

MINUTES
MARSHALL CITY ZONING BOARD OF APPEALS
Regular Meeting Thursday, September 17, 2015
7:00 P.M. – COUNCIL CHAMBERS

CALL TO ORDER

This meeting was called to order by Vice Chair DeGraw at 7:03 p.m.

ROLL CALL

Members Present: Board Members Byrne, DeGraw, Karns, Revore, and Council Liaison Gerten

Members Absent: Board Members Feneley, Alternate Daily, and Alternate Beach

Staff Present: Natalie Dean, Director of Community Services & Assistant City Manager

APPROVAL OF MINUTES

Motion by Karns, supported by Byrne, to accept the minutes of the August 20, 2015 regular meeting as submitted. On a voice vote; **Motion Carried.**

APPROVAL OF AGENDA

Motion by Revore supported by Karns, to approve the agenda of the September 17, 2015 meeting as submitted. On a voice vote; **Motion Carried.**

AUDIENCE PARTICIPATION

None

NEW BUSINESS

Appeal #15.07 –filed by George Cargo at 1008 Fennimore for a Dimensional Variance from §156.221 ACCESSORY STRUCTURES AND USES (G) for relief from minimum of 75 feet setback from the front lot line to a 20 feet setback. Petitioner is requesting the variance in order to place a 40' x 20' in-ground swimming pool in side yard with a setback of 20 feet from the west property line.

Staff reported that the petitioner is requesting a dimensional variance in order to place a 40' x 20' in-ground swimming pool in side yard with a setback of 20 feet from the west property line. Staff noted that the petitioner lives on a corner lot, thus requiring a structure like a swimming pool to be in a non-required side yard as long as it is 75 feet back. In this case, the set back for the swimming pool would be about 20 feet from the west property line.

George Cargo, 1008 Fennimore, stated that he is requesting this dimensional variance for his swimming pool to be 20 feet from the west property line, instead of the allowed 75 feet. He stated that if he were to follow the set back stated in the ordinance, he would not be allowed to put a swimming pool in due to the 75 foot line hitting in

(official)

the middle of his living room. Cargo stated that he asked his neighbors their opinion on the swimming pool and that he received no complaints.

Staff noted that she received no letter for or against this appeal.

Motion by Karns, supported by Byrne, to approve Appeal #15.07 –filed by George Cargo at 1008 Fennimore for a Dimensional Variance from §156.221 ACCESSORY STRUCTURES AND USES (G) for relief from minimum of 75 feet setback from the front lot line to a 20 feet setback. Petitioner is requesting the variance in order to place a 40' x 20' in-ground swimming pool in side yard with a setback of 20 feet from the west property line

Using the Dimensional Variance Worksheet, the board cited the following items pertaining to this variance:

- Strict Compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted purpose. **Board Members discussed that six properties within the area have in-ground swimming pools, thus it would be depriving the applicant of rights commonly enjoyed by other property owners in the same zoning district.**
- The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant or be consistent with justice to other property owners. **Board Members noted that a lesser variance would do nothing but change the placement of the pool. If the pool cannot be placed where it is being proposed, the property owner may have to remove an existing deck in order to place the pool. A variance would be needed in order to preserve the deck.**
- The need for the variance is due to unique circumstances peculiar to the land or structures involved that are not applicable to other land or structures in the same district. **Board Members reported that due to the property being on a corner lot, unique circumstances apply. One must consider two of the four sides as front yards and the other two as side yards. If the lot were an interior lot, this placement would be considered to be in a rear yard, and it would not require a variance.**
- The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors. **Board Members discussed that the need for the requested variances arises from unpredictable weather that came about two winters ago that caused the roof to cave in, thus not self-created by the applicant.**
- The variance will not cause significant adverse impacts to adjacent properties, the neighborhood or the City and will not create a public nuisance or materially impair public health, safety, comfort, morals, or welfare. **Board Members commented that the in-ground pool is unlikely to cause a public nuisance or impair public health and safety. Any nuisance would be comparable to any private recreational use such as kids playing outside in the yard.**

(official)

- The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience, or an inability to attain a higher financial return. **Board Members discussed that any sort of financial return is not a factor in this case. Without the variance, it may create an inconvenience by restricting healthy, safe exercise options for family members.**

On a roll-call vote-ayes: Byrne, DeGraw, Revore, Karns; nays -none. **Motion Carried.**

Appeal #15.08 – filed by Austin Kimball at 223 N. Eagle for Dimensional Variances from §156.181 MIXED-USE AND NON-RESIDENTIAL DISTRICTS for relief from Minimum Front Yard Setback from 25’ to 0’ and Maximum Lot Coverage from 35% to 45%. Petitioner is requesting the variance in order to convert current living space into additional garage space.

