

**BOARD OF ADJUSTMENT
Regular Meeting**

DATE: February 5, 2020

TIME: 5:00 p.m.

PLACE: City Council Chambers, City Hall

PRESENT: Sanchez, Murphy, Conway, Buege, Kouba, Breza

ABSENT: Krofchalk

Chairman Sanchez called the meeting to order at 5:00 p.m.

Corrections were made to the January 15, 2020 minutes. Chairman Sanchez called the meeting to order, not Chairman Kouba. All members present voted aye to approve the minutes after the correction was made.

Petition No. 20-8-V, Stephanie McDaniel-Vision 2020 Education Foundation

Stephanie McDaniel - City Code Section. 43.02.24 Table 43-4 and 43.03.73 E) which limit structures in R-2 zoning districts to a maximum height of 35 feet and require schools to have a minimum 40 foot setback from property lines. Applicant wishes to construct an addition onto an existing school at a height of 46.5 feet and a minimum 14 feet to the nearest property line. Property is described as R-2 zoning, Sect-21, Twp-107, Range-007, CUMMINGS VILA/GOULDS ADD, Block-004, (ROGER BACON HALL), or at 1165 West Broadway.

Stephanie McDaniel, 380 St. Peter St, St. Paul, MN, addressed the Board Ms. McDaniel said the height that is being proposed is based on two buildings adjacent to the one that is being requested that are actually higher than the maximum allowed, so the impact of this building would be minimal and architecturally pleasing according to Ms. McDaniel. Ms. McDaniel said the building addition will be in context and similar to other adjacent buildings for both height and setback applications.

Tom Conway asked what the criteria and reason was for the overall size of the footprint of the building and Ms. McDaniel mentioned there is some design criteria that is required for the use of the building which will be a student dormitory and also they will try to conserve some green space and line the building up with the other buildings for aesthetics.

BOARD OF ADJUSTMENT MINUTES

February 5, 2020

PAGE 2

Dave Kouba asked about occupant density of the dormitory and Ms. McDaniel said that essentially there will be two students for each dorm room and there will be a couple of rooms for outside residence supervisors.

There being no others who desired to speak, Chairman Sanchez closed the public hearing and opened it up for discussion.

Dave Kouba mentioned that the building is not uncommon for student activity and educational purposes within the area.

Tom Conway mentioned that the addition is more towards the center of the campus and not on the outskirts of it and will not cast shadows or obstruct vision for any of the neighbors.

Staff verified that the proposed use is within the zoning district as a permitted use.

The Board went through the variance finding questions and question number one asked if the variance was in harmony with the purpose and intent of the ordinance? Yes, the property is used as an educational facility and will continue with the same kind of use.

Is the variance consistent with the Comprehensive Plan? Yes, the zoning is correct for educational use.

Does the proposal put the property to use in a reasonable manner? Yes, it is educational use and also the demolition of part of the building is appropriate and will be the same use.

Are there unique circumstances to the property not created by the landowner? Yes, it's based on the lot size; which is 300' by 300' and relatively a small space for high school educational use.

Will the variance, if granted, retain the essential character of the locality? Yes, it is still within the constraints of an educational building which is similar to its surroundings.

With no further comments, Tom Conway made a motion to approve the variance as proposed and it was seconded by Jim Murphy. All were in favor of approving the variance request.

Petitioner was informed that there was a 10-day appeal period during which time no action could be taken on the petition.

Petition No. 20-4-V, Lucas Malay

Chairman Sanchez opened the public hearing and read the petition:

