

**MINUTES
BLOOMINGTON ZONING BOARD OF APPEALS
REGULAR MEETING - 4:00 P.M.
WEDNESDAY, APRIL 19, 2017
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE STREET
BLOOMINGTON, ILLINOIS**

Members present: Chairman Bullington, Mr. Briggs, Mr. Brown, Mr. Butts (arrived 4:04PM), and Mr. Kearney

Members absent: Ms. Meek, Mr. Simeone

Also present: Mr. George Boyle, Assistant Corporation Counsel
Ms. Katie Simpson, City Planner
Tom Dabareiner, Community Development Director

At 4:02PM, Mr. Dabareiner called the roll. With four members in attendance, a quorum was present.

PUBLIC COMMENT: None.

Mr. Butts at arrived 4:04PM.

MINUTES: The Board reviewed the minutes from March 15, 2017. A motion to approve the minutes was made by Mr. Briggs; seconded by Mr. Butts. The minutes were **approved** by a 4-0 voice vote.

Chairman Bullington explained the meeting procedures.

Z-08-17 Consideration, review and approval of the petition for a variance submitted by Susan Atkins and Mark Rhodes for the property located at 206 Tanner Street to allow an accessory structure greater than 1000 sqft, a 408 sqft increase

Chairman Bullington stated that the second agenda item, Case Z-09-17, has been withdrawn by the petitioner. He introduced Case Z-08-17. Mr. Mark Rhodes and Ms. Susan Atkins, 206 Tanner, were sworn in. Mr. Rhodes stated that he wants a garage in their backyard for adequate lawn care equipment storage and to restore a car. He stated that the existing garage is not large enough to accommodate this car and equipment. Mr. Briggs asked how many cars are restored; Mr. Rhodes stated just the one. Chairman Bullington asked what physical characteristics of the petitioner's property makes it unique and unable to accommodate a regular sized accessory structure; Mr. Rhodes stated other structures exist in neighboring backyards but they just have a small storage shed.

Ms. Atkins asked if the garage was attached to their house whether the same rules apply; Chairman Bullington stated that the specifics would matter but probably not.

Ms. Atkins stated there is a lot of landscaping and people cannot see into their backyard. Mr. Rhodes noted he takes a lot of pride in the landscaping and added that nothing would be

stored outside. He stated that it would not turn into a business and, with the new structure, he would get rid of the old sheds. Chairman Bullington asked the petitioner how he would access the new shed; Mr. Rhodes responded he does not need a new driveway and that there is room.

Mr. Briggs expressed concern over the access and whether the car would come and go for car shows; Mr. Rhodes stated that the restored car could then be stored up front. Mr. Briggs asked about the potential use as a business after the current owner sells the property, explaining that the variance is perpetual.

Mr. Brown asked how an emergency vehicle would access the back yard; Mr. Rhodes stated there is a double gate on the west side of the house. Mr. Briggs confirmed there is no paved path.

Mr. Kearney asked the petitioner to explain the need for the new accessory structure and why the existing garage is inadequate. Mr. Rhodes stated the existing garage is too small to work on a full size vehicle. He has four vehicles including the one he seeks to restore, which is not licensed so needs to be moved inside, and two are parked in the existing garage. Mr. Kearney confirmed Mr. Rhodes would move the lawn equipment from the old existing sheds into the new shed. Mr. Rhodes believes it will look better to remove the old sheds.

Mr. Briggs asked if the existing garage could be extended to create added room and provide paved access.

Ms. Simpson provided the staff position, which is opposed to the variance. She provided photos of the lot in her PowerPoint. She described the surrounding properties. She explained the accessory code rules for residential properties in the City, adding that the rules are in place because accessory structures are intended to be subordinate in use and size to the principle residential structure. She mentions that visual impact, location, size and use are all considered by staff when reviewing these cases. She noted the neighboring properties tended to have a single small accessory structure, except for a nearby corner lot that was granted a variance for a larger accessory structure. She described the size of the proposed accessory structure, noted concerns with access to the structure on a lot too narrow to allow two driveways. She explained the existing garage could be expanded and mentioned a couple other alternatives.

