

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF FEBRUARY 2, 2009 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

Reid Cummings, Chairman
William Guess
Sanford Davis
Mack Graham
*supernumerary member

MEMBERS ABSENT

Vernon Coleman
Russell Riley*
J. Tyler Turner*

STAFF PRESENT

Frank Palombo, Planner II
Caldwell Whistler, Planner I
Tiffany Green, Secretary I

OTHERS PRESENT

John Lawler, City Attorney
Jennifer White, Traffic Engineering
David Daughenbaugh, Urban Forestry

The notation *motion carried unanimously* indicates a consensus, with the Chairman voting.

CALL TO ORDER:

Chairman Cummings advised all in attendance as to the policies and procedures of the Board of Zoning Adjustment. He noted the number of members present constituted a quorum and called the meeting to order.

PUBLIC HEARINGS:

#5521

(Case #ZON2008-03143)

Hugh Michael Riley

563 Michigan Avenue

East side of Michigan Avenue, 50' ± North of California Street

Front Yard Setback Variance to allow a front porch addition within 21.3' of the front property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 25' front yard setback in an R-1, Single-Family Residential District.

The Chair stated that the applicant was in agreement with staff recommendations and asked if anyone wished to speak on the matter to do so at this time.

Hearing no opposition or discussion, a motion was made by Mr. Guess, with a second by Mr. Graham, to approve the request for **Front Yard Setback Variance to allow a front porch addition within 21.3' of the front property line in an R-1, Single-Family Residential District** at the above referenced location subject to the following condition:

- 1) the addition must be built to the as-built dimensions.**

The motion carried unanimously.

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#5522

(Case #ZON2009-00007)

Ben Cummings

118 Jordan Lane

West side of Jordan Lane, 120'± North of Rochester Road

Side Yard Setback Variance to allow the installation of two HVAC units and an emergency generator within 3.5' of a side property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 8' side yard setback in an R-1, Single-Family Residential District.

The Chair announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

Ben Cummings of Cummings Architecture gave the following points:

- A. did not realize that a generator and/or air conditioning condensing units were considered structures;
- B. the project had been permitted and was currently under construction;
- C. the original drawings did not contain the generator as it were decided on by the owner after construction had begun;
- D. presented a letter from the adjoining neighbors stating they were not opposed to the proposed placement of the generator;
- E. estimated that it was at least a hundred feet between the applicant's house and the effected, adjoining house; and,
- F. exterior equipment, such as generators and HVAC units, is much quieter now than in the past.

Mr. Palombo responded by saying that staff would have no problem if the Board was leaning toward approval as long as there were a two foot distance allowed around the generator and HVAC units to allow for maintenance of the same. He added that there were potential modifications to the Zoning Ordinance that would allow for this very situation.

Mr. Guess asked if there were much in the way of vegetative buffering on the property.

Mr. Cummings stated there was hedge that appeared to be in a near wild, overgrown state and that the hedge was on both properties providing a visual and sound buffer between the two properties.

Hearing no opposition or further discussion, a motion was made by Mr. Guess, with a second by Mr. Davis, to approve the request for **Side Yard Setback Variance to allow the installation of two HVAC units and an emergency generator within 3.5' of a side property line in an R-1, Single-Family Residential District** at the above referenced location.

The motion carried unanimously.

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#5523

(Case #ZON2009-00017)

Derek Marks

77 North Sage Avenue

West side of North Sage Avenue, 120'± North of Heather Street

Protection Buffer Variance to allow a 5' protection buffer from adjoining residentially zoned property in a B-1, Buffer Business District (rezoning pending); the Zoning Ordinance requires a 10' protection buffer strip from adjoining residentially zoned property in a B-1, Buffer Business District.

The Chair announced the matter, advising it had been recommended for approval, and that the applicant should address the Board regarding the subject at that time.

The Chair stated that the applicant was in agreement with staff recommendations and asked if anyone wished to speak on the matter to do so at this time.

The Chair then asked if there were those in opposition to the matter. Noting none, he stated the Board would entertain a motion on the matter.

Hearing no opposition or discussion, a motion was made by Mr. Graham, with a second by Mr. Guess, to approve the request for **Protection Buffer Variance to allow a 5' protection buffer from adjoining residentially zoned property in a B-1, Buffer Business District (rezoning pending)** at the above referenced location subject to the following conditions:

- 1) **approval of a rezoning by the City Council;**
- 2) **movement of the existing shed to meet the 10' buffer setback;**
- 3) **future development shall comply with Section 64-4.D.1 of the Zoning Ordinance;**
- 4) **submission of a revised site plan to the Planning Section of Urban Development prior to the issuance of any permits;**
- 5) **the site be brought into compliance with landscaping and tree planting, as required by Section 64-4.E.3 of the Zoning Ordinance;**
and,
- 6) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5524

(Case #ZON2009-00018)

51 South Conception Street, LLC

51 South Conception Street

Southeast corner of South Conception Street and Conti Street

Parking Maneuvering Variance to allow vehicular maneuvering (backing) into the public right-of-way from an on-site parking area in a B-4, General Business District; the Zoning Ordinance requires vehicular entrances and exits to be provided in such a manner to prevent vehicular backing from a parking area into the public right-of-way in a B-4, General Business District.

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The Chair announced the matter and Mr. Palombo informed the Chair that this case was now recommended for holdover as there had been some issue regarding advertising of the matter to the public.

The Chair made a motion, with a second by Mr. Guess, to hold this application over until the March 2, 2009, meeting.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Lawler advised the Board that the Halladay decision had been overturned in court regarding the owner's ability to rent to other than family members.

The Chair stated that he had noted none of the conditions stipulated for the approval of the requested variance in the Melech case seemed to have been implemented.

Mr. Palombo said that typically the time to implement the conditions was allowed to expire before an inspector made a visit to the property owner regarding compliance with the Ordinance.

Mr. Palombo reminded the Board that election of officers would take place during the March 2009 meeting.

There being no further business, the meeting was adjourned.

APPROVED: April 5, 2010

Chairman of the Board

/jsl