

**CITY OF BRIGHTON
ZONING BOARD OF APPEALS
MINUTES
September 14, 2017**

1. Call to Order

Chairman Angst called the meeting to order at 7:30 p.m. and the following members were present:

2. Roll Call

David Chaundy - Present
Russ Gottschalk – Present
Doug Angst – Present
Dave Senak – Absent
David McLane – Present
Alicia Urbain – Present
Renee Pettengill – Present

Michael Caruso, Zoning Administrator

Audience – 11

Moved by Board Member Pettengill, seconded by Board Member McLane, to excuse the absence of Board Member Senak. The motion passed unanimously.

3. Approval of the August 10, 2017 Meeting Minutes

Moved by Board Member Pettengill, seconded by Board Member Urbain, to approve the meeting minutes of August 10, 2017 as presented. The motion passed 4-0-2 with Board Members Chaundy and Gottschalk abstaining.

4. Approval of the September 14, 2017 Agenda

Mr. Caruso stated there were minor amendments to the agenda: Item 5 should state, "A variance of 4 feet from the required side yard setback is being requested.", Item 6 should state, "A variance of 25 feet for the required rear yard setback and 23 feet for the required side yard setback is being requested.", and Item 7 should have the last three sentences removed, adding, "A variance of 6 feet and 30 feet from the required front yard setbacks is being requested." Item 9 is also being removed as the election of officers will be on next month's agenda.

Moved by Board Member Chaundy, seconded by Board Member Urbain, to approve the agenda as amended. The motion passed unanimously.

Old Business

New Business

5. (ZBA 17-012) Mike and Jennifer Traub, 1312 Brighton Lake Rd., are proposing to construct a two-car attached garage 2 feet from the side property line. Chapter 98, Article II, Sec. 98-204 (b), states, "All single-family lots in R-1 districts shall have two side yards, one with a minimum width of not less than five feet and the aggregate width of both side yards shall not be less than 16 feet. A variance of 4 feet from the required side yard setback is being requested.

Mr. Caruso stated the reason for the variance request was that many of the properties in that neighborhood are legal nonconforming to the R-1 zoning district. Some of the lots are not wide enough or have 2 feet or less of setback.

Mrs. Traub explained she needs a variance in order to attach a two car garage to her house with living space above.

Mr. Caruso stated the current garage sits approximately 1 foot from the property line and is nonconforming to the accessory structure ordinance which requires 2 feet. Once it becomes an attached garage the required setback would be 5 feet. They are asking for a variance of 4 feet to allow for a 1 foot setback.

Commissioner McLane asked about the second floor of the house.

Mrs. Traub stated they are just extending it over the garage to create a third bedroom.

Mr. Caruso added that the neighbor to the north submitted an email in support of the variance, which was included in their packet.

Board Chairman Angst opened the call to the public at 7:38 p.m. Hearing no response the call to the public was closed at 7:38 p.m.

Mr. Caruso stated the hardship was that the property is existing nonconforming.

Moved by Board Member Urbain, seconded by Board Member Chaundy, to approve the variance for the 4 foot side yard setback based on the previous hardship of legal nonconforming use. The motion passed unanimously with a roll call vote.

6. (ZBA 17-010) Thomas and Melissa Jaworski, 314 N. Second St., are requesting variances from the required side and rear yard setbacks in the R-4 zoning district. The applicant is proposing to build a detached garage 5 feet from the rear property line and add a 2nd floor cantilever 17.58 feet from the side property line. Section 98-261 (4), states, "the minimum distance between any principal or accessory building and the nearest point on the perimeter of the lot or development parcel shall be a minimum of

30 feet for one-story structures and 40 feet for buildings of two stories or more.” A variance of 25 feet for the required rear yard setback and 23 feet for the required side yard setback is being requested.

