

ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
October 26, 2023

MEMBERS PRESENT

Chair John Coker
Vice Chair Brandon Mund
Bobby Avary
David Lerch
Steve Quidley

STAFF PRESENT

Frank Onion, Assistant City Attorney
Jean Drew, Assistant Director
Planning & Development Services
Matthew Simmont, Planning Manager
Mary Lovell, Senior Planner
Laure Middleton, Planner
Colton Barker, Assistant Planner
Evin Wilson, Assistant Planner

Members Absent

1. CALL TO ORDER

Chair Coker called the meeting to order at 6:00pm.

2. ROLL CALL

Roll was called, and a quorum declared.

3. APPROVAL OF MINUTES

Motion by Vice-Chair Mund, seconded by Member Quidley, to approve the minutes of the Zoning Board of Adjustment Regular Meeting of August 26, 2023. Motion carried (5-0-0).

4. ELECTION OF OFFICERS

Motion by Member Avary to retain the current ZBA officers, John Coker as Chair and Brandon Mund as Vice-Chair. Motion carried (5-0-0).

4. INDIVIDUAL ITEMS FOR CONSIDERATION

A) ZB23-0011 Hold a public hearing and consider a request for a variance to Section 144-5.4(d) to allow an accessory structure to be located within the minimum side setback required in the “R-2” Single and Two-family District, addressed at 1062 Mulberry Ave. (Applicant/Owner: Cecil M. Gregg III; Case Manager: Laure Middleton)

Laure Middleton presented the staff report and stated Section 2.2-3(a) of the Zoning Ordinance states the ZBA may authorize a variance from the zoning regulations only upon finding all of the following facts:

- 1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of land;** The applicant states that the existing home was built in the 1930’s with an addition in the 1980’s. The footprint leaves a small L-shaped backyard with no outdoor storage or garage. The storage shed is intended to be used for a golf cart, river floats, yard equipment, etc. Placing the shed at the end of the driveway, behind the existing gate is the most logical location to maximize outdoor space in the backyard and replaces an old gazebo on the same foundation; **and**
- 2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** The applicant states that the placement of the shed is aesthetically pleasing from the street as it is centered on the gate. This placement also increases its functionality to pull heavy items directly out and down the driveway, and being located in the corner allows for maximum usage of the backyard area for entertaining and recreation; **and**
- 3) That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property within the area;** The applicant states that granting the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area. Staff acknowledges that the property owner will be required to retrofit the structure to meet the fire code standards for a structure less than 5 feet from the side property line; **and**
- 4) Granting of the variance will not have the effect of preventing the orderly use of other lands within the area in accordance with the provisions of this Chapter;** The applicant states that the variance will not prevent the orderly use of other land within the area; **and**

- 5) **That an undue hardship exists;** The applicant states that the existing improvements dictate the size and configuration of the rear yard. The existing structure has no outdoor storage or garage. The home is located in a water recreation district, but lacks any storage for canoes, kayaks, pool floats, tubes, etc. which are frequently pilfered if left in the open. They are also unsightly and a haven for mosquitoes and vermin. Thus a shed or garage is needed. Placing the shed in the corner at the terminus of the driveway maximizes the space for recreation and entertaining; **and**
- 6) **That the granting of a variance will be in harmony with the spirit and purpose of these regulations.** The applicant states granting of the variance will be in harmony with the spirit and purpose of the City's regulations. The neighbors have noted that the lack of outdoor storage has long been an issue at this location causing unsightly clutter and unsafe hazards as former owners have resorted to running extension cords over the open driveway to charge their golf carts. Allowing residents to recreate and entertain friends and family is part of the cultural traditions of New Braunfels.

Chair Coker asked if there were any questions for staff.

Discussion followed on the location of the structure.

Chair Coker invited the applicant to speak.

Cecil Gregg, elaborated on the request and provided a brief history on the location of the previous structure and the construction the new structure.

Discussion followed on location of the previous structure.

Chair Coker opened the public hearing and asked if anyone would like to speak.

The following individuals spoke in favor of the request: Toya Ohlrich Boyer and Brenda Chapman.

Discussion followed on the location of the structure.

Chair Coker closed the public hearing and asked if there was any discussion or a motion.

Motion by Chair Coker, seconded by Member Avary, to approve the request for a variance to Section 144-5.4(d) to allow an accessory structure to be located within the minimum side setback required in the "R-2" Single and Two-family District, addressed at 1062 Mulberry Ave. Motion carried (4-1-0) with Member Lerch in opposition.

B) ZB23-0014 Hold a public hearing and consider a request for a variance to Section 144-5.1-3(c) to allow a reduction in the minimum required parking from 19 to 14 spaces in the "C-3" Commercial District, addressed at 879 State Highway 46 South. (Applicant: Alvin Peters; Owner: Sohail Khan; Case Manager: Laure Middleton)

Laure Middleton presented the staff report and stated Section 2.2-3(a) of the Zoning Ordinance states the ZBA may authorize a variance from the zoning regulations only upon finding all of the following facts:

- 1) **That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of land;** The applicant states: "Located at a corner lot 14,391 sf. (small commercial lot) with building setbacks, dumpster access and fire department access the resulting building pad area is small. The type of business is mercantile- specific tobacco product. Customer shopping time within the building is very limited in browsing time." Staff notes that the building setbacks do not apply to the development of parking; **and**
- 2) **That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** The applicant states: "The small lot will limit development potential." Staff notes that the lot size will determine the building size on the property; **and**
- 3) **That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property within the area;** The applicant states: "No." Staff notes that a revision to the parking standards is being considered for adoption possibly by the end of next

year. Once adopted, it is likely that this development would no longer require a variance for reduced minimum parking in order to be in compliance with the standards set forth in the zoning ordinance; **and**

- 4) **Granting of the variance will not have the effect of preventing the orderly use of other lands within the area in accordance with the provisions of this Chapter;** The applicant states:” No.” Staff notes that the current parking requirements are likely outdated; **and**
- 5) **That an undue hardship exists;** The applicant states: “Yes - Lot is small.”; **and**
- 6) **That the granting of a variance will be in harmony with the spirit and purpose of these regulations.** The applicant states: “Yes.”

Discussion followed on proposed changes to parking requirements to be included in the Land Development Ordinance yet to be approved by City Council, as well as current ADA parking space requirements under state law.

Chair Coker invited the applicant to speak.

Alvin Peters, elaborated on the request and discussed trends for alternative modes of transportation, parking needs based on development size, and frequency and length of time customers visits to the proposed development.

Discussion followed on the orientation of site plan, zoning and use of adjacent lots, access to the property, the design of the development, size of the property and the development standards in the C-3 Commercial District.

Chair Coker opened the public hearing and asked if anyone would like to speak.

No one spoke.

Chair Coker closed the public hearing and asked if there was any discussion or a motion.

Motion by Vice-Chair Mund, seconded by Member Lerch, to approve the request for a variance to Section 144-5.1-3(c) to allow a reduction in the minimum required parking from 19 to 14 spaces in the "C-3" Commercial District, addressed at 879 State Highway 46 South. Motion carried (5-0-0).

5. STAFF REPORT

Discussion on potential upcoming code amendments regarding the Zoning Board of Adjustment and parking requirements.

6. ADJOURNMENT

Chair Coker adjourned the meeting at 6:46pm.

Chair

Date

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