



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
JANUARY 27, 2015**

The hearing was called to order at 7:30 P.M. by Chairman Jones

PRESENT: Board Members Matthew Jones, Scott Fatzinger, Robert Swisher
ABSENT: Bryan Baesel, Jeff Neverman
ALSO PRESENT: Assistant Law Director Sean Kelleher and Clerk of Commissions
Nicolette Sackman

SELECTED CORRESPONDENCE

None

DOCKETS

Docket 2015-01

Applicant: Neal & Noha Assad

Premises: 24333 Stonehedge Dr., PP#214-14-058

Requesting to install an attached pavilion 5'8" off the side lot line at variance with 1211.08 (e) which states the width of either side yard of a lot shall be not less than the respective dimensions as set forth in the schedule, Section 1211.09 a 15' side yard setback; a 9'- 4" side yard setback variance.

Additionally, the Assad's are requesting to install a fireplace with this pavilion 6'8" off the property line at variance with 1211.04(n) & 1211.22 which require a 17' side yard setback (a 3' allowed encroachment is permitted into the 20' side yard setback); a 10' 4" side setback variance.

Finally, the Assad's are requesting a building permit for a utility building 6' off the property line and within a 15' storm sewer easement at variance with 1211.04 (k) which states for lots sized under 20,000 sq. ft. the minimum side and rear yard setback shall be 10' provided further that any utility building shall not be located within any easement; a 4' rear yard setback variance and a variance to install this utility building in a storm sewer easement (note: the City Engineer has granted the applicant a permit to install this shed in a public easement).

Mrs. and Mr. Assad were sworn in by Mr. Kelleher. Mrs. Assad explained their lot is an odd shaped lot that is a corner lot with a bend in the road. Their lot is triangular in shape and due to the minimal building footprint it is difficult to build anything without it being in a setback. They would like to install a shed in the rear yard but there is no place to place the shed without it being in the setback or sewer easement. The one location that it could go per code without a variance would be against the rear of the house and one would walk out of the house and into the shed. This location did not make any sense and was not practical. They would also like to construct an

attached pavilion to the rear of the house so they are able to use the yard more. The back yard is very shallow and there is a swale and storm sewer easement along the rear of the property. Mrs. and Mr. Assad explained their yard is always very wet and they are unable to use most of the yard. They would also like the roof of the pavilion to offer protection from the elements. The pavilion will not be enclosed and again because the setbacks are so close to the house there is no place to construct the pavilion without a portion of the structure being in the setback. There is a patio in the rear yard and the pavilion will cover the patio. When the patio was installed they did install additional yard drainage to help with the water problems and have contacted the city's engineering department regarding drainage problems in the yard. Since the rear of the yard has a swale there is nothing that can be done regarding the water problems.

Discussion ensued on the shape of the lot being very unique and difficult to place any accessory structures. The placement of the house on the narrow lot is such that it is within all the setbacks but the rear yard setback is at the rear of the house. There is an existing fence on the property which will screen the most of the shed from view and the board agreed there is no practical place to locate the shed without it being in the rear yard setback and storm easement. The city's engineering department did review the location and approved the shed to be in the easement.

After a careful review of the plans and testimony of the Applicant, the Board finds that:

1. The Applicant's property is located at 24333 Stonehedge Drive.
2. The Applicant sought to install an attached pavilion, a fireplace within the pavilion, and a utility building on their property.
3. The proposed pavilion is required by code to be 15' off of the property line and required a 9'4" variance.
4. The proposed fireplace (within the pavilion) is required by code to be 17' off of the property line and required a 10'4" variance.
5. The utility building sought to be installed has a required 10' rear yard setback and required a 4' variance. Additionally the utility building was proposed to be built upon a storm sewer easement and required a variance.
6. The City Engineer granted a permit to install this shed in the public easement.
7. The board found as to all requested variances, that;
8. The shape of the property is unique.
9. The adjoining property would not suffer a substantial detriment.
10. With certain conditions there would be no detrimental effect on the character of the neighborhood.
11. There could be a time that access the storm sewer easement would be necessary.
12. That the proposed placement of the shed may impede or divert the current flow of rainwater.
13. The spirit of the code would not be violated by the granting of a variance.

