

**ZONING BOARD OF APPEALS
MEETING MINUTES
June 27 2018
CITY COUNCIL CHAMBER
7:00 P.M.**

I. CALL TO ORDER

The meeting was called to order at 7:04 pm.

II. ROLL CALL

Present: J. Albers, C. Garcia, H. Khan, J. Symanns, J. Talaga

Staff: C. Kochanek, Preservation Planner
Nan Schuette, Executive Director

III. APPROVAL OF MINUTES

Commissioner Talaga moved to approve the minutes of May 23, 2018 (Support: J. Symanns) and the motion carried unanimously.

IV. PURPOSE OF MEETING

Chairman Albers stated the purpose of the meeting.

V. OLD BUSINESS

None

VI. NEW BUSINESS

1. 32 Photo – Variance

Staff report was presented by C. Kochanek, Preservation Planner, who stated that this is a request for approval of a variance to permit a detached accessory structure in the front yard. The parcel is on the south side of Photo Street west of N. River at the end of Photo just east of the Huron River. The parcel is 0.54 acres with frontage on Photo St. There is an existing 2,046 sq. ft. structure on site with one existing accessory structure, a shed, on site.

The applicant is looking to add a garage to the site in the front yard, at the end of Photo St. The structure is addressed to and faces Photo St. Staff determined that the area just west of Photo St, where the applicant is proposing to building a detached garage, is

in the front yard, thus the need for a variance from Sec 122-651(b)(3). The lot is a non-traditional lot in that it has a substantial front yard due to how the structure is oriented on the site and where Photo St ends. There is very little rear yard on the property and the only other option for a location in which to build the detached accessory structure is in the side yard to the west of the structure creating the need for a substantial driveway in which to access the garage.

Ms. Kochanek reviewed the land use and surrounding area. She also reviewed the standards for variances noting that all standards had been met.

Commissioner Garcia moved to open the public portion of the hearing (Support: H. Kahn) and the motion carried unanimously.

Janelle Sterling, 32 Photo – stated that they had purchased the home approximately three years ago without a garage knowing we would like to build one. Their house faces Photo Street and there is one existing structure in the yard.

Commissioner Kahn moved to close the public portion of the hearing (Support: J. Symanns) and the motion carried unanimously.

Chair Albers informed staff that he had a family emergency and had to leave.

Since there were no comments or questions by board members, Commissioner Symanns moved that the Zoning Board of Appeals approve the variance request from Sec. 122-651(b)(3) to permit a detached accessory structure in the front yard at 32 Photo St, with the following findings:

Findings:

1. The location of the lot and orientation of the house with respect to both Photo and the Huron river pose practical difficulty under Sec 122-370(b)(1).
2. The granting of this variance will not confer upon the applicant any special privileges that are denied to others in this district, under Sec 122-370(b)(2).
3. the practical difficulties on which the variance request is based have not been created by any person presently having an interest in the property, as the house was constructed in the 1920s under previous ownership, under Sec 122-370(b)(3).
4. the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located, under Sec 122-370(b)(4).
5. The allowance of the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the individual hardships that will be suffered by a failure of the Zoning Board of Appeals to grant the variance, and the rights of others whose property would be affected by the allowance of the various, under Sec 122-370(b)(5).
6. This variance is the minimum variance that will make possible a reasonable use of the land, buildings, or structure, under Sec 122-370(b)(6).

And the following conditions:

1. The detached accessory structure be set back at least 5' from the north property line.
2. The detached accessory structure be no closer to the east property line than the westernmost side of the existing house.

The motion was supported by Commissioner Talaga and carried unanimously 4:0.

Vice-Chair Garcia took over the role as Chair adding that the next item was another variance request.

2. **831 Oak - Variance**

Preservation Planner Kochanek stated that this is a request for approval of a variance from Sec. 122-422(c)(4) to permit a detached accessory structure in the street side yard. The property is located on the north side of Oak St. just east of Osband St on a corner lot. The parcel is 0.163 acres with frontage on Oak and Osband in the Prospect Park area. There is an existing 1,036 sq. ft. structure on site with a 400 sq. ft. detached garage. City records list the garage at 280 sq. ft.

