

ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
April 27, 2023

MEMBERS PRESENT

Vice-Chair Brandon Mund
Bobby Avary
Cynthia Foster
Steve Quidley
Drew Snider

STAFF PRESENT

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

Members Absent

1. CALL TO ORDER

Vice-Chair Mund called the meeting to order at 6:00pm.

2. ROLL CALL

Roll was called, and a quorum declared.

3. APPROVAL OF MINUTES

Motion by Member Avary, seconded by Member Foster, to approve the minutes of the Zoning Board of Adjustment Regular Meeting of February 23, 2023. Motion carried (5-0-0).

4. INDIVIDUAL ITEMS FOR CONSIDERATION

A) ZB23-0003 Hold a public hearing and consider a request for a variance to Section 144-5.3-2(b) to allow a solid fence in the front yard to exceed the maximum height of three (3) feet by three (3) feet for a maximum height of six (6) feet in the “R-2” Single and Two-Family District, addressed at 318 Loma Vista Street. (Applicant/Owner: John Fish; Case Manager: Laure Middleton)

Laura 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 neighborhood has a mix of structure types and the use of the front yard has been limited due to the neighbor's parking causing runoff onto their property. Staff acknowledges the subject property is a large lot residential property in a mainly “R-2” Single and Two-family District; **and**
- 2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** The applicant states that their home does not have a front porch, but they would like to better ventilate their home during fair weather while maintaining security. Staff acknowledges that privacy and security can be maintained within the normal building setback parameters and fencing restrictions; **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 the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area. Staff recognizes that a variance to the fencing standards could have the effect of creating an undue property right that other properties may then feel entitled to. Open visibility of the right-of-way has been a long-standing community standard adopted in code; **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 the variance should not prevent orderly use of other land within the area. Staff notes all neighboring properties are still required to comply with the building setback and fencing restrictions; **and**
- 5) That an undue hardship exists;** The applicant states that the lot has narrow frontage, and the location of the utilities limits the access to the backyard. Staff notes that the minimum lot width

within the R-2 Zoning District is 60 feet and that a fence within the front building setback is allowed at a height of 3 feet or 4.5 feet if at least 50% open for the personal use of the front yard; **and**

- 6) **That the granting of a variance will be in harmony with the spirit and purpose of these regulations.** The applicant states that granting the variance will be in harmony with the spirit and purpose of the City's regulations. Staff notes that the spirit and purpose of these regulations is to promote an aesthetic that is hospitable and sociable as well as promoting visibility and security in neighborhoods.

Vice-Chair Mund asked if there were any questions for staff.

No one spoke.

Vice-Chair Mund invited the applicant to speak.

John Fish, elaborated on the request and the property.

Discussion followed on construction and height of the fence.

Vice-Chair Mund opened the public hearing and asked if anyone would like to speak.

The following individuals spoke on this item: Polly Barnes, Pam Wrights, Kay Vaughn.

Discussion followed on property hardship, sight triangle visibility, fence height restrictions, and alternative options.

The following individual spoke on this item: Steve Banyel

Discussion followed on fence height regulations, landscaping regulations, the construction of the fence, and the condition of other fences in the area.

Vice-Chair Mund closed the public hearing.

Vice-Chair Mund asked if there was any discussion or a motion.

Discussion followed on the property in objection to the request.

Motion by Member Snider to approve the request for a variance to Section 144-5.3-2(b) to allow a solid fence in the front yard to exceed the maximum height of three (3) feet by three (3) feet for a maximum height of six (6) feet in the "R-2" Single and Two-Family District, addressed at 318 Loma Vista Street. Motion failed due to the lack of a second.

B) ZB23-0004 Hold a public hearing and consider a request for a variance to Section 144-5.4(e) to allow an accessory structure to exceed the height of the main building in the "R-2" Single and Two-Family District, addressed at 837 Denver Alley. (Applicant/Owner: Hunter Chavarria; Case Manager: Laure Middleton)

Laura 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 cites the fact that the existing house height is 11 feet as a special circumstance of the property and that the accessory structure will allow storage space of personal items that currently are taking up the minimal square footage of the home. Staff acknowledges the subject property is undersized, that 11 feet is a very limited roof height for a residence, that the zoning allows a maximum height of 35 feet for a single-family home, and if the house were built to current building standards, at 12 feet in height, a variance would not be necessary; **and**

- 2) **That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** The applicant cites Section 144-3.3-2 which states that an accessory structure is allowed by right. Staff notes the substantial property right to use the property for a residential accessory structure is not removed due to the height limitation of main structure, but is too limited for the applicant's needs; **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 the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area. Staff acknowledges the impact to the surrounding area is likely negligible; **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 the variance should not prevent orderly use of other land within the area. Staff notes all neighboring properties are still required to comply with the height restriction of any new construction of accessory structures; **and**
- 5) **That an undue hardship exists;** The applicant states the current structure is only 11 feet in total height and plans to remodel in the future which will render the variance unnecessary. Staff acknowledges the home is small and below the common building heights for currently built homes which average around 20-25 feet in height depending on roof pitch and foundation which would allow the applicant to construct the accessory storage at the necessary height for personal use; **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 and that the variance will only be necessary until the main structure is remodeled. Staff notes the intent for the accessory structure height requirement is to ensure the residential character of the neighborhood. Staff acknowledges the variance will allow a small accessory structure to be utilized on the property.

Vice-Chair Mund asked if there were any questions for staff.

Discussion followed on the construction of the accessory structure.

Vice-Chair Mund invited the applicant to speak.

Hunter Chavarria provided additional context regarding the request.

Discussion followed on the height and size of the structure, setback and fire safety requirements, building code and property hardship.

Vice-Chair Mund opened the public hearing and asked if anyone would like to speak.

No one spoke.

Vice-Chair Mund closed the public hearing.

Vice-Chair Mund asked if there was any discussion or a motion.

Motion by Member Quidley, seconded by Member Foster, to approve the request for a variance to Section 144-5.4(e) to allow an accessory structure to exceed the height of the main building in the "R-2" Single and Two-Family District, addressed at 837 Denver Alley. Motion carried (5-0-0).

5. STAFF REPORT

No items.

6. ADJOURNMENT

Vice-Chair Mund adjourned the meeting at 6:46pm.

Chair

Date

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