

BOARD OF ZONING APPEALS
CITY HALL COUNCIL CHAMBERS
Tuesday, April 9, 2019
6:00 p.m.

The regular meeting of the Board of Zoning Appeals was scheduled and held in the Council Chambers of City Hall on April 9, 2019.

1. Chairman Jennifer Sisson called the meeting to order at 6:03 p.m.
2. Chairman Sisson requested the roll call. Ms. Regina Gibson called the roll of the Board and established a quorum:

COMMISSIONERS PRESENT: Ms. Jennifer Sisson, Chairman; Alderman Mary Ann Gibson; Mr. Mike Harless; Ms. Jodie Bowden; Mr. Frank Uhlhorn; and Mr. Greg Hurley

DEVELOPMENT STAFF PRESENT: Mr. Cameron Ross, Economic and Community Development Director; Ms. Sarah Goralewski, Senior Planner; Mr. Joe Nunes, Neighborhood Services Manager; Ms. Regina Gibson, Administrative Secretary, and Mr. Alan Strain, Attorney.

The Board of Zoning Appeals is a Quasi-Judicial body and as such, the latitude for acting on applications is somewhat limited by State Statute and City Ordinance. This meeting is recorded and those appearing before the Board would need to identify themselves, give their address and be sworn in for the record.

Motions made in all meetings are of an affirmative nature and does not necessarily mean that the motion will be approved, but that the language will be in an affirmative nature when the motion is made.

3. Approval of Minutes from the March 12, 2019 Meeting.

Mr. Harless moved to approve the Board of Zoning and Appeals minutes of March 12, 2019, as discussed; seconded by Mr. Uhlhorn, with no further comments or discussions.

ROLL CALL: Ms. Bowden – Yes; Mr. Hurley – Abstain; Mr. Harless – Yes; Mr. Uhlhorn – Yes; Alderman Gibson – Yes; Chairman Sisson - Abstain

MOTION PASSED

4. 3056 Foster Grove Rd – Approval of a Variance to Allow a 9’ high Accessory Structure to be Less than the Required Minimum Distance from the Rear Property Line in the R-H Retirement Housing Zoning District (Case No. 19-922)

BOARD DISCUSSION:

Ms. Sarah Goralewski (Senior Planner) presented this item to the board.

Mr. Todd Glidewell explained that there was an existing 8’ high arbor structure in the rear yard when he purchased the property. He removed it and replaced it with the current grilling station, using the existing foundation and footprint. (He did not obtain a permit to build the new structure.) The grilling station was built at 9 ft in height to allow the smoke to dissipate and for clearance of any flame ups. He asked the Board to allow him to keep the structure at the present height. It is not visible from Johnson Rd. Although the accessory structure is less than 5 ft. from the rear property line, it is 32 feet from Johnson Rd., with a 20 ft landscape buffer that will never be removed. The landscape buffer will never be used for anything except trees, grass and sidewalks, and he asked the Board to consider this as they made their decision.

Mr. Harless explained the problem with this structure is that the original structure was 8 ft tall and when this structure was rebuilt, it was made 9 ft tall.

Mr. Hurley explained that he didn't think this application met the legal requirements of a variance. There are criteria that this board has to use in order to make a decision on granting a variance. Nowhere in those guidelines does it say that they can grant a variance based on not being able to see it from the road.

Chairman Sisson discussed that she believes that this request did meet the required criteria for a variance, due to the exceptional nature of this situation.

The board members discussed that in other residential zoning districts, the ordinance says an accessory structure that is 8 ft. high or less may to be 3 ½ ft from the property line. In the Retirement Housing (RH) zoning district, the ordinance says an accessory structure is required to be the distance from the property line equal to its height. Mr. Glidewell's structure is currently 4 ½ ft from the property line. For this structure to come into compliance with the RH zoning regulations, it would have to be moved another 4 ½ ft away from the property line.

After much discussion, Chairman Sisson called for a vote.

MOTION 1:

Mr. Harless moved to approve a variance allowing the accessory structure to stay in its current location of 4-1/2 feet from the rear property line, if it is lowered to 8' in height, subject to the Board's discussion, staff comments noted in the staff report and the site plan submitted with the application, seconded by Alderman Gibson:

ROLL CALL: Mr. Hurley – No; Ms. Bowden – Yes; Mr. Uhlhorn – Yes; Mr. Harless – Yes; Alderman Gibson – Yes; Chairman Sisson - Yes

MOTION PASSED

MOTION 2:

Mr. Uhlhorn moved to approve the variance to allow a 9' high accessory structure to be less than the required minimum distance from the rear property line, subject to the Board's discussion, staff comments noted in the staff report and the site plan submitted with the application, seconded by Alderman Gibson.

ROLL CALL: Mr. Harless – No; Mr. Hurley – No; Mr. Uhlhorn – Yes; Ms. Bowden – No; Alderman Gibson – No; Chairman Sisson – Yes

MOTION FAILED

OLD BUSINESS: Chairman Sisson asked if there were any old business and there were none.

NEW BUSINESS: Chairman Sisson asked if there were any new business and there were none.

ADJOURNMENT:

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There being no further business, comments, or questions by the Commission, the Chairman adjourned the meeting at 6:40 p.m.

Ms. Jennifer Sisson, Chairman
Board of Zoning Appeals
