

MINUTES OF THE MEETING OF THE ZONING BOARD OF ADJUSTMENT

Tuesday, February 22, 2022 - 4:00 p.m.
1100 Frederick Avenue – City Hall
Council Chambers

Pursuant to notice, the Zoning Board of Adjustment of the City of St. Joseph met, on Tuesday, February 22, 2022 at 4:00 p.m.

	<u>Name</u>	<u>Members' Term</u>	<u>Attendance</u>	<u>End of Term</u>
MEMBERS PRESENT:	Seth Slayden	(05-00)		02/23/24
	Michael Grimm	(14-01)		05/21/24
	Terry Hall	(04-01)		06/14/26
	Joe Morrey (alternate)			
MEMBERS ABSENT:	Jo Pruitt	(02-04)		03/22/26
	G. Brent Powers	(02-01)		08/09/26
STAFF PRESENT:	Ted Elo, Assistant City Attorney			
	Zack Martin, City Planner			
	Rebecca Shipp, Executive Administrative Assistant			

Four members constitute a quorum.

Hall called the meeting to order at 4:00 pm.

(Verbatim transcript starts)

Hall: Chapters 11, 26, and 31 are available. Uh, Rebecca can you do a roll call please?

Shipp: Brent Powers

silence

Shipp: Jo Pruitt

silence

Shipp: Michael Grimm

Grimm: Here

Shipp: Terry Hall

Hall: Present

Shipp: Seth Slayden

CITY CLERK
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Slayden: Present

Shipp: Joe Morrey

Morrey: Here

Hall: And since there's nobody to testify, we will just go through this as normal. We won't move anything off. I will say there's been a change in the agenda. We will not be doing the approval of findings of fact. There was an error in compeltation (sic) of that material and it will be corrected for the next meeting. So the first item up on the agenda is old business case number 2489. Request for an extension(sic) from Section 31-131(g) and all other applicable sections of Chapter 31 and Section V subcase d of the Tuscany Village Precise Plan to allow the erection of a sign displaying an electronic variable message for a period of 8 second intervals located on the northeast corner of parcel number 03-7.0-26-003-000-025.000 as requested by Larry Knapp on behalf of Raymond Sisson. Uh, this was carried over from the last meeting. There are additional agenda items in the packet. Uh, since I was not here, does these items meet the questions that were raised at the last meeting? I believe you were the one that had questions Joe.

Morrey: Yes, I had a few. I think Seth did too. I think from the materials I've had a chance to review, it was investigated. So, *inaudible* talk about it.

Hall: And I believe the staff's, uh, stance on this was approval.

Martin: Yes. Staff's uh, original stance was approval and after additional research and the supplemental findings that were included with the packet, my recommendation still stands at approval.

Hall: Seth, did it answer your questions as well?

Slayden: With the staff's continued recommendation and based on the additional material then, I'm inclined to defer to them.

Hall: Then, we will uh, entertain a motion to approve the variance.

Grimm: So moved.

Hall: Michael has moved. Do we have a second?

Slayden: I'll second.

Hall: Seth second. Roll call vote please.

Shipp: Michael Grimm

Grimm: Yes

Shipp: Terry Hall

Hall: Approved

Shipp: Seth Slayden

Slayden: Approved

Shipp: Joe Morrey

Morrey: May I have a point of order? Does it require four votes to get it?

Shipp: Yes.

Hall: Yes.

Morrey: Approve

Hall: Next thing on the agenda is the minutes from the January 25th meeting. Uh, I have looked at 'em and have not saw anything out of line in the minutes anyway. Is there a motion to approve the minutes or corrections to be made?

Grimm: So moved.

Hall: We have a motion to approve. Is there a second?

Slayden: Second.

Hall: I have a motion and a second. All approve signify by saying aye.

All in attendance respond aye in unison

Hall: All opposed, same sign.

silence

Hall: Minutes are approved. Next item on the agenda is the election for officers. Do I see that Michael forego that aspect last month?

Grimm: Well, I didn't think it was fair to elect you without you being here.

Hall: Well. I thank you for that protection. So, uh, we need a, a chair and a vice chair so there'll be nomination for either. Let's start with the Chair.

Grimm: Terry Hall.

Hall: Anybody else want it? No other motions?

Elo: Motion needs a second.

Hall: Motion needs a second.

Morrey: Can an alternate vote on this?

Shipp: Yes.

Hall: Yes.

Morrey: I'll second that.

Hall: Do we have to do a roll call vote or can it be a voice vote?

Elo: If people want to

Hall: Wait and do both at the same time?

Elo: appoint you as Chair by unanimous acclamation, they can do that.