BOARD OF ADJUSTMENT MINUTES

February 5, 2020

PAGE 3

Lucas Malay – City Code Section 43.02.32 8)a)vii which requires a hydrogeological study completed by a qualified professional and 43.02.32 8)a)vi which requires a Phase 1 Archaeological Survey for land disturbance in a Ridgeline Transition Overlay District. Applicant proposes to construct a new single family home within the Ridgeline Transition Overlay District without a hydrogeological study or Archaeological Survey. Property is described as R-R zoning, Sect-05 Twp-106 Range-007 WILSON ANNEXED TO WINONA 45.61 AC S 1/2 SE 1/4 NW 1/4; S 1/2 S 1/2 NE 1/4 LYING W'LY CSAH 44; PART N 1/2 SE 1/4 & PART NE 1/4 SW 1/4 COM NE CORNER N 1/2 SE 1/4, S 1 DEG E ALONG E LINE N 1/2 SE 1/4 156', N 87 DEG W 1265.41' TO PT OF BEG: N 87 DEG W 2725.32' TO W LINE NE 1/4 SW 1/4, N 1 DEG W 4.8' TO NW CORNER NE 1/4 SW 1/4, S 89 DEG E ALONG N LINE NE 1/4 SW 1/4 & N LINE N 1/2 SE 1/4 2736.88', S 7 DEG W 108.82' TO PT OF BEG EX: PART N 1/2 SE 1/4 & PART S 1/2 S 1/2 NE 1/4 COM NE CORNER N 1/2 SE 1/4, S 1 DEG E ALONG E LINE N 1/2 SE 1/4 156' N 87 DEG W 1265.41' TO PT OF BEG: N 87 DEG W 486', N 7 DEG E 200', S 87 DEG E 486', S 7 DEG W 200' TO PT OF BEG, or at 22401 Garvin Heights Road.

Lucas Malay, 25997 Blackberry Rd, Winona, MN, addressed the Board. Mr. Malay stated that the land has been in production for a number of years. He has located a spot that is conducive to the type of house he will like to build and also farther back on the lot in a private spot.

Jim Murphy asked the approximate height of the structure and Mr. Malay said is essentially a slab on grade with possibly a split level on one part. Mr. Malay didn't say specifically how tall, but he did say it was not multi-story or anything of that nature.

Dave Kouba asked if there was an alternate side on the land where he could build and there wouldn't be a problem with water and Mr. Malay responded he would like to put the home on his own property and keep the land in farming production.

Tom Conway mentioned that the part of the land that he is intending on building on has the least amount of slope and is one of the flattest areas and it would have the least impact of putting a house on the land. Mr. Conway asked what the cost would be for the studies and Mr. Malay said he was quoted anywhere between \$30,000 and \$50,000.

Chairman Sanchez posed a question to Staff and asked if the City has encountered anything like this before and Staff commented that this ordinance came into play in 2009 and those changes have been addressed before within the Planning Department, and it was not unique to the City.

BOARD OF ADJUSTMENT MINUTES

February 5, 2020

PAGE 4

There being no others who desired to speak, Chairman Sanchez closed the public hearing and opened it up for discussion.

Dave Kouba commented that if the studies were done, they may not find anything different than what has been there for many years because the land has always been disturbed with agricultural purposes.

Travis Buege commented that the impact on the land with one dwelling would be fairly incidental and the only issue for down water contamination would maybe be a septic system and in which case are controlled and inspected by Winona County, so there are safeguards in place to protect the land and the impact would be minimal with a single dwelling on the land.

No further discussion forthcoming, the Board considered the findings.

Question number one asked if the variance was in harmony with the purpose and intent of the ordinance? Yes, there is minimal on the land for such a large piece of property with only one dwelling on it.

Is the variance consistent with the Comprehensive Plan? Yes, the parcel is for low density residential which is what the applicant is intending to do.

Does the proposal put the property to use in a reasonable manner? Yes, it is residential and when the property was annexed in 2005, the property was envisioned as a location for low density residential subdivision.

Are there unique circumstances to the property not created by the landowner? Yes, there is an approximate 3 acre portion of land on the property adjacent to County Road 44 where a house could be built without a variance.

Will the variance, if granted, retain the essential character of the locality? Yes, it is consistent with the area and there are homes studded throughout the neighborhood.

Travis Buege moved to approve the variance as requested and Jim Murphy seconded the motion. Dave Kouba opposed the motion and the remaining members approved the variance.

Petitioner was informed that there was a 10-day appeal period during which time no action could be taken on the petition.

