

BOARD OF ZONING APPEALS

This meeting of the Board of Zoning Appeals was held May 6th ,2021 at 7:00 p.m. in the Public Safety Building located at 500 Quincy Street.

ROLL CALL OF MEMBERS

Present

President Shultz
Board Member Manchin
Board Member Knapp
Board Member Perkins
Board Member Majic

Absent

City Staff Present

Director of Planning- Shae Strait
Staff Assistant, Kirstin Poluck

APPROVAL OF MINUTES OF April 1st, 2021

President Schultz asked for everyone to read of the previous months minutes and look for corrections or additions. With no corrections or additions indicated, a motion was made by Board Member Manchin to approve the minutes. Board Member Majic seconded the motion. Motion passed unanimously.

Board Member Majic called the meeting to order at 7:00 p.m.

PUBLIC HEARINGS FOR May 6th, 2021

1. BZA 21-02 - William Heston is requesting a Variance at 501 Auburn St from City Zoning Code Section 3.1.1.F Development Standards which requires a minimum rear yard setback requirement of 25 feet. The petitioner is requesting to encroach on the required rear setback 7.5 feet by building an addition onto the single-family home on the property making the final rear yard setback 17.5 feet. The property is zoned General Residential and is identified as Tax District 5, Map 5, Parcel 207.

William Heston is present to speak on behalf of the variance. He is requesting to build a 32 foot extension to his home in order to have a bathroom within the garage. He will also have a second floor which will serve as storage which he states is necessary as he does not have any now. Mr. Heston states that he has been renovating this property for the last 20 years.

Board Member Perkins asked if this particular variance has been approved before. To which, Mr. Heston states that yes, it was. However, he was unable to find a contractor before the variance expired.

President Schultz asks if there was any one here to speak against the requested variance.

Pam Himes is here to speak against the variance. She is questioning what is the reason for the city to grant variances against their own city code.

Planning Director Shae Strait stated that while they can meet the intent of the ordinance, previous boards have approved the variance.

Pam Himes expressed significant concerns over transient and homeless individuals not being visible within the adjacent improved alley because of this proposed addition. Ms. Himes mentioned the property was two lots.

Planning Director Shae Strait states that the lot line is no longer an issue as the lots have been combined into one lot.

Pam Himes asked how the Oak Tree would be protected? Set back lines are important for the City. Creating this structure will make homes much different than any other homes.

Board Member Majic stated that the City will inspect any additions and not approve any thing that does not meet code requirements.

Mark Himes is also here to speak against the variance. Mr.Hines lives at 503 Auburn Street. He is questioning why staff is considering approving this variance, because it will not look good.

Planning Director Shae Strait states that we consider everything when entertaining a variance. We look at objective function and placement of the variance. Aesthetics is often not a factor.

President Shultz read the 5 questions the BZA asks before granting the variance. The point of the questions is to see what everyone, the person requesting the variance, those against the variance and what the staff things regarding the variance.

Mark Himes states the setback rules are there for a reason and that we should understand the importance of the environment they are creating. He asked if we could ignore front yard variances as well.

Board Member Majicasked asked if the petitioner could get a ROW on the alleyway?

Planning Director Shae Strait stated that Staff doesn't recommend adandonment. The importance of access to the rear property would be compromised.

Mark Himes currently uses the alleyway as a back entrance/driveway to his home. If a ROW is granted who would own the property?

Planning Director Shae Strait stated that if the ROW were to be adandoned it would be divided equally among the adjacent home owners, splitting the ROW down the middle and then projecting to property lines perpendicular into the current ROW.

Board Member Knapp stated that a ROW abandonment would do more harm than good.

Mark Himes stated that the home with the addition will be out of alignment with the rest of the homes on the street. He will have no vision to see the alley, and it will devalue the other homes on the street. There is a dry stack retaining wall on the neighboring property.

Planning Director Shae Strait stated that the petitioner did not submit height . Approximation is 15 to 20 ft in height since it is attached to the home.

Board Member Knapp is questioning what the dimension of 8 feet is on the drawings that were submitted by the applicant.

Planning Director Strait stated that the dimensions shown are the garage door widths.

Mark Himes stated that with only 11 feet to the side the addition would extremely close to the tree and if the roots were to be damaged it would kill the tree. The property line between 501 and 503 is not clear.

Board Member Majic most builders would require a survey done prior to breaking ground. The owner is responsible for getting an inspection and building permit and also pass the inspection.

Mark Himes asked how far the addition the will it extend from the back of the house.

Planning Director Shae Strait states that it will be 32 ft from the existing rear wall. Given the scale of the drawing 18-20 ft from the side of the house. The first 10 feet will overlap with the home. It will also need the typical footing. A 2 feet foundation wall below grade level. The garage itself could also be moved forward however the garage would need to be smaller.

Mr. Himes does not believe that the side yard distance will be far enough away from the tree.

Planning Director Shae Strait states that in this particular district the side yard requirements are 8 feet or 10 percent of the property width.

Board Member Majic stated that the structure would have to be 8 feet or 10 percent from the property line or it would not be granted a building permit.

Board Member Manchin asked if the garage were to move forward and be parallel to the existing home would that remove the question for the variance?

Board Member Knapp states it would still require the rear variance.

Planning Director Shae Strait states that moving the garage addition toward the paved alley, it would solve the issue to the tree root system and the line of site view for 503. Our requirement is that garage needs to be setback 20 feet from the edge of the sidewalk or paved alley. The petitioner does have options for alternate designs.

President Shultz asks if there are any other questions? There were none.

William Heston was permitted a response. He stated that a survey has been done. The addition will be 8 feet from the tree. The tree also has a tap root and sits on the property line. The brick that is stacked is to be used to garage.

Mr. Heston asked if he built a separate garage, he could go up to 8 feet of the rear property line and 5 feet from his home.

Shae Strait states that the standards for the detached accessory structure is 5 feet from the side and rear property lines to be only in the side yard. However, the structure would have a significant height restriction of only 15 feet to the eave and could only be half the size of what is currently proposed because of the size restrictions on accessory structures.

Mr. Heston stated that even if he did build a separate structure they wouldn't have a view of the alley either. The garage will have motion lights that will help with vagrants. The height will be 17 ft and the roof will be a partial gable.

Board Member Knapp would like to know if the garage will have a gravel or cement floor.

William Heston states that the floor will be cement. The addition will be an improvement to both the home and neighborhood.

President Shultz asks for a motion to close the public hearing.

Board Member Majic **made a motion to close the public hearing**. Board Member Perkins seconded the motion.

Staff recommended conditionally approving the requested variance to only encroach on the required rear yard setback by 5 feet because there is an unimproved alley directly behind the home which would help fulfill the intent of maintaining a total of 25 of open space in the rear yard. There were no agency comments.

President Shultz once again read the 5 things for the BZA to consider before making to motion to approve or deny.

President Shultz asked for a motion to regarding the request.

Board Member Majic- Approve
Board Member Knapp- Deny
Board Member Manchin- Approve
Board Member Perkins- Approve
President Schultz- Abstain

Request passes with a 3 to 1 vote.

Board Member Perkins **motioned to close the meeting**, Board Member Knapp seconded the motion. All in favor.

Disposition of Past Cases

NONE

New Business

None

Other Business

None

Adjournment

President Shultz asked for a motion to adjourn. Board Member Perkins **motioned to adjourn**, Board Member Knapp seconds the motion. Motion passes unanimously.