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve a 9' - 4" side yard setback variance for an attached pavilion for Docket 2015-01.

ROLL CALL:

Yeas: Jones, Fatzinger, Swisher

Nays: None, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve a 10' 4" side setback

variance for a fireplace for Docket 2015-01.

ROLL CALL:

Yeas: Jones, Fatzinger, Swisher

Nays: None, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve a 4' rear yard setback variance for a shed for Docket 2015-01 with the condition if the shed needs to be moved for the purpose of servicing the storm drain the shed shall be moved at the homeowner's sole expense with no cost to the city.

ROLL CALL:

Yeas: Jones, Fatzinger, Swisher

Nays: None, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve a variance to install this utility building in a storm sewer easement for Docket 2015-01 with the condition that water flow is not impeded by the location of the shed.

ROLL CALL:

Yeas: Jones, Fatzinger, Swisher

Nays: None, motion carried

Docket 2015-02

Applicant: Clarence Grooms

Premises: 4364 Prestwick Crossing, PP# 217-05-005

Requesting to install a backup generator 8.5' from the side property line, at variance with 1211.20(e) which states central air conditioner, heat pumps, etc., may be located in the side yard of a lot providing such unit shall be no closer than 10' from the side lot line; a 1.5' side yard setback variance.

Mr. Dooney, sworn in by Mr. Kelleher, explained the applicant wishes to install a backup generator in the side yard. They have had a lot of power outages where their sump pump stopped and water backed up into their basement. The proposed location of the sump pump will be in the side yard and the neighbor's house has no windows on that side of their house. This location is also close to the gas and electrical lines. The generator requires that it must be setback a certain distance from the house and cannot be closer than 60" to any windows. Due to the windows in the rear yard the generator cannot be placed behind the house. He explained if it were placed in the rear yard it would have to be located 60" from the windows which would put the unit in the middle of the rear yard, which is not practical.

Members reviewed the location of the proposed generator. They would like the unit to be screened and set so that the automatic tests are done during the day and not in the middle of the night.

After a careful review of the plans and testimony of the Applicant, the Board finds that:

1. The Applicant's property is located at 4364 Prestwick Crossing.
2. The Applicant sought to install a backup generator in the side yard of his home. The code requires the unit to be located no closer than 10' from the side lot line and required a 1'6" variance

3. The board found that;
4. The requested variance is not substantial.
5. The adjoining property would not suffer a substantial detriment.
6. With certain conditions there would be no detrimental effect on the character of the neighborhood.
7. The generator in its proposed location would be visible from the street unless screened with landscape material.
8. That generators, on a set periodic basis, self-test, and that daytime hours would cause less annoyance to the neighborhood.
9. The spirit of the code would not be violated by the granting of a variance.

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve a 1.5' side yard setback variance for a backup generator for Docket 2015-02 with the conditions:

1. The generator is screened with landscape material so that it is not visible from the street;
2. That any test runs for the unit occur during daytime hours.

ROLL CALL:

Yeas: Jones, Fatzinger, Swisher

Nays: None, motion carried

APPROVAL OF MINUTES

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve the minutes of November 25, 2014

ROLL CALL:

Yeas: Jones, Fatzinger, Swisher

Nays: None, motion carried

FINDINGS OF FACTS

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve the findings of fact for Docket 2014-21 Nunnally

ROLL CALL:

Yeas: Jones, Fatzinger, Swisher

Nays: None, motion carried

MISCELLANEOUS - None

ADJOURNMENT

Chairman Jones adjourned the meeting at 7:56 P.M.

Matt Jones, Chairman

Nicolette Sackman, Clerk of Commissions

Approved: _____