

**MINUTES
BLOOMINGTON ZONING BOARD OF APPEALS
REGULAR MEETING - 4:00 P.M.
WEDNESDAY, AUGUST 15, 2018
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE STREET
BLOOMINGTON, ILLINOIS**

Members present: Ms. Barbara Meek, Mr. Robert Schultz, Mr. Jeff Brown, Mr. Terry Ballantini, Mr. Veitengruber and Ms. Victoria Harris

Members absent: Chairman Tristan Bullington

Also present: Mr. George Boyle, Assistant Corporation Counsel
Ms. Katie Simpson, City Planner
Ms. Izzy Rivera, Assistant City Planner

Ms. Meek was unanimously voted as Chair.

Chairman Meek called the meeting to order at 4:03 p.m. Ms. Simpson called the roll; with six members present, the Zoning Board of Appeals established a quorum.

PUBLIC COMMENT: None.

MINUTES: The Zoning Board of Appeals reviewed the July 18, 2018 regular meeting minutes.

Ms. Harris corrected a scrivener error on page 3. Ms. Harris motioned to approve the minutes as corrected, seconded by Mr. Ballantini. The Board approved the minutes, with the following votes cast on roll call: Ms. Harris—yes; Mr. Ballantini—yes; Mr. Brown—yes; Mr. Schultz—yes; Mr. Veitengruber—yes; Chairman Meek—yes.

REGULAR AGENDA:

Z-17-18 Consideration, review and action of a petition submitted by Ken Ratcliff for variance to allow a 1’8” increase in fence height in front yard, from the required 4 foot fence height at 1502 E. Olive St. (Ward 4).

Chairman Meek introduced the case and swore in the petitioner, Mr. Kenneth Ratcliff, 1502 E. Olive St. Mr. Ratcliff provided testimony that the fence would help keep the dog inside. He would like a variance to elevate the fence approximately 20 inches because there is a corner in the lot which slopes down. The fence they have chosen is a scallop style where the post are 6 feet tall but the curve is 8 inches down, which allows them to see out. He would like to have a leveled fence and not have to follow the grade. The post of the fence are 72 inches on center. A variance was granted to another homeowner for a higher height and the fence goes straight across. With the scalloped fence style there will be variations in height. Mr. Ballantini asked what the highest part would be, Mr. Ratcliff stated it would be 68 inches. Ms. Harris stated the scalloped fence would be aesthetically pleasing.

Chairman Meek asked if anyone would like to speak in favor or against case Z-17-18.

Chairman Meek swore in Mr. Howard Paret, 1501 E. Grove. He spoke in favor of the fence. Mr. Paret stated he is comfortable with what is proposed and what the petitioner would like to do. Mr. Schultz stated 1404 on the west side has a fence on Moore St. He stated the fence seems non-conforming and that there are a variety of fences in the neighborhood.

Chairman Meek swore in Mr. Jeff Thompson, 1513 E. Olive St. He received the mailer and is speaking in support of the petition. The fence would not impede visibility and would provide privacy for the petitioner.

Ms. Simpson presented the staff report and the recommendation to deny the variance unless additional information is provided by the petitioner. Ms. Simpson provided the Board with an overview of the general standards the Board uses to review Zoning cases. Ms. Simpson provided pictures of the subject property, the surrounding properties and an aerial view of the neighborhood as well as the zoning view. She stated the site is on a corner lot and would be required to meet a 25 foot setback on both sides or the average setback for the neighborhood as it was established before the code, in early 1900s. Moore St. runs north and south but there are no front facing properties that run off Moore St. All of the yards function as a side yard, Moore St. operates as an alley. The petitioner is proposing a scalloped fence, which would project into the front yard. The Code requires a 4 foot fence to protect sight lines, and provide a welcoming neighborhood. Ms. Simpson provided Sketch Up rendering of what the fence would look like and elevations. She stated the fence would not impact views, or block other neighbor's views. In 2015 a variance was granted for a 6 foot fence in the front yard as well.

Ms. Simpson provided staff's analysis of the standards for a variance and determined the petition does not meet the factors. The project does not meet the minimum action necessary since a 4 foot fence would be permitted by Code and no variance would be required. The petitioner is however making an effort to comply with the standards with a scalloped fence. The property is not unique as there are others in the neighborhood with similar constraints, the request is directly related to the petitioner wanting a taller fence. Other standards were met, according to staff analysis.

Ms. Harris stated the reason not to grant a 6 foot fence could be balanced by the design. Mr. Brown asked about the 28 inches. Mr. Ratcliff explained the lot, the slope and the high and low points of the property. He stated the fence along the side yard would lose 12 inches because of the grading. He would like to keep the fence leveled. Mr. Brown asked if staff would support a leveled fence that goes with the elevation changes. Ms. Simpson stated fences that go along with the elevation have been approved before. Also, the variance is only needed for a spot along Moore St. where the 6 foot fence wouldn't be allowed. Mr. Ratcliff wanted to find a medium where his fence could be leveled but that he could also be able to see out from his fence. He wanted to keep continuity.

Mr. Schultz commented on the unique situation, since the home and the neighborhood were established before the code. The neighborhood also has many fences which are above the required height. Ms. Simpson stated the process is necessary and the variance is requested because there is an encroachment in the front yard.

Chairman Meek requested the Board establish a finding of fact for case Z-17-18. She explained the Board will take a position on each factor and state if the factor is "met" or "not

met”. Ms. Simpson called each factor and performed a roll call vote for each factor. The following votes cast:

Factor 1. Mr. Ballantini—met; Mr. Brown—met; Ms. Harris—met; Mr. Schultz—met; Mr. Veitengruber—met; Chairman Meek—met.