Mr. Caruso stated the area that the home is located in is all zoned R-4 medium density multiple-family residential and every lot is legally nonconforming. He stated all of the lot sizes are basically R-1 zoning and the R-4 setbacks required are much larger than R-1 setbacks.

Mr. Jaworski stated he is requesting variance to put an addition on the back of the house and add a garage.

Mr. Caruso showed photographs of neighboring garages on Second Street that sit on the back or side property lines. He stated the R-4 zoning happened in 2006 when the area was master planned. Mr. Caruso discussed the safety issue of cars backing out of their driveway onto Second Street. The design of the driveway allows them to turn around and pull out onto the street safely.

Board Chairman Angst opened the call to the public at 7:48 p.m. Hearing no response the call to the public was closed at 7:48 p.m.

Board Member Urbain stated she was irritated the applicants had to pay to get a variance for something that is common in that neighborhood and asked that the zoning ordinance be changed.

Mr. Caruso stated the City is currently updating their master plan and will hold an open house for the public to speak.

Board Member Pettengill stated the home will look beautiful and thanked the applicants for investing in the community.

Mr. Caruso stated the home was auctioned and in dire need of repair. The new owners will be completely renovating the property.

Moved by Board Member Urbain, supported by Board Member Pettengill, to grant the 23 foot variance on the side yard setback and 25 foot variance on the rear yard setback based on the legal nonconforming use that is already in existence and the common practice of the neighborhood. The motion carried unanimously.

7. (ZBA 17-013) Laurel Castiglione, 203 School St., is proposing to construct a 2-car attached garage and is requesting variances from the required front and side yard setbacks. Section 98-179(a), states, “Each lot in an A-2 district shall have a front yard depth of not less than 30 feet.” A variance of 6 feet and 30 feet from the required front yard setbacks is being requested.

Mr. Caruso stated the side yard setback is not an issue because the home legally has two front yards since it is on a corner lot. The applicants wish to construct a garage and have driveway access from School Street. The ordinance requires a 30 foot front yard setback. City staff is discussing vacating the St.

Paul right of way and giving it to the property owners. He stated there will be a six week or more process before it becomes a resolution in front of City Council.

Mrs. Castiglione, stated her and husband are turning the home from a rental into their permanent home. She stated the land has a steep slope behind the proposed garage and would make it difficult to build so that is why they are requesting a variance.

Board Member Pettengill asked how they currently access the property.

Mrs. Castiglione stated they have to access the property from the back alley to the garage, which sits on a lower level than the front door. They would like to have the garage and front entrance on one level.

Mr. Caruso stated some of the homes in this area have access through an alleyway or another piece of property. He stated the garage cannot go back farther because of the drastic slope.

Board Member Pettengill stated her concern about approval from City Council before approving the variance and that it was stated that the lot would not be buildable.

Mr. Caruso stated staff is not looking to sell the easement as a buildable lot. Both staff and the City Manager feel like nothing will happen with the property and city engineers recommend that a utility easement be maintained for emergency purposes, which makes the lot unbuildable.

Board Chairman Angst opened the call to the public at 8:03 p.m. Hearing no response the call to the public was closed at 8:03 p.m.

Mr. Caruso stated the hardship was that the ordinance requires two front yards as well as the slope of the property.

Moved by Board Member Urbain, supported by Board Member Chaundy, to grant the variances of 6 feet and 30 feet from the required front yard setbacks based on the hardships of the elevation change and two front yard requirements. The motion carried unanimously.

Board Member Pettengill thanked the applicants.

8. (ZBA 17-011) Paul Mika, 333 N. Fourth St., is proposing to construct a duplex with side setbacks of 11 feet and 5 feet on a 8,712 square foot lot. Chapter 98, Article II, Section 98-230 (4)(a), states, "The minimum distance between any principal or accessory building and the nearest point on the perimeter of the lot or development parcel shall be a minimum of 25 feet for one-story structures and 30 feet for buildings of more than one story." A variance of 14 feet and 20 feet is being requested. Section 98-230 (7)(a)(1) states, "A lot or development site on which there is erected a multiple dwelling of not more than three residential units, shall contain an area of not less than 15,000 square feet and having a minimum 66 feet in site width on an improved and accessible public right-of-way. A variance of 6,288 feet from the minimum lot area is being requested.

