into the setback. Harris asked if that was true for everyone. Redmond said that yes, generally speaking. It is the same for those with single stall garages; most would not be able to add a second stall without encroaching. When applicants request this type of addition, they are told the setbacks should be met.

Miller asked for clarification about the option of building into the rear yard setback. Redmond said if it is attached, the setbacks would need to be met. The requirements for a detached accessory unit are different.

Applicant Rebuttal:

Dodd clarified that the existing structure is 26 feet back and the setback is 20 feet.

McRoy asked how many cars the family owns. Dodd said three and they will purchase a fourth since their son turned 15. After that, it will be another car every two years. McRoy asked if it is possible to stack that many vehicles in the driveway. Dodd said they already stick out past the sidewalk now. Again, this proposed options is the best because even with the longer drive to a detached structure, the neighbors will not want to have cars 2 feet from their property line. That is why we feel this option is the most appealing.

APPEAL NO. 18007

ACTION BY THE CITY BOARD OF ZONING APPEALS:

November 2, 2018

Harris moved for denial based on the finding that there is no demonstrated undue hardship as it relates to this applicant; not granting the variance does not prevent the applicant reasonable use of his property; and the prevailing trend in this neighborhood is 2-stall garages. The problem of not having enough space is shared by others in the neighborhood. She sympathizes with the challenge of having multiple drivers and being a business owner, but this variance would mostly serve as a convenience and that is not sufficient grounds to grant a variance.

Miller seconded the motion; carried, 4-0; McDonald absent.

There being no further business, the meeting was adjourned at 1:58 p.m.

Note: These minutes will not be formally approved by the City Board of Zoning Appeals until their next regular meeting.