Factor 2. Mr. Ballantini—met; Mr. Brown—met; Ms. Harris—met; Mr. Schultz—met; Mr. Veitengruber—met; Chairman Meek—met.

Factor 3. Mr. Ballantini—met; Mr. Brown—not met; Ms. Harris—met; Mr. Schultz—met; Mr. Veitengruber—not met; Chairman Meek—not met.

Factor 4. Mr. Ballantini—met; Mr. Brown—met; Ms. Harris—met; Mr. Schultz—met; Mr. Veitengruber—met; Chairman Meek—met.

Factor 5. Mr. Ballantini—met; Mr. Brown—met; Ms. Harris—met; Mr. Schultz—met; Mr. Veitengruber—met; Chairman Meek—met.

Chairman Meek requested the Board vote in favor or against the petition for a variance, case Z-17-18. The variance was approved, 5-1, with the following votes called:

Mr. Ballantini—yes; Mr. Brown—no; Ms. Harris—yes; Mr. Schultz—yes; Mr. Veitengruber—yes; Chairman Meek—yes.

Z-18-18 Consideration, review and action of a petition submitted by Randy and Liz Butts for a variance to allow a 12’6” reduction in the required front yard setback from 62 feet (block average) to 49 feet 6 inches, for an addition to the existing garage at 3 Cherrywood Lane. (Ward 5).

Chairman Meek introduced the case and swore in the petitioner, Mr. Randy Butts, and general contractor Mr. John Holt, 2903 Wimply Way. Mr. Holt stated the house has some issues, it was built on low elevations. There is no step up from the garage to the house. The east side of the house is the highest side and where the biggest issue for drainage is located. There is also drainage coming from the street. The previous owner was involved with the City and a curb was placed down his driveway that could combat the water coming into the driveway. Mr. Holt showed a video that was entered into evidence. The video had commentary from Neil Finlen from Farnsworth Group. Mr. Butts stated that 3 out of the 8 homes have 3 car garages on Cherrywood Ln. Mr. Holt explained the water runoff and water shedding, and the design that would create more water pooling versus placement toward the front of the property which could alleviate the water pooling and drainage issues. He stated they are keeping with the style of the neighborhood. Mr. Holt introduced a letter from Neil Finlen from Farnsworth Group detailing the water issues, which was marked as an exhibit and entered into evidence.

Chairman Meek asked if anyone would like to speak in favor or against case Z-18-18.

Chairman Meek swore in Ms. Yvonne Margo Mendoza, 103 Hill Top Rd. Bloomington, IL. Ms. Mendoza spoke against the petition. She stated the home was built by Mr. Sinclair. She

asked why the addition couldn't go on the back. Mr. Holt stated the garage on the back yard or the back side of the home would limit privacy and design. Mr. Butts stated he is trying to address the water and the mud that pools currently at the foot of the driveway. Ms. Mendoza stated the adjacent home had recent work and landscaping that should address the water issue. She stated she thinks the neighbor would not like the addition. Mr. Holt stated the position and location of the neighbor never impacted the amount of runoff that was experienced at this site. The location where the petitioner is proposing to place the addition could assist in managing the water runoff.

Ms. Rivera presented the staff report and staff's favorable recommendation for the variance. She provided pictures of the subject property, the surrounding properties and an aerial view of the neighborhood as well as the zoning view. The petitioner is proposing to add in the front of the home. Any addition to the home would require a variance as the front yard setback is larger than the setback established for the Zoning Classification. The average setback was established from a case in 2015 which took into account Cherrywood Lane and Hilltop Road. The topography of the site limits construction. The contour lines show there is a natural flow of storm water running east toward sugar creek. Any construction toward the rear would have to take into account the water runoff and redirection of natural storm water.

Ms. Rivera provided staff's analysis of the standards for a variance and determined the petition meets the factors. The site has topography and contour lines that limit construction and there was a variance for setback which was granted as well on Cherrywood Lane. Since there have been additions to homes in the neighborhood, an addition such as the one proposed would be in line with the neighborhood. There would be no negative effects to the variance and views would not be impacted.

Mr. Holt explained they looked at putting the garage in another location but it would cause water to flow into the neighbor's property.

Mr. Schultz asked if the view to the north would be obstructed. Mr. Holt stated that there would be not additional blocked views. The addition would be in line with what is existing currently.

Ms. Harris asked if this was similar to a gravity flow system. Mr. Holt stated what is proposed would not impact negatively any water flow.

Mr. Brown asked if there was anything preventing them from putting the garage behind the home. Mr. Holt says they would have to shift everything and could block natural light and views of the bedrooms and bathrooms.

Chairman Meek requested the Board establish a finding of fact. Mr. Schultz motioned to adopt the City's findings as fact for all factors. Seconded by Ms. Harris.

Chairman Meek explained a vote of "yes" would adopt the City's findings of fact as to the five factors. The motion was approved 6-0 with the following votes cast in favor on roll call: Mr. Shultz—yes; Ms. Harris—yes; Mr. Ballantini—yes; Mr. Brown—yes; Mr. Veitengruber—yes; Chairman Meek—yes.

Chairman Meek requested the Board vote in favor or against the petition for a variance, case Z-16-18. The variance was approved 5-1, with the following votes called:

Mr. Ballantini—yes; Mr. Brown—no; Ms. Harris—yes; Mr. Schultz—yes; Mr. Veitnegruber—yes; Chairman Meek—yes.

OTHER BUSINESS: Ms. Harris would like a discussion about the process for appealing to City Council.

ADJOURNMENT

Mr. Brown motioned to adjourn. Seconded by Mr. Schultz. The motion was approved by voice vote. The meeting adjourned at 5:11 p.m.

Respectfully Submitted,
Izzy Rivera
Assistant City Planner