

CITY1891.DSS

Chairperson Blaser called to order the November 29, 2017, regularly scheduled meeting of the Board of Adjustment at 5:30 p.m. in the City Council Chambers, West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines, Iowa.

Roll Call: Blaser, Celsi, Christiansen, Pfannkuch.....Present
Cunningham.....Absent

Item 1 – Consent Agenda

Item 1a – Minutes of November 1, 2017

Moved by Board Member Pfannkuch; seconded by Board Member Celsi, to approve the November 1, 2017 meeting minutes.

Vote: Blaser, Celsi, Christiansen, Pfannkuch.....Yes
Cunningham.....Absent
Motion carried.

Chairman read the opening statement.

Item 2 – Old Business

There were no Old Business items reported.

Item 3 – Public Hearings

Item 3a – Hewitt Variance, 4245 Oakwood Lane – Vary the rear yard setback for an accessory structure by 15 feet from 20 feet to 5 feet for the construction of a 20’ x 26’ garage – Brian & Cheri Hewitt (VAR-003680-2017)

Chairperson Blaser opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary indicated that the notice was published on November 10, 2017, in the Des Moines Register.

Chairperson Blaser then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Board Member Pfannkuch, seconded by Board Member Christiansen, the Board of Adjustment accepted and made a part of the record all testimony and documents received at this public hearing.

Vote: Blaser, Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

Chairperson Blaser invited the applicant to present their application.

Clark Bruellman, 3749 E. University Avenue, Des Moines, MBG Renovation stated that the owners approached their company to build a garage. MBG did not realize the property was an estate lot with 20 ft setbacks. The lot has flat piece at the back, and there is a jog to the property line, with a grade change. The back of garage would be sitting out 4 feet if moved closer to the house. He stated that he can’t make the design fit inside the 20 ft setbacks.

The area at the back of the lot has woods behind, and therefore would not be visible to neighbors.

Chairperson Blaser asked Mr. Bruellman if he knew if the property owners were original purchasers of this house. Mr. Bruellman replied that he did not know for sure but he did not believe they were. He added that he had pulled stakes back from what he thought was the lot line, but didn't realize it was a jog in the line. He used the wrong stake when planning the garage.

Board Member Celsi asked if there was a garage on the house. Mr. Bruellman responded that there is an attached garaged.

Board Member Celsi questioned whether it was a 3 car garage. Mr. Bruellman replied that he didn't know.

Board Chairperson Blaser commented that from the aerial pictures, it appeared to be on the other side of the house, and looked like a 4 car garage. Mr. Bruellman stated that the owners have corporate, private events in the backyard; the planned use for the new garage is for extra storage for tables and lawn furniture.

Chairperson Blaser asked Mr. Bruellman if he had a chance to review Staff's review and findings. Mr. Bruellman replied that he had not. Chairperson Blaser noted that the staff is recommending denial. He then asked Mr. Bruellman if he filled out the sheet for the applicant's findings. Mr. Bruellman said he helped the applicant complete the form.

As there were no further questions from the Board, or the audience, Chairman Blaser closed the public hearing and invited Staff to present comments.

Brad Munford, Development Services Planner summarized the application. The property is zoned RE (Residential Estate), with a 20 ft rear yard setback for accessory structures. Residential Estate zoning allows for larger lots; residents often have larger equipment or desire for more storage. These lots are not restricted to the 1000 sq accessory structure size cap as such have an increased setback of 20 ft to mitigate the view of these larger building. This is a typical walkout type of lot. It involves a little more design work, but is not normally a problem to site a building. Regarding the topography of land, the steepest area is located on the NW corner. Some challenges on the NE corner include a 3-4 ft grade change, but that is not unheard of in this district and on this type of lot.

Mr. Munford then summarized staff review findings. Staff agree that the proposed use is consistent with the West Des Moines Comprehensive plan. Staff does not believe there are any special circumstances with this property. Staff does not believe a hardship exists, but that alternative designs and location are available. Staff does not feel the site improvements create a detriment to the lot. And while the request garage location would not harm health, safety or welfare; it might affect the neighbor's quality of life.

Board Member Christiansen commented that the precedent set if this appeal were approved could create future issues. Planner Munford agreed that it could.

Chairperson Blaser asked about the detached deck located in the rear NE part of the lot, whether it had been built with house. Mr. Munford replied that it was built without permits; it just appeared on historical photos. Staff did not know when it was built.