Grimm: That's what we wanna do.

Hall: That's what you want?

Morrey: *inaudible- laughter at same time as speaking*

Grimm: Before he gets away.

Hall: So is it unanimous then?

All in attendance respond yes in unison

Hall: Alright. Vice Chair?

Morrey: I would nominate Seth if he's interested in doing it.

Slayden: If no one else wants to.

Hall: Is there a second?

Grimm: Second.

Hall: I, I think it's unanimous that Seth is Vice Chair. So, that will be the officers for 2022. Next we have Case # 2491 request for a variance from Sections 31-050(10)(b) and any and all other Sections of Code of Ordinances necessary to allow construction of a garage which would be located on the southern property line located on property at 604 North Noyes. Applicant is Larry Whittington of Creal, Clark and Seifert on behalf of Craig Mattox. Does the staff have a report on this?

Martin: Yes. So, as stated this request will allow the owners at 604 North Noyes to construct a new garage on the property that would be slightly larger than the previous garage but it would remain along that southern property line. Modern setback requirements would require the new garage be built approximately seven feet into the property based on the setback standards. The owner is requesting this variance due to the difficulty of the terrain and to maintain the character

and history of the property, which had an existing garage in the location that has since been removed. The proposed garage would meet the remaining setback required for accessory buildings as outlined in Sec. 31-050. Uh, the property is zoned R-1A single family residential as is the rest of the surrounding area. And, we sent out 13 notifications and did receive one in favor of the request. So, in reviewing this item, staff found that: The existing house is built on a piece of property that has an elevation range from approximately 950' to 960', with the bulk of the structures being built on the plateau of that topography. The property does rapidly increase in elevation on the southern and eastern lines, which includes the area of the former garage and where the proposed garage would be located. Uh, in the staff report um, it can be a little tricky to see but elevation lines are included. Under item number one so you can sort of see how tightly they are wound together right there. Uh, in this area, the property can rise by 8' in elevation uh, less than 20' into the property itself. So therefore, the particular physical surroundings shape or topographical condition of the specific property involved would result in an unnecessary hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were followed. Uh, moving that proposed garage into the property to meet those requirements would be quite difficult given the steepness of the terrain and would potentially create an additional hardship on the owner. Additionally, the hardship has not been created by the applicant or anyone with an interest in the property. As stated before, topography was there already and the previous owners of when the house was built however many decades ago simply built into the terrain rather than leveling it all out. Uh, the existing garage was rendered a legal nonconforming use when the current zoning code and regulations were adopted. So the removal of the legal nonconforming use by means other than accident, disaster, anything else outlined in Sec. 31-056, requires that a nonconforming use must be reconstructed to the regulations of the district in which it is located, thus we have this variance request. Staff does not find that the variance would be detrimental to the public health, safety, etc. of the surrounding area. The area of the new garage would be in the location of the previous garage uh, which has been at that location for decades. There also would be no additional traffic, noise, etc. that would negatively impact the character or nature of the neighborhood. And finally, staff found that the requested variance would be for a garage which is a permitted use in the existing zoning district and would be in keeping with the City's comprehensive plan. So, finding all this, staff does recommend approval of the request.

Hall: Is there any questions for the city?

Morrey: I've got a couple. I studied it. I'm familiar with the house. It, it was on the market for quite a while. I had family members looking at it and I said if you can figure out what to do with that garage then it, it's unusable the way it is. And so, I'm very empathetic with the people because it's a delightful house. It's fixed up nicely. *inaudible*

Hall: Well, they've already taken the garage out, right?

Grimm: *inaudible-several speaking at once*

Martin: The existing garage has been removed. The photo that's included in your packet is from 2018. It was

Morrey: Well, I saw it before it was removed. And, uh, this is what was needed.

Martin: Uh-huh

Morrey: So, their application is in order. The one thing I wanted to ask about the specifics in the manner in which they're, I don't know if we, we approve the architecture or just the ability to not to be held to the setbacks.

Martin: This would be, this would be the setback aspect.

Hall: This is setback only.

Martin: We don't have a specific aesthetic requirement. We have some aesthetic

Morrey: We

Martin: considerations for accessory structures over certain square footage. Um, but it's not necessarily that they have to, this isn't within a precise plan district.

inaudible – several speaking at once

Morrey: It's gonna look kinda odd to have a roof sticking up through the level of the yard. That's what's gonna happen. Um, and it was a flat roof before so they didn't have it. It would still look kinda odd. Not, not the highest finished level. The other question I've got is if there's a sidewalk in front of that garage and I can't remember when I was there.

