



**BOARD OF BUILDING AND ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
August 30, 2022**

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 Law Director Michael Maloney

DOCKETS

Docket: Gretchen Hyland 2022-28

3961 Bradley Rd., PP#21709006, Ward 6

*Requesting to construct a 581sf pavilion. 1211.04(O): outdoor structures shall be located in the rear yard and on lots from 40,000 sf to under 60,000 sf the total maximum unenclosed structure is 400 sf, a **181 sf area variance**. Additionally, requesting to install a detached recreational fireplace structure 18' in height; 6' wide and 3'-2" deep at a height greater than 5'.*

*1211.04(n)(2): no outdoor recreational fireplace that is detached from the residence shall exceed 12' in height. Neither shall such structures exceed 8' in width nor 5' in depth for the first 5' in height, nor 3' in width or depth for any portion of the structure above the height of 5'; a **6' height variance**; a **3' width variance**; and a **depth variance of 2"** for this structure at a height above 5'.*

Mr. Matisko, sworn in by Mr. Maloney, explained the applicant wishes to construct an oversized pavilion. The area of 644 sf is the entire structure including the overhang. The usable space is 535 sf. There is an existing utility building on the property that is 524 sf, which will be removed. The fireplace depth is 2" too large and the height is 6' taller than permitted. A beam cannot be tied into the chimney so a separate wall will be constructed in order for the beam to sit on the fireplace. There will be a secondary wall to attach the beam with increases the width of the fireplace. The pavilion is 15' high and code requires a chimney to be 3' taller than the roof of the pavilion. A chimney is limited to 12' so they are requesting a 6' height variance.

Members of the board discussed the proposal questioned what is the particular hardship of the lot. Mr. Matisko and Ms. Hyland (sworn in by Mr. Maloney) explained the home owner has a large extended family and would like a large enough structure for entertaining and comparable to the existing structures area. The location of the surrounding neighbors was discussed and it was noted there is not a neighbor behind the property. The applicant plan to provide landscape beds around the structure.

Mr. George Suchy, 3975 Bradley, sworn in by Mr. Maloney, stated he lives adjacent to the side of the property where the pavilion will be located. They do not wish to see the chimney and requested that landscaping be provided to screen the view from his house. His landscaper

provided an example of arborvitaes that could be installed. Mr. Matisko advised there will be trees planted that will grow over time to screen the view as the applicant would like privacy. He advised if the applicant was agreeable to the request, he could have additional arborvitaes planted along the property line as suggested by the Suchys.

Mr. Mc Farland, 3935 Bradley, sworn in by Mr. Maloney, questioned how drainage and water runoff will be addressed. Mr. Baesel explained the board does not make determination regarding drainage and the project is inspected by the city engineer to ensure compliance with code requirements. Mr. Matisko advised the new structure will have gutters unlike the existing structure that does not have gutters.

The following was received: correspondence from Mr. & Mrs. Suchy, 3975 Bradley requesting the applicant install screening.

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. Lamb moved, seconded by Ms. Alfred to approve a 181 sf area variance.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb

Nays: None, motion carried

Motion: Ms. Alfred moved, seconded by Ms. Nolde to approve a 6' height variance with a contingency that the existing structure is removed and that there is some screening to try to shield the structure as described.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb

Nays: None, motion carried

Motion: Mr. Lamb moved, seconded by Ms. Alfred to approve a 3' width variance.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb

Nays: None, motion carried

Motion: Ms. Nolde moved, seconded by Mr. Lamb to approve a depth variance of 2” for this structure at a height above 5’.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb

Nays: None, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Ms. Alfred moved, seconded Ms. Nolde by to approve the minutes of the July 26, 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 7:58 P.M.

Bryan Basel, Chairman
MMC

Clerk of Commissions Nicolette Sackman,

Approved: _____