Mr. Briggs asked if the existing ten foot slope forces construction of a larger accessory structure; Mr. Simpson stated in the negative, because the slope does not impact the proposed location. She stated the petitioner could add more than 400 square feet to the existing garage without need for a variance. Ms. Simpson also expressed concern the proposed structure could easily be changed into a business, which is not consistent with the residential use. In response to Mr. Briggs' question, Ms. Simpson explained the additional 424 square feet can be added on to the garage or stand as a separate structure without the need for a variance. Mr. Boyle stated a new application is needed for the garage expansion versus what is currently proposed, based on a question from Mr. Briggs.

Mr. Kearney asked about the differences between the 2004 corner-lot cases and this case. Ms. Simpson stated did not recall but could access the case later.

Mr. Briggs asks the petitioner about expanding the existing garage; Mr. Rhodes stated it would not look right and he preferred to go with a separate building.

Chairman Bullington stated the ZBA has five factors to consider as laid out in the code.

Mr. Butts motioned for **denial** of the variance; seconded by Chairman Bullington. The motion **failed** 2-3 with the following votes: Mr. Butts—yes; Chairman Bullington—yes; Ms. Kearney—no; Mr. Briggs—no; Mr. Brown—no. Mr. Kearney motioned for **approval** of the variance; seconded by Mr. Briggs. The motion **passed** 3-2 with the following votes: Mr. Kearney—yes; Mr. Briggs—yes; Mr. Butts—no; Mr. Brown—yes; Chairman Bullington—no. Motion fails for lack of the required 4 votes needed for an affirmative action. Chairman Bullington stated the petitioner may appeal to the Council.

Z-10-17 Consideration, review and approval of the petition for variances submitted by Paul Young for the property located at 2 Briarwood Ave to allow: 1). An accessory structure greater than 1000 sqft, a 282 sqft increase, 2). An accessory structure greater than the principal structure, a 170 sqft increase.

Chairman Bullington recused himself because he is an acquaintance of the petitioner, then left the room. After some discussion and a vote, Mr. Briggs was named Acting Chairman. John and Diane Hollister, 2 Briarwood Avenue, and Paul Young, project architect, were sworn in. Acting Chairman Briggs introduced the case.

Mr. Young stated he can understand the City's position from a historical perspective. He noted he has experience sitting on various boards and commission in Bloomington and Normal. He stated he disagrees with City staff's recommendation. He referred to the state's standards rather than the City's standards, then referred to sections of the staff report he disagreed with, such as description of the general location of the property. Mr. Young explained this is a Pillsbury house and believes that given the age of the structure, certain standards would not have applied. Acting Chairman Briggs confirmed Mr. Young was talking about the principle structure. Mr. Young explained the petitioner has already reduced the size of the proposed addition to the existing accessory structure. Mr. Dabareiner asked if this is new information; Mr. Young stated that the information in the packet is the current proposal. He disagreed with staff's statement that the existing structure is nonconforming, noting that they did not know it was larger than that allowed but have agreed to remove that portion before constructing the proposed addition. Acting Chairman Briggs confirmed that Mr. Young was now describing the accessory structure. Acting Chairman Briggs stated he confirmed with Mr. Boyle that the City is a home rule community and has five standards to be met, not the three state standards referenced; Mr. Young agreed, but stated that the City's code may not be up to date.

Mr. Young agreed with staff's report that there are no physical characteristics of the property requiring this expansion, but challenged the definition of the word "unreasonable" and "challenge." Mr. Young disagreed that other options, such as adding on to the house, are possible because it is not what his clients wish. Mr. Young noted that the staff is correct in that a variance is not required if the expansion was smaller. Mr. Young disagreed that reasonable use is granted the property without this proposed expansion because it is not what his client's desire. Mr. Young stated that the average home size has increased since the client's house was built; Mr. Kearney asked Mr. Young to stick to the case. Mr. Butts stated these might be good arguments in an appeal to the City Council but are not relevant for the

ZBA. Mr. Young continued that he disagrees with staff's assessment of the number of detached accessory structures in the neighborhood.

