



**BOARD OF BUILDING AND ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
February 28, 2023**

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

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

DOCKETS

Robert and Judith Nester 2023-04

30452 Mallard Cove, PP#21707065, Ward 6

Requesting to install a 26.33' wide driveway, at variance with 1221.11(3)(B)(b), that is wider than 20' when not within 25' of the garage, a 6.33' width variance.

Mrs. Nester, was sworn in by Ms. Supler and explained she would like a variance to allow her driveway to be three cars wide to the street. She stated her lot is a corner lot so there will still be a lot of tree lawn and green space. Allowing for a wider driveway will help maneuverability in and out of the third garage bay.

Members of the board discussed that the code was in place to prevent driveways at this width to the street. They were not in favor of 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 – no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – no

Motion: Ms. Alfred moved, seconded by Mr. Lamb to grant a 6.33' width variance.

ROLL CALL:

Yeas: Alfred

Nays: Basel, Nolde, Lamb, Swisher, motion failed

Thomas McDermott 2023-05

30834 Breckenridge, PP#21111039, Ward 6

*Requesting to install an air conditioning unit 6' off the side property line. §1211.20(e): central air conditioning units may be located in the side yard of a lot providing such units shall be no closer than 10' from the side lot line; a **4' side yard setback variance**.*

Mr. Wimmer (contractor), was sworn in by Ms. Supler. He explained the air conditioning unit is located 2' from the house in the side yard (setback was confirmed) as a new one was needed and the location of the old unit does not comply with code safety requirements as it blocks a utility box on the rear of the house. The unit could not be moved over on the rear of the house as it would be in front of a window or on the patio. The house is on a partial slab so the location on the side yard is in a location where there is a basement near the furnace so the utility connection can be accessed. To place it elsewhere is not an option due the slab foundation and exposed pipes. The unit is a low profile and decibel unit which is much quieter than a standard unit. The house is 10' off the property line so anywhere they place the unit it would be in the setback.

Members of the board discussed the proposal and since the setback is 2' off the house and not 6' a 4' setback variance would not be needed. It was determined to grant a 3' setback variance to allow some extra setback room from the house and the unit should be screened from view of the street. It was questioned if the unit was already installed. Mr. Wimmer advised that it was installed as they planned to install the unit, receive an inspection and then request a variance. It was noted that a variance was needed and they installed the unit anyway, didn't measure the setback and then asked for forgiveness.

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 – no
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: Mr. Swisher moved, seconded by Ms. Nolde to grant a 3' side yard setback with the condition the unit is screened from view of the street.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb, Swisher

Nays: None, motion carried

ELECTION OF OFFICERS

Motion: Mr. Swisher moved, seconded by Mr. Lamb to keep the slate of officers (Basel – Chairman, Swisher – Vice Chairman, Alfred – secretary)

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb, Swisher

Nays: None, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Ms. Nolde moved, seconded Ms. Alfred by to approve the minutes of the January 31, 2023 Board of Building and Zoning Appeals hearing.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb

Abstain: Swisher

Nays: None, motion carried

ADJOURNMENT

Mr. Baesel adjourned the meeting at 8:05 P.M.

Bryan Basel
Bryan Basel, Chairman

Nicolette Sackman
Clerk of Commissions Nicolette Sackman, MMC

Approved: March 28, 2023