Petition No. 20-5-V, Johnson & Scofield – Joseph & Gloria Bronk

Chairman Sanchez opened the public hearing and read the petition:

Johnson & Scofield, Inc. - City Code Section 43.02.23 Table 43-3 and 43.02.24 Table 43-4 which requires a minimum lot size of 8,000 square

BOARD OF ADJUSTMENT MINUTES

February 5, 2020

PAGE 5

feet, a minimum frontage of 65 feet, and a side yard setback of 10 feet for a single family two story home in an R-1 zoning district. Applicant proposes to split an existing lot into two and thus create a new lot with an existing home on it. The new lot is proposed to be 5,690 square feet with 53 feet of frontage and a side yard setback of 8.5'. Property is described as R-1 zoning, Sect-29, Twp-107, Range-007, LIMITS E 53' OF W 304' OF N 275' OF NW ¼ NE ¼ or at 1927 Gilmore Avenue.

Brian Wodele, Johnson & Scofield, addressed the Board. Mr. Wodele expressed the idea behind the variance request was to absorb an existing lot and combine with another existing lot to make one parcel. The resulting parcel with the house on it does not meet the 8,000 square feet and the other perimeters and that is the reason for the variance request. The criteria for measurement for the 8,000 square feet doesn't include a portion of the right-of-way. The lot in question used to be part of Highway 14 with a state right-of-way of a minimum of 100 feet. There is one particular lot in the same situation and has a 66 foot right-of-way with 33 feet from the center line of the road, which is more of a normal application.

Jim Murphy mentioned that the lot looks like it is over 8,000 square feet by including the frontage, so it looks like a typical lot in Winona.

Chairman asked what their intentions were for the new lot and the reply was that they just want to incorporate it into their existing lot. There are not concrete plans for the parcel or a willingness to sell it for future development.

A question was drawn about accessing the new lot and if it would be from an existing driveway and it there was a reply that there would be more than one access to get to the lot.

There being no others who desired to speak, Chairman Sanchez closed the public hearing and opened it up for discussion.

Two letters were read by Chairman Sanchez from the neighbors and both letters were a request to deny the variance request for various reasons.

No further discussion forthcoming, the Board considered the findings

Question number one asked if the variance was in harmony with the purpose and intent of the ordinance? Yes, it is consistent with the existing lots and zoned R-1.

Is the variance consistent with the Comprehensive Plan? Yes, it is residential and the continued proposed use.

Does the proposal put the property to use in a reasonable manner? Yes, it is adjacent to single family dwellings and neighbors are not certified as rentals.

BOARD OF ADJUSTMENT MINUTES

February 5, 2020

PAGE 6

Are there unique circumstances to the property not created by the landowner?
Yes, the right-of-way is existing.

Will the variance, if granted, retain the essential character of the locality? Yes,
the locality is basically residential single family home.

Staff clarified that this variance request is just for combining the lots and not being proposed to do any construction on it. If that were the case, the owners would have to come back to the Board of Adjustment.

Jim Murphy moved to approve the variance request as requested and it was seconded by Dave Kouba. All members present voted aye.

Petitioner was informed that there was a 10-day appeal period during which time no action could be taken on the petition.

Petition No. 20-6-V, Marie Schueler

Chairman Sanchez opened the public hearing and read the petition:

Marie Schueler – City Code Section 43.02.24 Table 43-4 which requires a front yard setback of 25 feet (25'), a side-yard setback of eight feet (8'), and a rear yard setback of 30 feet (30') for two-family dwellings which are two story's in height. Applicant is proposing to utilize the existing two story structure as a duplex, which is currently sited with only a 20 foot (20') front yard setback, a side-yard setback of three feet (3') on the westerly side, and a rear yard setback of five feet (5'). Property is described as B-3 zoning Sect-21, Twp-107, Range -007, BRONK'S ADDITION, Lot-001, Block-001, AUD'S PLAT #2, or at 254 Orrin Street.

Marie Schueler, 104 Main Street, Winona, MN, addressed the Board. Ms. Schueler told the Board that her mother originally owned the house and she had given the house over to her. Ms. Schueler said she added an addition to the second floor and was renting the house as a duplex.