Martin: It does not appear so. Looks like the sidewalk right-of-way ends along Noyes right there. Um, just based on the image of, from the map right there. You can kinda see where the little cut off is with the sidewalk. It does continue on the south side of the street. There is a sidewalk on that end but not directly in front of the garage.

Morrey: *inaudible* pedestrians and people right on the sidewalk.

Martin: Uh-huh.

Morrey: very dangerous.

Martin: Yes, and, and there is no sidewalk crossing at that driveway.

Morrey: Their garage door would be comin' up right where the sidewalk would be.

Martin: Yeah, and I mean, I'm not aware of any plan to continue a sidewalk right there. I think they probably consider the one on the other end of the street fine.

Morrey: Thank you very much.

Hall: So, how much of the setback are they eliminating here?

Martin: So, given where they are proposing the garage, the required setback which would be measured from the center line of the street in the case they would technically have to go in about seven feet into the property.

Hall: Uh-huh

Martin: Which again, there's a pretty steep rise

Hall: Yeah.

Martin: right when you get into that property.

Hall: But, what I'm askin' is where they're gonna start it now.

Martin: It's going to be basically the same kind of footprint, just wider. Um, where the original garage was so right at the property line.

inaudible - more than one speaking

Martin: Right where the cut out is. The image right there. So it does come in from the street a bit. There is right-of-way there that separates it a bit. But the actual property line is where they would want to start the garage.

Hall: Okay. Alright.

Morrey: Still looks like the side of the road.

Hall: Well, that's what I couldn't tell from the pictures. So, I wasn't real sure. So, okay.

Martin: We do, there is a buffer of, you know, five or six feet or so. I can't remember right off-hand of right-of-way that would protect the street from the actual garage. So there is a bit of separation built in already. And that was probably intended originally for side of walks(sic), sidewalk right-of-way. Um, but that sidewalk was never constructed. It just finished on the southern end.

Hall: Are there any other questions? Is there a motion to approve?

Slayden: So moved.

Hall: Have a motion to approve. Is there a second?

Grimm: Second.

Hall: No other questions? Discussion? Would you call the vote please?

Shipp: Mike Grimm

Grimm: Approved

Shipp: Terry Hall

Hall: Approved

Shipp: Seth Slayden

Slayden: Approved

Shipp: Joe Morrey

Morrey: Approve

Hall: Well, with the findings of fact being delayed until next month, that's it for the agenda unless the city or anybody else has anything.

Martin: The only thing I will just kinda make a comment about is that the Planning Department is working with RDG Planning and Design um, to finish out our comprehensive plan that the city is hoping to adopt in the next few months. We are hosting an open house uh, next Monday at Remington Nature Center from 5:30 to 7:30. Uh, so I do encourage uh, really anyone involved especially boards and commissions in the city to attend and find out more about the comprehensive plan. Um, especially as we have chapters regarding land use and other really important aspects of things that come to the Zoning Board of Adjustment as well as the Planning Commission and other groups here. So, really encourage you if you can to come out and encourage others to join as well.

Morrey: Is that um, already adopted or is this the uh, proposed *inaudible*

Martin: This is proposed. So, this would be looking at the draft document. Uh, and we are hoping to um, present it to the Planning Commission and City Council March, April that timeframe.

Morrey: Okay. It's been a long time since we did a few. I was on the Planning Commission and *inaudible* conducted a lot of public hearings. It was gratifying to see people actually asking what it meant. Is it, is this being broadcast or advertised somehow?

Martin: I believe the NewsPress will be there. I've been, we've posted on social media, we've taken out ads in the NewsPress, we've hosted a few other events uh, since last summer as well. A number of them we've had at Remington. We've um, had public sessions here in City Hall. We've done um, web outreach, mail outreach. We've done quite a few different outreach um, events to get more interaction. Um, we feel like we've had pretty decent responses. Uh, we could always use more but uh, definitely had um, solid engagement. But yeah, this particular open house we're trying to push and get a good show up. Once again, it is still a draft document so it's, it's live so we can definitely make some changes to it, tweaks, things like that um, based on feedback that we receive. So definitely encourage people to come out.

Hall: Okay.

Morrey: That's Monday, right?

Martin: Yep. This Monday.

Hall: Ted, anything from you?

Elo: Joe, it's the same thing we did back in 08 when you were on the Planning Commission. It's been more than a few years ago.

inaudible – several speaking at once

Hall: I'll entertain a motion to adjourn.

Grimm: So moved.

(Verbatim ends)

Meeting adjourned 4:16 pm

Minutes respectfully submitted.

Rebecca Shipp