Austin Kimball, 223 N. Eagle, stated his current garage, which is currently a 9’ x 18’ space, is extremely difficult to even park a compact vehicle in the space. Kimball stated that he is petitioning in order to turn the den connected to his house into additional garage space. He also noted that he will have to make a different curb cut to allow for a wider driveway to be installed. The driveway will be two cars-wide and come straight out from the garage.

Phil Nager, 126 W. Prospect, inquired as to whether the garage was going to stay one story or if the height would increase. Kimball stated that the height will not differ, the width will just increase.

Gerald Lehmann, 224 N. Division, inquired as to the street it would be affecting, Prospect or N. Eagle, due to the lot being a corner lot. Kimball stated that it would be the Prospect side of the lot. Lehmann also asked about the current garage setback as it exists. Kimball reported that his current garage is 11 feet from the sidewalk currently, and the proposed garage would be extended so it would be about 5 feet from the sidewalk.

Staff reported that she received a letter in support of the variance from Patricia Williams of 208 W. Prospect.

Motion by Revore, supported by Karns, to approve Appeal #15.08 – filed by Austin Kimball at 223 N. Eagle for Dimensional Variances from §156.181 MIXED-USE AND NON-RESIDENTIAL DISTRICTS for relief from Minimum Front Yard Setback from 25’ to 0’ and Maximum Lot Coverage from 35% to 45%. Petitioner is requesting the variance in order to convert current living space into additional garage space.

Using the Dimensional Variance Worksheet, the board cited the following items pertaining to this variance:

- Strict Compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted purpose. **Board Members noted that garages are commonly seen in all residential districts and that the petitioner does in fact have garage space, however, the dimensions of the current garage are not practical for the size of a modern car.**

(official)

- The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant or be consistent with justice to other property owners. **Board Members noted that the previous owner often had to park the car in the garage without being able to close the garage. They discussed that a secure, covered garage would be much safer than in a driveway or at the curb. A lesser variance would not address the issue of the current garage space not being large enough to park a vehicle inside.**
- The need for the variance is due to unique circumstances peculiar to the land or structures involved that are not applicable to other land or structures in the same district. **Board Members reported that due to the property being on a corner lot, unique circumstances apply. The structure's original build date of 1845 creates a unique challenge of updating the structure for modern efficient uses. While many buildings in the City of Marshall were built in the 19th century, this is also a corner lot with two front yards, and the home was built closer to the property line than what would be allowed in the current ordinance.**
- The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors. **Board Members discussed that the need for the requested variances arises from the fact that the property is on a corner lot and also differences in vehicle size from when the house was built, and not due to factors self-created by the applicant.**
- The variance will not cause significant adverse impacts to adjacent properties, the neighborhood or the City and will not create a public nuisance or materially impair public health, safety, comfort, morals, or welfare. **Board Members commented that the variance would not cause significant adverse impact. Staff commented that pedestrian traffic must be monitored carefully, as with all properties in the city.**
- The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience, or an inability to attain a higher financial return. **Board Members reported that a financial return is not a factor in this variance. Board members also discussed that due to Michigan's winter weather, it would be beneficial for the applicant to have covered parking.**

On a roll-call vote-ayes: Byrne, DeGraw, Revore, Karns; nays -none. **Motion Carried.**

OLD BUSINESS

None

PUBLIC COMMENT

Phil Nager, 126 W. Prospect, spoke regarding the speed limit on Prospect St. and proposed that more speed limit signs be posted and also a stop sign to slow down traffic.

(official)

REPORTS

None

ADJOURN

Meeting adjourned at 7:37 pm.

Respectfully submitted,
Elizabeth Renaud