

Board of Zoning Appeals
May 15, 2008
Minutes

The Chairman called the meeting to order at 4:30 p.m. The following members were present: John Feick, John Mears, Kevin Zeiher, Bill Semans, and Walt Matthews. Alex MacNicol & Steve Poggiali from Erie Regional Planning were present to represent the Planning Dept.

The first order of business was to approve the minutes from the previous meeting, April 17, 2008. Mr. Zeiher moved to approve the minutes as presented; Mr. Mears seconded the motion, which carried unanimously.

Chairman Feick commented that he wouldn't be able to vote on the new business, so the order of the meeting was switched with the old business item going first.

The first item under Old Business was an application for a variance to the required front yard setback for a proposed boathouse to be located at 801 Curran Street filed by Allan Dister. THIS APPLICATION WAS TABLED AT THE PREVIOUS MEETING.

Mr. Zeiher moved to bring the application off the table; Mr. Mears seconded the motion, which carried unanimously.

Chairman Feick commented that the City Surveyor was supposed to mark the right-of-way and he asked whether that had been done.

Mr. MacNicol stated that it had been marked with paint; there was a picture in the packet showing where the right-of-way was located. He clarified that it lined up with the edge of the sidewalk. The variance would be five feet back from that.

Mr. Mears moved to approve the variance for the front yard setback, Mr. Zeiher seconded the motion. Dr. Semans commented that the two items that the Board wanted clarified from the last meeting had been taken care of, the right-of-way was marked and the Traffic Engineer & Fire Chief had no issues with access for emergency vehicles.

Chairman Feick commented his concern was with regards to the parking. He stated that he understood that there would be one parking space located inside the boathouse but he was concerned with down the line in case Mr. Dister decided to close in the garage and use it as living space. He felt that Curran Street was a very tight street and there was not a lot of parking there. Chairman Feick commented that he knew Mr. Dister owned the lot next door which was where staff suggested parking could be,

however, that lot could be sold off at a later date and they would have the parking problem again.

Mr. Dister showed a picture as to where his building would be located and where an on-street parking space could be. Mr. Mears commented that if the City put in sidewalks, that parking space would be blocking the right-of-way.

Chairman Feick stated that his concerns would be alleviated easily if Mr. Dister would combine the two lots into one. He stated that Mr. Dister could have car parking on the lot and still use it for a boat slip but it would preclude him from selling it off. Mr. Dister commented that he was trying to avoid combining the lots because down the road he might need to sell it off if he needed the money. Chairman Feick commented that he was looking down the road also, because parking was always going to be an issue. If the lot was sold later, it would be worse since someone else would want to build and then they would have more cars and parking problems.

Mr. Mears commented that if Mr. Dister wanted to change his garage, he would have to come to the City and they could then say that he couldn't do that. Chairman Feick commented that would work in theory but they run into that problem all the time. Mr. Dister agreed that the City could force him to open it back up if he did it without a permit.

Chairman Feick stated that he saw a bunch of problems and the easy way to fix it would be to combine the two lots and you would have one lot for parking and the boathouse on the other lot.

Mr. Dister stated he really didn't want to combine the lots, it would just be even more paperwork. Chairman Feick commented that it was a relatively simple process.

Mr. Dister asked what would happen if he wanted to build on the other lot in the future. Chairman Feick commented he would need a variance if he wanted to add on to the boathouse and build out beyond the 30 ft. setback.

Mr. Dister asked how much you would need for a parking space in front of the boathouse. Chairman Feick stated that he would need to be five feet clear of the sidewalk and then a full parking space – 10' x 20'. Mr. Dister commented that would be fifteen feet from the sidewalk.

Mr. MacNicol asked for clarification, if the two lots were combined into one lot, was the variance for the one lot? Mr. Mears stated they were only talking about the one building. Chairman Feick stated that the variance would be for the lot but only for this structure.

