

January 25, 2017
Minutes of the Board of Appeals Meeting
Albert Lea, Minnesota

Chairman Doug Conn called the hearing to order on Wednesday, January 25, 2017 at 5:05 p.m. in the City Council Chambers.

Board Members Present:

Doug Conn
David Klatt
Craig Hoium
Matt Maras
Margaret Ehrhardt
Larry Baker – Ex Officio

Board Members Absent:

Rich Sydnes
David Gross

Staff Present:

Molly Patterson-Lundgren, Planner
Rob Rice, Building Official
Cierra Maras, Office Assistant/Minute Taker

Interested Parties in attendance:

Larry Fisher, 1207 Spartan Avenue (Applicant)
Brian Hullopeter, 1203 Spartan Avenue (Applicant's Neighbor)
Paul and Julie Ann Ehlers, 1620 Canary Drive (Applicant's Neighbor)

Approval of Agenda and Minutes

A motion was made by Craig Hoium to approve the agenda for January 25, 2017 and seconded by Matt Maras. The agenda was approved unanimously on a voice vote.

A motion was made by Matt Maras to approve the minutes from November 29, 2016 and seconded by Margaret Ehrhardt. The minutes were approved unanimously on a voice vote.

Staff report prepared by Molly Patterson-Lundgren, Planner WSB & Associates, Inc. and an audio recording of this meeting become part of these minutes by reference.

Appeal: VA2016-005

Larry and Sandra Fisher of 1207 Spartan Avenue are requesting a variance to allow them to construct a 30x40 foot detached garage on their property for personal storage. Sec. 74-13 (b)(1)a of the zoning code states "No private residential garage shall exceed 24 feet by 36 feet, the aggregate area of all accessory structures shall not exceed 900 square feet ground coverage..." The proposed new accessory structure would be larger than allowed for individual accessory structures with an additional 6 feet of length in one direction and an additional 4 feet in the other. Also, the proposed 30x40 foot structure (at 1,200 square feet) would cover 300 square feet more

than what is allowed for total maximum accessory coverage in a residential district.

Public Hearing Opened 5:11pm

Paul Ehlers of 1620 Canary Drive is a neighbor of the property in question and his backyard is Larry Fisher's side yard. He expressed that he is not overly thrilled about the requested variance and the accessory structure would be coming within 8 feet of his property line. His main concern is that a building of this size, now or in the future, is not to be used for commercial purposes. If the variance were to be approved, he requests stipulation written in that the building is never to be used for commercial purposes. Ehlers also said that surrounding neighbors have expressed concern that a structure of that size will make selling their properties harder in the future.

Brian Hulloper of 1203 Spartan Avenue, next door neighbor of Larry Fisher, stated that the size of the requested structure has the same footprint of his own home. Grass coverage is something that is to be appreciated and we shouldn't have structures going up simply because we have the lot coverage. Hulloper expressed he is a firm believer of ordinances in city code and there are rules in place for this purpose. He believes the size is simply too large.

Rob Rice explained he has done calculations and the proposed structure does not exceed the maximum lot coverage. There are only two items requested for variance – the size of the structure and the total lot coverage.

Molly Patterson-Lundgren explained there is a three part test for variances in meeting practical difficulties: reasonableness, uniqueness, and essential character.

Julie Ehlers spoke on behalf of another neighbor, asking Fisher where the other driveway will be to reach this new structure. Fisher explained that he is not planning to use the proposed structure as back and forth garage, it is simply just going to be used for storage. There would be no cement slabs or driveway; it would be completely surrounded by grass and specifically just for storage.

Matt Maras explained that the biggest thing he struggles with is practical difficulty. He stated that the "uniqueness" (unique to property, not unique to landowner) is just not there.

Dave Klatt suggested modernizing the ordinance for accessory structures to be larger and more applicable to today's needs.

Craig Hoium asked the applicant to explain the need of his additional 300 square foot request. The applicant stated his reason is the extra feet in depth. He would like to be able to fit his motorcycles, snowmobiles, and cars in one structure and needs the depth for these when kept on a trailer. He expressed he is fortunate to have the yard size he does and that most people will not even see the garage because of where the property sits as it is in a cul-de-sac.

