

**ZONING BOARD OF ADJUSTMENT**  
**Regular Meeting Minutes**  
**June 24, 2021**

**MEMBERS PRESENT**

Chair John Coker  
Vice Chair Brandon Mund  
Cynthia Foster  
Bonnie Leitch  
David Lerch

**STAFF PRESENT**

Chris Looney, Planning & Development Services Director  
Jean Drew, Assistant Director of the Planning and Development  
Frank Onion, First Assistant City Attorney  
Maddison O'Kelley, Assistant Planner  
Sam Hunter, Planning Technician

**MEMBERS ABSENT**

Steve Quidley

Chair Coker called the meeting to order at 6:00 p.m. Roll was called, and a quorum declared.

**3. APPROVAL OF MINUTES**

Motion by Vice Chair Mund, seconded by Member Foster, to approve the minutes of the Zoning Board of Adjustment Regular Meeting of April 22, 2021. The motion carried (5-0-0).

**4. STAFF REPORT**

(A) **Z-18-004 Hold a public hearing and consider a request for four variances to Sections 3.3-2(b)(1)(i), Section 3.3-2(b)(1)(iv), and Section 5.4(c) to allow 1) a proposed dwelling to encroach up to 10 feet into the required 15-foot corner side setback, 2) a proposed dwelling to encroach 9 inches into the required 5-foot interior side setback, 3) a proposed detached garage to encroach 3 feet and 7 inches into the required 5-foot interior side setback and 4) a proposed detached garage to encroach up to 7 feet and 1 inch into the required 20-foot garage setback in the "R-2" Single and Two-Family District, addressed at 298 W. Edgewater Terrace. (Applicant: Susan Tolbert; Case Manager: Maddison O'Kelley)**

Ms. O'Kelley presented the staff report and stated the ZBA may authorize a variance from the zoning regulations only upon finding 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 the location of the floodplain on the property is a special circumstance affecting the land itself as well as the 40-foot width of the lot. Staff acknowledges the amount of floodway and floodplain on the property and with the width of the lot 30 feet less than the minimum required lot width for corner lots in "R-2" district impacts the property; however, the applicant is not attempting to reduce the impact on the floodway or floodplain with the proposed layout.) **and**
- 2) **That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** (The applicant states the variances are necessary to build an adequate size home and that the lot width restricts the width of the home. Staff notes the substantial property right to use for the property for residential dwelling is not removed due to the corner side setback requirement. Furthermore, the ability to construct a detached garage is not considered a substantial property right and a smaller or side loaded detached garage could be constructed in compliance with city standards and allow vehicles to park in front of the garage door without encroaching into the roadway or conflict with pedestrians.) **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 should not be detrimental to public health, safety or welfare.) **and**
- 4) **Granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Chapter;** (The applicant believes the variance should not prevent orderly use of other land within the area. There does not appear to be a negative effect preventing orderly use of other land within the area by

granting the variance for the house, however, all neighboring properties will still be required to comply with zoning ordinance standards for any new construction and vehicles parked in front of the garage could be hazardous to pedestrians and motorists. Furthermore, the proposed structures are required to comply with all city codes and standards required for structures built within 5 feet of a property line and within the floodway and floodplain.) **and**

- 5) **That an undue hardship exists;** (The applicant states the undue hardship is the location of the floodplain on the property which restricts the location of new construction of a single-family dwelling. The applicant further states the property is only 40 feet in width which restricts the buildable width of a new dwelling. Staff has not identified a physical hardship due to the nature of the land itself that is not shared by other residential property in the neighborhood and the applicant is proposing to construct within the floodway and floodplain, however, staff acknowledges the buildable width of the property is limited due to its overall width and the fact it is a corner lot.) **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 zoning ordinance.)

Chair Coker asked if there were any questions for staff.

Discussion followed on the square footage of the structure, location of the structure, and parking.

Chair Coker requested the applicant address the Board.

Susan Tolbert elaborated on the intent and provided further clarification of the request.

Chair Coker asked if there were any questions for the applicant.

Discussion followed on the location of a ramp, access, potential code-base alternatives, public notification, and location of the house.

Peggy Brimhall, architect, provided further clarification behind the intent of the request.

Discussion followed on the hardship on the land, floodplain, an existing tree, and the width of the house.

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

No one spoke.

There being no further comment, Chair Coker closed the public hearing.

Chair Coker called for a motion or discussion from the Board.

Discussion followed on clarification of each variance,

Motion by Member Leitch, seconded by Vice Chair Mund, to vote on each variance separately. Motion carried (5-0-0).

Motion by Vice Chair Mund, seconded by Member Foster to approve the proposed dwelling to encroach up to 10 feet into the required 15-foot corner side setback in the "R-2" Single and Two-Family District, addressed at 298 W. Edgewater Terrace. Motion carried (5-0-0).

Motion by Member Foster to approve the proposed dwelling to encroach 9 inches into the required 5-foot interior side setback in the "R-2" Single and Two-Family District, addressed at 298 W. Edgewater Terrace. Motion failed due to lack of a second.

Motion by Chair Coker, seconded by Member Lerch to approve the proposed detached garage to encroach 3 feet and 7 inches into the required 5-foot interior side setback in the "R-2" Single and Two-Family District, addressed at 298 W. Edgewater Terrace. Motion failed (2-3-0) with Vice Chair Mund, Member Leitch, and



Member Foster in opposition.


Motion by Member Leitch, seconded by Chair Coker to approve the proposed detached garage to encroach up to 7 feet and 1 inch into the required 20-foot garage setback in the "R-2" Single and Two-Family District, addressed at 298 W. Edgewater Terrace. Motion failed (2-3-0) with Vice Chair Mund, Member Foster, and Member Lerch in opposition.

**5. INDIVIDUAL ITEMS FOR CONSIDERATION**

**6. ADJOURNMENT**

Chair Coker adjourned the meeting at 6:50 pm.

  
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Chair

  
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Date

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