



**BOARD OF BUILDING AND ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
January 31, 2023**

The hearing was called to order at 7:30 P.M. by Chairman Baesel

PRESENT: Bryan Baesel, Karen Alfred, Cynthia Nolde, Brad Lamb
ABSENT: Robert Swisher
ALSO PRESENT: Clerk of Commissions Nicolette Sackman and Assistant Law Director
Nathalie Supler

DOCKETS

Ann Katigbak 2023-01

2569 North Glen, PP#21632045, Ward 4

*Requesting to install 160 sf utility building. §1211.04(k): a utility building shall be permitted in a rear yard provided that the maximum building size on lots less than 20,000 sf is a maximum of 120 sf; a **40 sf area variance**.*

Ms. Katigbak and Mr. Level, were sworn in by Ms. Supler. They explained they need additional storage space so they can use their garage to park their vehicles in. They propose a shed at the rear of the property as they need storage space. The lot is 200' deep and requires a lot of maintenance. They would like to store lawn equipment and other items that would normally be stored in a shed. The house is a Cape Cod style and there is not room to expand the garage or store some items about the garage since there is a bedroom above the garage. It was stated that there are other large utility buildings and barns in the neighborhood so the structure would not stand out. It would also not be very visible due to the depth of the rear yard and trees.

Members of the board discussed the proposal and did not have any objections.

Mr. Kerr, 2557 North Glen, sworn in by Ms. Supler, stated that he is the neighbor and has no objections to the request.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – yes
2. Whether the variance is substantial – yes
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a

6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – yes, a smaller shed
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Mr. Lamb moved, seconded by Ms. Alfred to grant a variance a 40 sf area variance.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb

Nays: None, motion carried

Sprenger and Matthew J. McDonald Trustee 2023-02

29285 Hampshire Place, PP#21612074, Ward 6

Requesting to install pool equipment in the side yard of the property. §1211.04(g)(2)(B) the pool and all mechanical equipment used in conjunction therewith is to be located in the rear yard; a location variance for the pool equipment to be located in the side yard.

Mr. Sprenger and Mr. Flurry from High Tech Pools, were sworn in by Ms. Supler. They reviewed the site plan for a pool and a hot tub. The best location for the pool equipment is behind the garage adjacent to the existing air conditioner unit and utilities. There are utility easements at the rear of the property so the equipment cannot be placed in that location. The hot tub will connect to utilities that are connected within the house due to the location of the hot tub. The pool equipment will be located inside a fence that surrounds the rear yard so it will not be visible. Mr. Sprenger stated he spoke with his neighbor's and they do not have any issues with the request.

Members discussed the proposal and other locations for the pool equipment. It was discussed that the pool equipment cannot be located by the hot tub as there is not enough internal room and venting requirements. The proposed location is a good spot due the other units and utilities being placed in that location as long as it is screened.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – yes
2. Whether the variance is substantial – no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Ms. Alfred moved, seconded by Ms. Nolde to grant a location variance for the pool

equipment to be located in the side yard with the condition that it is screened.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb

Nays: None, motion carried

Muhi Mansour 2023-03

1817 Westhill Blvd., PP#21405027, Ward 1

*Requesting to install an addition connecting the main dwelling to an existing detached garage, this request will result in the detached garage becoming part of the “main dwelling,” 13’-10” off of the rear property line and 5’ off the interior side yard of a corner lot. §1211.09: the minimum rear yard setback for a main building is 30’, a **16’-2” rear yard setback variance**. §1211.18: the width of the interior side yard of a corner lot shall be not less than 10’, a **5’ side yard setback variance**. Note: Construction of this project has begun without approvals, permits, or inspections.*

Correspondence was received 1/31/23 from Brad and Vickie Burgess 1782 Allen Dr. with comments and concerns.

Mr. Fisher, architect for the applicant, sworn in by Ms. Supler, explained the property is a corner lot. The owner purchased the lot and made improvements without applying for permits. He stated there used to be a structure that connected the garage to the house and a deck so when the owner constructed a three season room connecting the house to the garage that it was allowed. The side yard setback of the existing garage was determined to be 10’ based on the location of the fence on the property line, so a side yard setback isn’t needed. The rear of the new room is at the same setback of the existing garage.

Mr. Fisher received a copy of the letter submitted by the neighbor to the rear of the house. Regarding concerns raised he stated there is a window at the rear side of the room that looks out into the rear yard that has some visibility of the neighbor’s property but looks out into a wooded area. The applicant would like to have a window in the room. The roof of the structure is slightly higher than the garage due to the pitch of the roof, which the plans submitted did not reflect. As constructed it complies with the zoning code. There is a spotlight with a motion detector, which the neighbor noted was very bright. He showed a photo of the neighbor’s spotlight and noted it is very similar to what the applicant has. If there are issues with the light they can be addressed.

Members of the board discussed the proposal noting the addition was built without permits or inspections. Mr. Fisher advised that he was contact by the owner after construction started, which is 90% complete. He noted an enclosed area provides more privacy than an open deck.

Mr. and Mrs. Burgess, 1782 Allen Dr. were sworn in by Ms. Supler. They expressed the following: there was a lot of work completed without permits and inspections, so will there be future problems with the structure; the photo shown by the applicant’s representative is inaccurate as a lot of the trees shown are no longer there; the window that was installed will have a view into their kitchen; the window does not match the other windows on the house; they do not like the architectural design of the window; there was not a deck on the property previously; concerns with the structure extending to the garage setback; concerns with noise; the spotlight is very bright and on a lot; the new structure is much larger than before; the structure should be

done right but didn't note there have been improvements to the property compared to what previously existed. Chairman Basel advised the only item before the board is the setback variance. Mr. Fisher noted that there was sandstone along the garage and only a portion of the area was previous enclosed with a previous breezeway.

Ms. Cassano and Mr. Cassano, 1839 Westhill Blvd., were sworn in by Ms. Supler. The following was expressed: the history of the property; the spotlight illuminates a dead spot between the trees and is good for safety as there have been numerous thefts in the neighborhood; the windows and view; no noise other than construction; there was a previous structure; the applicant waited for inspections that didn't happen (she was advised the applicant did not apply for permits so inspections were not done due to no knowledge of the construction); and the property has not looked as good as it does now. Mr. Fisher reviewed the location of the previous connection to the garage and house. He stated the owner did not understand the construction process.

Chairman Basel and Mr. Lamb reiterated the only item before the board is the variance request. The board discussed the following: that the applicant did not apply for permits which presents a challenge; the 15' setback for a side yard and 30' setback for a rear yard; if this were viewed as a side yard only a 2' variance would be needed; the previous breezeway connection was not this size or in this full location; the structure will still require permits and inspections.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – yes
2. Whether the variance is substantial – yes
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – yes
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Ms. Alfred moved, seconded by Mr. Lamb to grant a 16'-2" rear yard setback variance with the materials as provided.

ROLL CALL:

Yeas: Lamb

Nays: Alfred, Basel, Nolde, motion failed

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Ms. Nolde moved, seconded Ms. Alfred by to approve the minutes of the October 25,

2022 Board of Building and Zoning Appeals hearing.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb

Nays: None, motion carried

ADJOURNMENT

Mr. Baesel adjourned the meeting at 8:35 P.M.

Bryan Basel, Chairman

Clerk of Commissions Nicolette Sackman, MMC

Approved: _____