The motion to approve was amended by Mr. Mears & Mr. Zeiher to add the condition that the variance be approved subject to the two lots being combined into one lot. That motion carried 5 – 0.

The first item under New Business was an application for a variance to the maximum permitted fence height in a side yard for the property located at 512 W. Madison Street, filed by Michael Craig on behalf of Ron Bunt.

Chairman Feick stated that anyone who wished to speak needed to be sworn in and he proceeded to swear them in.

Mr. Mears commented that this was a two-family lot and that would require 4 off-street parking spaces. He stated that if one side of the garage was fenced off, that would only leave enough room for three spaces which wouldn't be enough.

Dana Craig, 512 W. Madison Street informed the Board that the reason why they needed the 6 foot high fence was because they had a boxer/mastiff mix that could jump a four foot high fence. She stated that they didn't have a backyard, only a side yard. They have two dogs and three children. The fence was for both the children and the dogs. They used to leave the dogs in the front yard, but kids going home from school would tease the dogs.

Chairman Feick asked how long they had lived there. Mrs. Craig stated they lived there a year and got the dog shortly after they moved in. They did not know the dog was going to be so big.

Mr. Mears commented that he sympathized with the fact that they didn't know how big the dog was going to be but he didn't agree that they should change the way they had done things and what their rules were for a dog that was inappropriate for the area. Mrs. Craig asked if they should get rid of their dog and Mr. Mears stated they should. He stated that he couldn't remember the Board ever approving even a four foot high chain link fence in the front yard. Mrs. Craig stated it was in the side yard. Mr. Mears commented it was still very visible to the front of the area. He stated that it was inappropriate for the neighborhood.

Mr. Craig showed some pictures of their next door neighbor's house with the trash & junk all over the yard. They had called the Health Department and the house had been condemned but never cleaned up. He stated there were also a lot of sex offenders in the neighborhood. Mrs. Craig commented that the neighbor had a four foot high side yard fence which was dilapidated and their dogs get out all the time. The Craigs were trying to prevent that problem.

Mr. Craig stated that they had put up the fence because the dogs had been in the front yard and with such a small area; they were tearing up the yard. He stated that he had

planted grass seed, planted flowers and were trying to clean up their part of the neighborhood. He stated that they had not received any complaints from the neighborhood. Mr. Craig commented that they had bicycles and scooters stolen from beside the house and by putting this fence up, they have been able to keep a lot of things in, dogs & children.

Dr. Semans commented that these houses were built before the Code and it was an unfortunate scenario. He stated he didn't like seeing this type of fence but he felt it was better than what alternatives could be there. He stated he would like to put a timeline on the fence but he didn't think that they could. Mrs. Craig stated they would take it down when they moved and Dr. Semans stated that the variance went with the property.

Mr. MacNicol clarified that it was still considered a side yard fence and he suggested that the applicants could put plantings in front of the fence to soften the look of it. He commented that they would still have the problem with the parking and he wondered whether they could just run the fence straight back and not put it in front of the garage. Mr. Craig stated that was the biggest portion of the play area. Mrs. Craig stated that the fence could be opened all the way up so that the garage could be accessed if it needed to be.

Dr. Semans asked if there was any way they could call this a temporary fixture. Chairman Feick asked if there was a specific complaint. Ms. Grendow stated the code enforcement office had received a complaint that there was a six foot high fence in a front yard and she sent someone out to check on it. She commented that she had a few inquiries from the neighbors with regards to the notice that was sent, however, no one stated any objections.

Dr. Semans moved to approve the variance specifically for this fence with the stipulation that the fence not be made a permanent structure, Mr. Zeiher seconded the motion, which carried 4 – 0 with Chairman Feick abstaining.

The Clerk informed the Board that the variance request for 212 Fremont Street, Margaritaville had been formally withdrawn.

There was no further business before the Board, and the meeting was adjourned at 5:10 p.m.

Mary L. Grendow, Clerk

John Feick, Chairman