

## ZONING BOARD OF APPEALS

### □ Regular Meeting May 25, 2010

Present: Chairman Steve Haberkorn, Vice-Chairman Vern Johnson, Secretary Marty Corbin and Members Norm Nykamp, and Elliott Church. Also present was Zoning Administrator Jon Mersman, Assistant Zoning Administrator Meghann Reynolds and Recording Secretary Laurie Slater.

Absent: None

The meeting was called to order by Chairman Haberkorn at 5:30 p.m. Mr. Haberkorn explained to the audience the public hearing process.

1) Hearing declared open to consider a Nonuse Variance petition submitted by Beatrice Bron for property at 173 Oak Park Drive to permit a deck in the front yard with a front yard setback of 20 feet. The property is zoned R-1 Single Family Residential (70-16-20-249-011).

Present for this request was Beatrice Bron and Wes Knoper.

Ms. Bron explained that she would like to build a deck off the front of her house. There are two people living there that are in wheelchairs. It would be nice for them to be able to sit in the sun. Also, it would serve as a second exit from the house in case of an emergency. The deck would be 28' x 15'. It would be an open porch made of wood with railings. There would be a ramp off the deck as well as stairs.

Being a corner lot with two front yards, the deck would be far enough away from the intersection that it would not obstruct any line of vision. This would be on the south side of the house. A drive way is in what is considered the other front yard. The existing stairs go into the road right of way. They would like to replace the concrete stairs with wooden stairs. The existing retaining wall is shifting and the stairs are breaking apart. The existing stairs have been there 18 to 20 years. The concrete is disintegrating in the sandy soil.

Mr. Rudy Alfaro was present in the audience to speak to this request. He had concerns that the ramp would be too steep to be used as a wheelchair ramp.

The Board explained that there was no restriction on that part of the request.

Ms. Bron explained that there is a wheelchair ramp on the north side of the house. This ramp would be for the wheelchairs in case of an emergency.

\*\*□ It was moved by Mr. Nykamp and supported by Ms. Corbin to close the hearing. Motion carried.

The Board went over the four standards to review when considering a nonuse variance request.

1. Strict compliance would be unnecessarily burdensome in that it would allow the applicant a 5' wide deck which would serve no purpose. There are two people in the house in wheelchairs and this would serve as a second exit in case of an emergency.
2. It would be just to grant this request because of the safety issue. There would be no lesser relaxation that would give substantial relief. There would be no adverse effect on the field of vision. This is a corner lot with two front yards. There is nothing else like this in the neighborhood, the size of the properties and the placement of the buildings vary.

3. The property is unique in that it is a corner lot and has two front yards, one of which is a driveway. It is also a property with a steep grade in the front yard.

4. The situation is not self-created. The second exit would be for the safety of the individuals living in the house that are wheelchair bound.

\*\*[] It was moved by Mr. Nykamp and supported by Ms. Corbin to grant the request as presented for the 28' x 15' deck off the front of the house with the stipulation that the steps coming down do not encroach in the road right of way. Motion carried.

2) Hearing declared open to consider a petition by Charles Daugherty for property at 2489 120th Avenue to construct an Oversized Accessory Building of 3200 square feet with 12 foot sidewall and a petition for a nonuse variance to retain two additional detached accessory buildings on this site. The property is zoned R-2 Residential (70-16-16-400-072). This item was table from the April 2010 meeting.

\*\*[] It was moved by Mr. Church and supported by Mr. Nykamp to remove this item from the table. Motion carried.

Present for this request was Charles Daugherty and Rick Kalmbaugh.

Mr. Daugherty explained to the Board that he would be willing to move the 40' x 80' proposed building 12 feet to the south. It would not be in a flood plain. It would be used mostly for winter storage. The building would be 15 feet higher than the creek. They have already hauled in dirt to build it up. It would be 10 feet higher than the condos.

Cal Van Koevering owner of 2533 120th Avenue was present in the audience to speak to this request. Mr. Van Koevering had concerns of drainage issues as the proposed building would sit four feet higher than the condos. He also had concerns about the property value going down because of the view and the fact that it was not going to be a pretty view, it's a pole barn. Concerns about the upkeep of the building were also a concern. Another concern he had was about the amount of light that would be blocked during the day and if there would be lights on at

night.

The Board further discussed standard number four of the eight standards to review when considering an oversized accessory building. The type and kind of other principal and accessory buildings and structures presently located on the lot or parcel of land.

The Board felt that it would be unjust to others who have made similar requests. We have asked that they remove an existing accessory building to replace it with the larger one. Mr. Dauagherty has a detached garage of 24' x 32' by the house. He also has a 30' x 40 accessory building that he uses as a hobby shop.

Granting a third detached accessory building on this site, when he already has one oversized accessory building would set a precedent not consistent with what has been granting in the past and is not allowed by ordinance.

Mr. Kalmbaugh added that this is the highest point on the property and it would be the easiest to reach with the electric.

\*\*□ It was moved by Mr. Johnson and supported by Mr. Nykamp to close the hearing. Motion carried.

The Board reviewed the following standard.

Standard number 4 – There are other ways to use the property without granting a building of this size. The 30' x 40' building could be taken down and replaced with a larger one or they could request to add on to the existing accessory building. Granting a second oversized accessory building of this size would not be consistent with what has been granted in the past for similar requests. It would set a precedent.

\*\* It was moved by Mr. Nykamp and supported by Mr. Johnson to deny the request based on

standard number 4. Motion carried.

Mr. Mersman asked the Board for an interpretation of what unwholesome substances were, and if used construction materials such as blocks, bricks and broken concrete met the definition. It was the Boards opinion that these items were unwholesome substances.

The meeting adjourned at 6:30 p.m.

Respectfully Submitted,

Laurie Slater  
Recording Secretary