The applicant has added a 98 sq. ft. detached accessory structure in the street side yard. The accessory structure is 6' in from the fence on the Osband St side; this fence appears to be inside the west side property line. The structure is 6' from the fence at the rear of the property.

A letter was mailed to the homeowner in September 2017 after receiving a complaint and verifying that the accessory structure had been built in the street side yard. Accessory structures are not permitted to be built in the street side yard in R-1, thus the applicant is seeking a variance from Sec 122-422(c)(4) for the structure to remain as built. Structures less than 200 s. f. do not require a building permit, however, they must still comply with the zoning ordinance.

Planner Kochanek reviewed the standards for variances and noted that only one of the standards had been met.

Commissioner Khan moved to open the public portion of the hearing (Support: J. Talaga) and the motion carried unanimously.

Michael Bergeron, 712 Virginia Place – has no problems with this shed and supports the variance request.

Jared Meeks, 831 Oak – is the applicant. He stated that he was not aware of the topographic requirements. He did not feel he would be getting special privilege since he recently drove around other areas and counted 14 houses with street side sheds, etc. The actual rule he is violating is 2-3 years old, not that he is using this as an excuse. He misinterpreted the rules and he did not know that the street side yard superseded.

There is 20'-30' shrubs behind he shed so approaching from the north, the shed can't be seen. He can't move the shed – would have to call in professional movers or a crane.

Catherine Rector, 616 Osband - stated that the shed is at the side of her driveway – it is an old neighborhood – the shed has been hand crafted, one of the nicest structures in the area, including some of the houses– doesn't block any views. She stated that the applicant contacted the city and he either misconstrued information or was misinformed. The couple are great neighbors and are so helpful. She doesn't feel that this structure affects anyone and supports granting a variance.

Commissioner Symanns moved to close the public portion of the hearing (Support: J. Talaga) and the motion carried unanimously.

Commissioner Symanns asked staff about past zoning ordinance and Planner Kochanek referred to previous years for comparison. In 1998, they were not permitted in the side yard but the street side yard requirement was 8'. This shed is at 6' but the current zoning ordinance does not allow anything in the street side yard. Commissioner Khan asked the applicant if all the 14 houses he visited were in the city, and he stated they were. Vice-Chair Garcia stated the shed would be difficult to move. Staff reviewed the photo of the lot in question which was included in the staff report to explain in detail what is the actual side yard and back yard. Commissioner Symanns stated that on corner lots, there is limited back yard.

Commissioner Khan stated that while it could have been placed differently, the neighbors feel it is acceptable and the applicant is limited. She approved of the structure and was inclined to support a variance. Commissioner Talaga would have liked more information on previous variances, however, Planner Kochanek responded that previous zoning ordinances are not under consideration; it is what is under the current ordinance that is.

After further discussion, Commissioner Talaga moved that the Zoning Board of Appeals approve the variance from Sec. 122-422(c)(4) to permit a detached accessory structure in the street side yard at 831 Oak, with the following findings:

1. The alleged practical difficulties on which the variance request is based have not been created by any person presently having an interest in the property [*per §122-370(b)(3)*].
2. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located [*per §122-370(b)(4)*].

The motion was supported by Commissioner Khan and carried unanimously 4:0.

3. **Elections**

Some discussion was held on possible election of officers, however, due to the absence of Chair Albers, it was agreed that this item would be postponed until the following

month. Commissioner Symanns moved to table elections until the July meeting (Support: H. Khan) and the motion carried unanimously.

4. **Future Business**

Planner Kochanek stated that there will be a meeting next month – the Patient Station.

VII. ADJOURNMENT

Since there was no further business, Commissioner Talaga moved to adjourn the meeting (Support: H. Khan) and the motion carried unanimously.

The meeting was adjourned at 7:49 pm.