Board Member Pfannkuch noted that without a building permit, there had been no check for setbacks. Mr. Munford agreed that he did not believe there had been.

Chairperson Blaser then asked for a motion and/or continued discussion.

Moved by Board Member Christiansen, seconded by Board Member Pfannkuch, the Board of Adjustment adopt a resolution to deny the Variance based on staff findings.

Board Member Christiansen commented that this might be a good location for the garage, but that the Board is going to face this situation in the future and other applications will cite this example.

Vote: Blaser, Celsi, Christiansen, Pfannkuch.....Yes
Cunningham.....Absent
Motion carried.

STAFF VARIANCE APPLICATION FINDINGS

- 1. That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable sub-area plan.

The proposed use of single family residential is consistent with the West Des Moines Comprehensive Plan in that the land use of the property is designated Low Density Residential on the Comprehensive Plan Land Use Map.

- 2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones.

Staff was unable to identify any special circumstances or exceptional characteristics with this property. It is a fairly typical walk-out type lot that is desired in single family developments. These lots feature topography that slopes from the high point in the front (street side) to the low point in the rear. These type of lots do require slightly more design effort than a flat lot, but that effort has historically not been so egregious to detour similar lots in our community from complying this portion of our code. In addition the steepest grade and drainage challenges on the property can be found at the northwest corner of the lot. The proposed garage would be located on the northeast corner of the lot, where the ground flattens out to a point where structures can be placed with just small amount of design effort. There is no material difference in grade from the proposed location and the location that would comply with the required rear yard setback.

- 3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest.

In evaluation of the request, the existing site condition and comparison to similarly situated properties, It is staff's conclusion is that the strict application of the zoning ordinance does not result in practical difficulties of hardships and that the hardship could be considered self-imposed by the applicant in that the applicant prefers to have the garage closer to the property line. Staff believes that with the proper design, a garage can be constructed that complies with City code.

- 4. That there have been no changes in the character of the site or its surroundings which detrimentally affect the environment.

This development is in an area with varying characteristics such as topography and vegetation. The character of the site has been slightly changed over the years, through the addition of multi-tiered retaining walls for an outdoor living area. Staff does not believe that any of the changes made over the years detrimentally affect the points listed above.

- 5. That the granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

The intent of the 20 foot setback in Residential Estate (RE) districts is to promote a residential environment typified by larger lot single-family detached dwellings and to be mindful of the impact of larger residential structures to adjacent property owners. Unlike the majority of our residential zoning districts, RE does not have the 1,000 square

foot maximum size cap for accessory buildings. Years ago the maximum size cap was removed from the RE district with the reasoning that larger lots may have the need because of maintenance demands and the expressed desire for large accessory buildings for hobbies, recreation or storage uses. It was believed that RE properties (minimum lot size of 1 acre per code) have sufficient space to setback the buildings and insulate their impacts from surrounding neighbors. The 20 foot setback was put into place as a way to protect the quality of life of neighbors and allow these larger lots to have the type of accessory buildings they desired.

The granting of this variance will bring the garage fifteen feet closer to the neighboring lot. Considering that the intent of the setback was to insulate neighbors from adverse effects of accessory structures, staff believes that an approval could negatively impact the quality of life of the nearby properties, but find no concerns for the health safety and welfare of the community.

Item 4 – New Business

There were no New Business items presented.

Item 5 – Staff Reports

5a – 2018 Calendar

Chairperson Blaser asked if anyone had comments or concern regarding the proposed 2018 Board Schedule. There were none. Chairperson Blaser asked for a motion to accept the 2018 Board of Adjustment Schedule.

Moved by Board Member Celsi to adopt the 2018 proposed schedule, seconded by Board Member Pfannkuch, motion carried.

Vote: Blaser, Celsi, Christiansen, Pfannkuch.....Yes
Cunningham.....Absent
Motion carried.

Item 6 – Adjournment

Chairperson Blaser asked for a motion to adjourn the meeting.

Moved by Board Member Christiansen, seconded by Board Member Pfannkuch, the Board of Adjustment meeting adjourned.

Vote: Blaser, Celsi, Christiansen, Pfannkuch.....Yes
Cunningham.....Absent
Motion carried.

The meeting adjourned at _5:46__ p.m.

Michael R. Blaser, Chairperson
Board of Adjustment

Juanita Greer, Recording Secretary