

The Noblesville Board of Zoning Appeals met in regular session on Monday, September 10, 2018. Members in attendance were as follows:

Jim Hanlon
Mike Field
David Burtner
Barry McNulty
Doug DeJarnatt

Others in attendance included Senior Planner Denise Aschleman and Associate Planner Oksana Polhuy from the Department of Planning and Development, and City Attorney Michael Howard.

Chairman Field calls the meeting to order at 6:00 p.m.

NEW BUSINESS

1. BZNA-0134-2018 9340 Rockwood Court

UDO § Table 8.B – Variance of Development Standards to permit the construction of a swimming pool that crosses a platted building line of a Through Lot and does not meet the minimum front yard setback

Senior Planner Justin Schuessler introduces application **BZNA-0134-2018** and states that the subject site is located on Rockwood Court in the Potters Woods residential development and is 0.39 acres in size. He states that the site currently contains a 3,300-square-foot single-family residence and is located in the R2 (Low to Moderate Density Single-Family Residential) zoning district. Mr. Schuessler explains that the site is considered a Through Lot since it has frontage on Allisonville Road in addition to the frontage on Rockwood Court from which access is granted. He states that the yard adjacent to Allisonville Road contains a non-access easement, a 25-foot drainage and utility easement, and a 40-foot building line.

Mr. Schuessler explains that the petitioner, also the owner of the subject site, contacted the Department of Planning and Development to discuss the construction of an in-ground swimming pool on the property, west of the existing residence and within the front yard adjacent to Allisonville Road as determined by the platted building line. He states that the location of the swimming pool was selected to be most suitable with the existing trees and topography of the site.

He states that a Variance of Development Standards is required to permit the construction of a structure that crosses a platted building line by approximately 13 feet and is located within a front yard setback area on the property. He states that the petitioner will be required to sign and record a Waiver of Liability Concerning Setback Restrictions should the Board decide to approve the requested variance.

Mr. Schuessler states that City Engineer John Beery evaluated the petitioner's site plan, adding that Mr. Beery had no objection to the proposed location of the swimming pool. Mr. Schuessler explains that the swimming pool will be located within two (2) feet of the drainage and utility easement but will not encroach into it. He states that Mr. Beery requested that the swimming pool be constructed at an elevation and grade consistent with the adjacent easement due to the close proximity between the two, and notes that Mr. Beery's request was added as a recommended condition of approval and would be checked during the City's review of the building permit.

Mr. Schuessler states that staff has recommended APPROVAL of the requested Variance of Development Standards subject to the specific conditions contained in the staff report.

Chairman Field asks whether the fencing that currently exists on the site complies with Unified Development Ordinance regulations. Mr. Schuessler states that fences may be located in easements and front yard areas, subject to limitation, and confirms that the existing fence is compliant with all applicable regulations.

Mr. Hanlon asks for the distance between the proposed swimming pool and the property line adjacent to Allisonville Road. Mr. Schuessler explains that the distance varies, but states the pool is 27 feet from the property line at its closest point. Mr. Hanlon asks if any utilities would be affected by the construction of the swimming pool. Mr. Schuessler states that there are not any utilities located in the adjacent easement.

Jason Coffman, 9340 Rockwood Court, steps forward and introduces himself as the petitioner and owner of the subject site. Chairman Field refers to the staff report and asks Mr. Coffman if he has any issues with the conditions of approval recommended by staff. Mr. Coffman states that he does not.

Chairman Field opens the public hearing; seeing no speakers come forward, Chairman Field closes the public hearing.

Motion by Mr. McNulty, second by Vice Chairman DeJarnatt to APPROVE application BZNA-0134-2018 based upon the following findings of facts:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
3. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought;

with the following specific conditions:

1. The applicant shall sign the Waiver of Liability Concerning Setback Restrictions document (Exhibit 7) prepared by the Department of Planning and Development prior to the issuance of a building permit.
2. Prior to the issuance of a building permit, the swimming pool and concrete patio shall be designed to match the grade and elevation of the platted 25-foot drainage and utility easement located along the western property line.
3. The applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Staff within sixty (60) days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
4. Any alterations to the approved building plan or site plan, other than those requires by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

AYE: Burtner, DeJarnatt, Field, Hanlon, McNulty. The motion carries, 5, 0, 0.