Mr. Caruso stated the property is zoned R-4 but the applicant is seeking approval to rezone it to R-3 at the next Planning Commission meeting. The variances are for R-3 setback requirements. The applicant wishes to construct a duplex, which is not allowed in R-4 zoning, and would like to start construction in the fall. The variances will be pending Planning Commission approval for the rezoning.

Mr. Mika stated he purchased the property to build a single family home but could not due to the R-4 zoning. He now wants to build a duplex on the lot and use it as income property.

Board Member Pettengill asked the applicant why he is not trying to rezone it to R-1 instead so he can build a single family home. She suggested making a two-story duplex to make the setbacks deeper.

Mr. Mika stated he is concerned about having enough parking and wants enough width to have parking with two single car garages.

Mr. Caruso stated the applicant would still need a variance because the R-3 zoning requires a minimum of 25 feet for each side yard setback.

Board Member McLane asked about the separation distance of the buildings due to the risk of fires.

Board Member Pettengill asked if there would be proper drainage to address flooding on the adjacent site when this is developed.

Mr. Caruso stated the applicant will have to abide by the Livingston County Drain Commission when he builds, however the flooding issue is something the City will have to address.

Board Chairman Angst opened the call to the public at 8:21 p.m.

Patricia Mack, 810 Chestnut, stated she has lived in the same house 47 years and that the drainage problem is from the adjacent well drilling property. Ms. Mack asked which way the proposed duplex will face and stated that Fourth Street is a thoroughfare from the west end of the city to Meijer and it is not safe for backing out. She also asked where the property will be set back in relation to the adjacent house.

Mr. Caruso stated he can discuss the plans for the driveway with the applicant to possibly include an area for turning around.

Board Chairman Angst closed the call to the public at 8:27 p.m.

Board Chairman Angst asked if there was enough room for a driveway turnaround on the lot.

Mr. Caruso stated the driveway will be something they have to look at when the building plans are submitted. No engineered survey has been submitted yet.

Board Chairman Angst asked if the driveway issue affected the approval of the variance.

Mr. Caruso stated the rezoning still has to go to City Council after it is approved by the Planning Commission, so the applicant will not be able to build until October but wants to get started in the fall.

Board Member McLane suggested pushing back the garage to have more driveway.

Moved by Board Member Urbain, supported by Board Member McLane, to approve the variance of 14 feet and 20 feet being requested for the side yard setback and variance of 6,022 feet for the minimum lot area being requested due to the existing non-conforming lot size and practice in the area.

Moved by Board Member Urbain, supported by Board Member McLane, to amend the motion to state "pending Planning Commission approval of the rezoning". The motion passed unanimously.

Board Member Pettengill asked Ms. Mack to attend the Planning Commission meeting to state her concerns.

9. Staff Updates

Mr. Caruso stated there will be a meeting in October and they will be having the election of officers.

10. Call to the Public

Chairperson Angst opened the call to the public at 8:36 pm.

Patricia Mack, 810 Chestnut St, asked when 333 N. Fourth St. was zoned R-4.

Mr. Caruso stated it was rezoned between 2004 and 2006. The original purchaser had it rezoned to R-4 from I-A with the intention of building multi-family residential. The property was then sold and the adjacent single family home was built, but there is not enough documentation to track when the rezoning occurred.

Chairman Angst closed the Call to the public at 8:39 p.m.

11. Adjournment

Moved by Board member Pettengill, seconded by McLane, to adjourn the meeting. The motion passed unanimously. Board Chairman Angst closed the meeting at 8:39 pm.

Respectfully submitted,

Wendy Ayala
Recording Secretary