

ZONING BOARD OF APPEALS
Regular Meeting
June 27, 2023

The meeting was called to order by Chairman Russ Boersma at 5:30 p.m.

Present: Chairman Russ Boersma, Vice-Chairman Ross De Vries, Members Jack Vander Meulen, and Robert De Vries. Also present were Community Development Director Corey Broersma, Assistant Planner and Zoning Administrator Kate White, and Recording Secretary Laurie Slater.

Absent: Elliott Church

** It was moved by Vander Meulen and supported by Ross De Vries to approve of the minutes from the May 23, 2023 meeting as printed. Motion carried.

There were no public comments.

Chairman Boersma explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Peter Spencley for property located at 3576 144th Avenue known more specifically as Parcel Number 70-16-07-300-075. Petitioner is requesting a variance consisting of 720 square feet from the maximum 240 square feet permitted for detached accessory building; resulting in a 960 square-foot detached accessory building. The subject property is zoned R-1 Low Density Residential.

Present for this request was Peter Spencley, property owner.

Mr. Spencley explained that he would like a variance to build an accessory building. He is at the end of a private driveway with seven houses on it. There is no traffic. Three of the houses on the private driveway have already been granted a variance for an oversized accessory building. The seven houses on the private driveway maintain the road themselves. The accessory building would be used to store the tractor used to maintain the road, a utility trailer and an enclosed trailer.

Mr. Spencley noted that the measurements shown on the site plan are not accurate. The accessory building would be 22 feet from the house, 10-12 feet from the side yard property line and 12 feet from the rear yard property line. The height of the accessory building would be 13.5 feet, 1.5 feet taller than allowed by ordinance. Mr. Spencley further stated that the lot slopes as you move south on the property, so the accessory building would not look taller than the house.

Staff confirmed that Mr. Spencley would need to apply for a separate variance for the height of the building.

The accessory building would be on the same level as the neighbors to the south. There is a tree line that would block the view of the accessory building. However, these are Oak trees and would only provide coverage six months of the year. Mr. Spencley stated that he spoke with the neighbors, and they are not opposed to the accessory building.

The building would have a poured floor and a solid surface driveway; the concrete driveway already exists. The accessory building would be black in color. There is black trim on the existing house. The house is 23 years old and matching the siding would be difficult. There is also black colored stone on the front of the house. Mr. Spencley noted that black is a neutral color, and it blends well with the tree line.

Board members expressed a concern with the size of the variance requested for the accessory building. Previous variances granted on 144th Avenue were to construct oversized accessory buildings:

1. 3580 144th Ave - A nonuse variance of 240 square feet from the 240 square feet allowed, resulting in an oversized detached accessory building at 480 square feet.
2. 3584 144th Ave - A nonuse variance of 340 square feet from the 240 square foot limit allowed, resulting in an oversized detached accessory structure at 560 square feet. The ZBA also granted a nonuse variance to construct an additional 280 square feet to the previously approved oversized accessory building, for an overall size of 840 square feet. However, no permit was ever pulled to construct the addition and the variance would be considered null and void.
3. 3592 144th Ave - A nonuse variance of 624 square feet from the 240 square feet allowed, resulting in an oversized detached accessory building of 864 square feet in size and 15 feet tall.

Mr. Spencley is asking for 960 square feet.

Staff did not receive any written communication regarding this request, and no one was in the audience to speak to this request.

** It was moved by Ross De Vries and supported by Robert De Vries to close the hearing. Motion carried.

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

1. ***That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
 - a. ***Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
 - b. ***Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
 - c. ***Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
 - d. ***Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

There are no exceptional, extraordinary, or unique conditions of the land which bear impact on the requested nonuse variance for larger-than-permitted detached accessory building.

The subject lot is served by a 66-foot-wide private ingress/egress easement, has more than 70 feet of frontage along that easement, and meets the minimum lot area requirements of 10,500 square feet for lots located within the R-1 District. No unique topographic features or extraordinary locations of existing structures are present.

2. ***That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.***

There are no unusual circumstances on this lot.

3. ***That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

While there are some larger accessory buildings in the neighborhood, this one would be larger than the others and would set a precedent for the next applicant. The other accessory buildings on this private driveway were granted under the previous ordinance.

4. ***That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

The accessory building could have an impact on the neighbors to the south. Once the oversized accessory building is granted, it is there forever. Neighbors come and go. The building would be 10-12- feet off the rear property line and would be visible to the neighbors. The trees would not camouflage the building.

5. ***That the applicant shall not have created the problem for which the variance is being sought.***

The problem is self-created.

6. ***That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

Granting this request would set a precedent. The building being requested is a significant departure from the previous variances granted. Neighbors may not know what they don't like until they see it and neighbors change over time. The size granted for the three other oversized accessory buildings in the area were granted before the ordinance changed.

** It was moved by Robert De Vries and supported by Jack Vander Meulen to deny the request as presented. Motion carried with a unanimous roll call vote.

The applicant stated that he was very disappointed. There are already three houses on the private drive with oversized accessory buildings.

Tabled Item:

187 N. River Avenue – the applicant asked Staff to continue to hold. The Board advised Staff to inform the applicant to have their updated plans submitted by deadline for the August Zoning Board of Appeals Meeting.

The meeting adjourned at 6:13 pm.

Respectfully submitted,

Laurie Slater

Recording Secretary