Molly Patterson-Lundgren indicated that she had spoken with some neighbors of the applicant by phone. One expressed that they "are not thrilled" about the size of the structure and it would have a negative impact of the enjoyment of their yard (which lies about the backyard) and also that some neighbors may not be in town and cannot express their own concerns; a second neighbor called and also expressed they are not in favor and worry that it will negatively impact the value of their home. Larry Baker stated he also received a phone call from a neighbor of the

applicant who is not in favor as well. Baker also suggested building the structure 24 feet wide by 36 deep and still ending up with more practical room. The applicant chose not to advance with this idea.

Conn clarified with the applicant as the applicant had stated earlier in the meeting that no matter the outcome of the meeting, a structure will be going up whether he gets the size he is applying for or not. Conn expressed that the square footage in the ordinance is okay but struggles with the depth of only 24 feet. The applicant then asked for a 26 foot depth, to at least grant the extra two feet in depth. After calculations, 26x36 comes out to a total of 936 square feet. Rice re-stated the ordinance still only allows 900 square feet.

Conn asked for further comments from the board. Maras described that if you want to change the ordinance, you wouldn't do it with a variance. You would change the ordinance because a variance is permanent and stays with the property. The truth of the matter is the 24x36 law was put in place back when single stall garages were common and it made sense but it still is in place and by hearing the comments from the board that seems to be the main issue at hand. Conn suggested that the applicant makes a request to change the ordinance. Rice commented that accessory structures have been a hot topic within the community since his time being employed in the last two years.

Molly Patterson-Lundgren explained that the applicant can submit a formal request for something more specific to reviewing the ordinance already in place. The applicant chose to accept the final decision that will be made tonight rather than to try and change the ordinance.

David Klatt made motion to approve a variance of a 30x40 accessory structure. Motion died for lack of a second.

Matt Maras made a motion to deny the proposed variance indicating that the plight of the landowner is *not* due to circumstances unique to the property and therefore there is not a practical difficulty for the applicant. The motion to deny was seconded by Craig Hoium. Discussion followed.

Brian Hulloper suggested that if the structure can only be 900 square feet, allowing the applicant to do the dimensions he wants as long as it stays within the 900 square feet. The applicant indicated he would like at least a variance to allow for a 26x34 feet building.

Doug Conn proceeded with the motion to deny made by Matt Maras and seconded by Craig Hoium. Motion to deny the variance was approved on a 3-2 voiced vote.

Results of the vote to deny:

Craig Hoium	Aye
Doug Conn	No
David Klatt	No
Matt Maras	Aye
Margaret Ehrhardt	Aye

Public Hearing closed at 6:03 pm.

New Business -Discussion on potential Zoning Code Changes

Patterson-Lundgren explained that there has been some discussion amongst staff and with the Planning Commission to review sections of the Zoning Code and consider changes. One of the sections that have come up is Sec. 74-13 "Yard Space", the section that includes the requirements pertaining to the variance request considered at this meeting. As indicated in the discussion on the previous agenda item, she felt that a maximum size accessory structure provided in square feet rather than the specific dimensions would meet the intentions of the existing requirements but still allow for flexibility.

Hoium indicated that he felt it would be a good idea to keep some actual dimensional standards to make sure that new accessory structures would not be out of character with existing neighborhoods. He also suggested a sliding scale based on the size of the property. Baker pointed out that he has for some time been concerned about the maximum height allowed for accessory structures and that the 15 foot height is not appropriate for all properties, for example where there is an historic house.

Patterson-Lundgren stated that the drafted change to this section of code was brought to the Planning Commission last month and she intends to bring it back to them at the next meeting. The code does not require a recommendation from the Board of Appeals, but that they may provide a recommendation regarding this is they would like to.

Baker suggested that the BOA convene a meeting along with the Planning Commission at their next meeting so that both bodies could discuss this issue together.

The next Planning Commission meeting is scheduled February 7th. Patterson-Lundgren indicated she would look into this option and get back to the Board members to verify if they would be able to attend and have a quorum.

Adjournment

A motion was made by Margaret Ehrhardt and seconded by Matt Maras to adjourn the meeting. The meeting adjourned by unanimous vote at 6:21 p.m.