Ms. Hollister stated she worked with the City of Peoria, including their library, until retiring five years ago and moving to Bloomington. She stated she loves books and intends on storing books in the addition. She stated she likes to give back to the community and has installed a Little Free Library in her front yard. She stated she also planned on doing hobbies in the proposed space and holding tea parties with friends. Her intention is to maintain the integrity of the charming neighborhood, which she believes is beautiful. Ms. Hollister stated she contacted Brad Williams of the Historic House Society. She stated she hopes to fill the new space with antiques. She mention keeping the integrity of the Pillsbury house. She stated she is appointed to the Library Board and was on the Police and Fire Commission. She believes the expansion will enhance the look.

Mr. Hollister responded to the concern that someone may want to make this into a house but they had rejected the idea of adding a small bathroom due to the cost. Acting Chairman Briggs conformed they had electricity but no plumbing. Mr. Hollister stated they have a deep lot and this expansion will not be visible.

Mr. Young repeated the point that the expansion will not become living quarters.

Ms. Karen Mills, 6 Briarwood Avenue, was sworn in. She distributed exhibits which were labeled for the record and distributed. Ms. Mills stated she is concerned about an old tree sharing their property line which she fears may not survive the expansion because it would cut tree roots and interrupt the tree's drip line. She stated, the tree was part of the original Jesse Fell arboretum. She asked if less invasive options were considered and mentioned some which may help protect the tree.

Ms. Simpson provided staff's recommendation against allowing the expansion as proposed. She provided photos by PowerPoint showing the existing structure with the proposed addition. She described the lot, noting it was improved around 1919-1925, and is a potential site for future historic designation pending additional study. She noted the zoning of the property and surrounding properties. She noted the accessory structure is supposed to be subordinate to the principle structure in size and use. Most of the accessory structures, whether detached or attached, in the neighborhood are for one or two cars, not like the proposed size which could accommodate almost 4 cars. She pointed out the existing accessory structure is considered nonconforming because it exceeds 1,000 square feet. She affirmed that the petitioner would remove the structure to bring it slightly below the 1,000 square feet, before adding on and returning it to a size significantly larger than the 1,000 square feet allowed or the smaller size to assure it does not exceed the size of the house.

Ms. Simpson noted Mr. Young went through her report earlier regarding adherence to the standards. Ms. Simpson stated staff concludes there is no physical hardship. She stated that without the variance, the petitioner can still make reasonable use of the property as others do in the neighborhood. She stated the need for the variance is based on the petitioner's wants and not due to any hardship preventing them from obtaining an accessory use they do not have but would make their building similar to others. She repeated that staff recommends against allowing the variance.

Acting Chairman Briggs asked to see the picture of the property displaying the two lots contained within the property. He asked if the property owner could sell off one lot; Ms. Simpson noted the setbacks required and the likely need for a shared driveway. Acting Chairman Briggs noted that once a property is denoted as historic there are restrictions as to the improvements that can be made; he asked if this could ruin the potential for it earning an historic designation. Ms. Simpson referred to the downtown area which is a designated historic district, explaining that even contributing structures need consideration and in some residential areas the garages are considered contributing. She repeated her concerns are impact on neighbors and the potential for the structure changing its use. Mr. Kearney confirmed that the historic potential did not factor into staff's recommendation.

Mr. Hollister stated he too is concerned about the old tree and it remains to be seen how the addition can be constructed. Mr. Brown asked if they considered adding on to the house; Mr. Hollister stated that they never considered adding on to the house and instead went with the option of adding on another parking bay to the accessory structure. Ms. Hollister stated she would not want to harm the status of the house by adding on to it. Mr. Kearney confirmed the library in the new space would be private.