2. BZNA-0138-2018
1593 Cherry Street

UDO § Table 8.B – Variance of Development Standards to permit the construction of a porch that does not meet the minimum front yard setback for a developed area in the R4 (Moderate to High Density Single-Family Residential/Two-Family Residential) zoning district (19 feet required; 12 feet requested)

Associate Planner Oksana Polhuy introduces application **BZNA-0138-2018** and states that the subject site is located on the northwest corner of the intersection of Cherry Street and South 16th Street, approximately 500 feet south of Conner Street. She states that the property currently contains a single-family residence and a detached garage, adding that the site is surrounded on all sides by single-family residential uses. Mrs. Polhuy states that petitioner has requested a Variance of Development Standards to permit a reduction of the front yard setback area, from 19 feet to 12 feet, to allow the construction of a front porch.

Mrs. Polhuy states that the petitioner submitted a building permit application in June 2018 to remodel the existing residence and construct a front porch addition to the home. She states that staff's review of the application revealed that the proposed porch would encroach into the front setback area, and explains that the petitioner was instructed to submit a variance application to permit the construction of the porch. She adds that the remainder of the project was compliant with Unified Development Ordinance regulations and states that the petitioner has started construction on the work not required to seek Board approval. Mrs. Polhuy states that the front porch has been requested to maintain the historic look of the homes located adjacent to the subject site.

Mrs. Polhuy refers to the 19-foot front setback and explains that Unified Development Ordinance regulations use the average front setbacks on adjacent properties to determine the front setback distance of developed areas. She states that the proposed porch addition will encroach into the front setback area by seven (7) feet, and the porch would be located 12 feet from the adjacent property line if approved. Mrs. Polhuy explains that the setback regulations for developed areas are intended to allow newer construction to be constructed in a similar manner to the existing structures on adjacent properties. She refers to the aerial images of adjacent properties and states that residences on at least five (5) nearby properties have setbacks equal to or less than the 12-foot setback being requested on the subject site. She notes that the approval of the requested Variance of Development Standards would be consistent with the character of adjacent residences.

Mrs. Polhuy states that staff has recommended APPROVAL of the requested Variance of Development Standards subject to the specific conditions contained in the staff report.

Mr. McNulty asks for the distance between the sidewalk and the proposed porch. Mrs. Polhuy states that the sidewalk will be located more than 12 feet from the proposed addition since the sidewalk is not within the property lines from which setback distances are measured.

Vice Chairman DeJarnatt asks for the distance between the proposed porch and the curb. Mrs. Polhuy states that the distance is 22 feet.

Valerie Keinsley, 1594 Cherry Street, steps forward and identifies herself as the petitioner and owner of the subject site. Mrs. Keinsley explains that the house was constructed in 1902 and states that a front porch would be consistent with the architectural style of homes built in that time period. Chairman Field refers to the staff report and asks Mrs. Keinsley if she has any issues with the conditions of approval recommended by staff. Mrs. Keinsley states that she does not.

Chairman Field opens the public hearing; seeing no speakers come forward, Chairman Field closes the public hearing.

Motion by Mr. Hanlon, second by Mr. McNulty to APPROVE application BZNA-0138-2018 based upon the following findings of facts:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
3. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought;

with the following specific conditions:

1. The applicant shall sign the Acknowledgement of Conditional Use document prepared by the Planning and Development Department Staff within sixty (60) days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
2. Any alterations to the approved building plan or site plan, other than those requires by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

AYE: Burtner, DeJarnatt, Field, Hanlon, McNulty. The motion carries, 5, 0, 0.

ADJOURNMENT

Meeting adjourned at 6:14 p.m.

Mike Field, Chairman

Sarah Reed, Secretary