It was clarified that the original license was for owner-occupied, with the owner's unit not being certified. The license had lapsed because Ms. Schueler was going to try and sell the house and didn't think she would have to worry about recertifying. The sale did not work out so Ms. Schueler said she was requesting a variance to be able to convert the home into a duplex with the owner's unit certified as well so the request is for a full duplex and not owner-occupied.

Jim Murphy asked if there was ever a business at this property and it was verified that a number of years ago Christmas trees were sold at this property.

BOARD OF ADJUSTMENT MINUTES

February 5, 2020

PAGE 7

There being no others who desired to speak, Chairman Sanchez closed the public hearing and opened it up for discussion.

No further discussion forthcoming, the Board considered the findings

Question number one asked if the variance was in harmony with the purpose and intent of the ordinance? Yes, it is in line with the ordinance.

Is the variance consistent with the Comprehensive Plan? Yes, the zoning is appropriate.

Does the proposal put the property to use in a reasonable manner? Yes, there is no change in how the property was being used before.

Are there unique circumstances to the property not created by the landowner? Yes, the lot is an odd size and very unique.

Will the variance, if granted, retain the essential character of the locality? Yes, nothing will change in how it is being used.

Dave Kouba moved to approve the variance as requested. Jim Murphy seconded the motion. All members present voted aye.

Petitioner was informed that there was a 10-day appeal period during which time no action could be taken on the petition.

Petition No. 20-7-V, Tom Hoseck

Chairman Sanchez opened the public hearing and read the petition:

Tom Hoseck – City Code Section 43.03.72 F) which requires two family dwellings in R-1 districts to be located on a corner lot with access to an arterial or Collector Street. Applicant wishes to establish a duplex on a non-corner lot that does not have access to an arterial or Collector Street. Property is described as R-1 zoning, Sect-27 Twp-107 Range-007 LIMITS PART GOV'T LOT 1 SEC 27 & PART NE 1/4 NE 1/4 SEC 34 T107 R7 COM ON N LINE SEC 34 AT PT 125.40' W OF NE CORNER SEC 34, S 0 DEG E 51.48', N 90 DEG W 666.89' TO PT OF BEG, N 0 DEG W 51.48', N 23 DEG E 184.15', N 77 DEG W 8', N 13 DEG E 40', N 65 DEG E 22.39', N 23 DEG E 74.28', S 78 DEG E 100', S 22 DEG W 289.57', S 0 DEG E 51.48', N 90 DEG W 110' TO PT OF BEG, or at 161 East Lake Blvd.

Tom Hoseck, 278 Mankato Avenue, addressed the Board. Mr. Hoseck said currently the home has an efficiency apartment in the basement and a single family residence above.

BOARD OF ADJUSTMENT MINUTES

February 5, 2020

PAGE 8

The Board requested some dictation on the code requirements specifically for the duplex in the center and not on a corner lot and also arterial and collectors streets. Staff provided some guidance by answering the Board specifically. There being no others who desired to speak, Chairman Sanchez closed the public hearing and opened it up for discussion.

Chairman Sanchez read a letter from one of the neighbors about an easement for the driveway between two neighbors and letting them know that the easement was still in place.

No further discussion forthcoming, the Board considered the findings

Question number one asked if the variance was in harmony with the purpose and intent of the ordinance? Yes, it has minimal impact on traffic and will continue residential use which is in harmony with the ordinance.

Is the variance consistent with the Comprehensive Plan? Yes, it is residential use.

Does the proposal put the property to use in a reasonable manner? Yes, it is consistent with the other lots.

Are there unique circumstances to the property not created by the landowner? Yes, there are no corners to put a duplex on.

Will the variance, if granted, retain the essential character of the locality? Yes, it essentially remains the same.

Jim Murphy made a motion to approve the variance as requested and it was seconded by Dave Kouba. All members present voted aye.

Adjournment

Tim Breza made a motion to adjourn with a second by Travis Buege. The vote of the Board was unanimous.

There being no further business to come before the Board, the meeting was adjourned at 6:25p.m.



Greg Karow
Secretary