Mr. Hollister explained that the first two parking bays are intend for cars, the third bay is his workshop, and the addition would be the library for his wife. Acting Chairman Briggs asked if one of the existing bays could be used as an alternative to the addition; Ms. Hollister stated one bay is filled with stored furniture. Acting Chairman Briggs mentioned there is storage around town that the furniture could go in. Mr. Hollister stated conversion of the space would be expensive.

Mr. Butts motioned for denial of the variances; seconded by Mr. Brown. The motion **failed** 2-2 with the following votes: Mr. Butts—yes; Mr. Brown—yes; Mr. Kearney—no; Acting Chairman Briggs—no. Then, Mr. Brown motioned for approval of the variances; seconded by Mr. Kearney. The motion **failed** 2-2 with the following votes: Mr. Brown—no; Mr. Kearney—yes; Mr. Butts—no; Acting Chairman Briggs—yes.

Acting Chairman Briggs noted the right of the petitioner to appeal to City Council. Chairman Bullington returned to the dais. There was general discussion about what exhibits needed to be kept from the prior case.

Z-11-17 Consideration, review and approval of the petition for variances submitted by Jeff Dodson for the property located at 701 Marshall Ln to allow a six (6) foot fence in the required front yard, a two (2) foot increase.

Chairman Bullington introduced the case. Jeff Dodson, 701 Marshall Lane, was sworn in. He explained that the front, south side of his property abuts the Red Roof Inn and when he sought a fence he was told it could be only four feet tall because it is in the front yard, but he requests a six foot fence to block some of the view. Chairman Bullington asked if there was physical hardship with the property, for example is the petitioner's property higher than that for the Red Roof Inn; Mr. Dodson affirmed his property is higher by about 10 feet.

Mr. Briggs asked if shrubs had previously served to block the view; Mr. Dodson stated that Red Roof cut down the shrubs which were on his property and the police were called.

Chairman Bullington stated for the record there is no one else in the room.

Ms. Simpson presented staff's recommendation in favor of the variance. She presented photos of the property and the view of the Red Roof Inn. She noted the residential zoning of the Dodson property and also described the surrounding property as B-1 Highway Business. She reviewed the types of things considered by staff, stating that this neighborhood is tucked away but the Dodson fence line had the shrubs removed in error. She also noted that other six foot fences exist in the area. She reviewed the five standards for a variance, citing the proximity to the Red Roof Inn as a hardship. She added that when this area developed the City did not have buffering and screening requirements as it now does. She concluded that the six foot fence would cause no difficulty for the public and recommended in favor of the variance.

Mr. Briggs asked if the remodeling underway at the Red Roof Inn triggered the need for screening; Mr. Dabareiner stated that if it were being rezoned to business then the landscaping requirements would be triggered.

Mr. Butts motioned for approval of the variance; seconded by Mr. Brown. The variance requests **passed** 5-0 with the following votes: Mr. Butts—yes; Mr. Brown—yes; Mr. Briggs—yes; Chairman Bullington—yes.

OTHER BUSINESS:

Resolution of Appreciation to Robert A. Kearney for service to the City of Bloomington Zoning Board of Appeals. Chairman Bullington read the certificate of appreciation and presented it to Mr. Kearney. Mr. Kearney thanked the City for the opportunity to serve. He encouraged the board to continue to troubleshoot the cases.

Resolution of Appreciation to Richard “Dick” Briggs for service to the City of Bloomington Zoning Board of Appeals. Chairman Bullington read the certificate of appreciation and presented it to Mr. Briggs. Mr. Briggs talked about how he started on the petitioner's side and that gave him a certain perspective. He added the Board is here to also educate the public.

NEW BUSINESS:

None

ADJOURNMENT:

Mr. Butts motioned to adjourn; seconded by Mr. Briggs. It was approved by voice vote and the meeting was adjourned at 5:54PM.

Respectfully submitted

Tom Dabareiner, AICP
Secretary