

**CITY BOARD OF ADJUSTMENT**

MINUTES September 6, 2017

Name	Title	01/04/2017	02/01/2017	03/01/2017	04/05/2017	05/03/2017	06/07/2017	07/06/2017	08/02/2017	09/06/2017	10/04/2017	11/01/2017	12/06/2017
Jeff Bollman	Board member	1	1	E	1	E	1	1	1	1			
Dave Hagstrom	Board member	1	1	1	1	1	1	1	1	1			
Paul Hagen	Board member	1	1	1	1	1	1	1	1	1			
Frank Chesarek	Vice Chairman	1	1	E	1	1	1	1	1	1			
Oscar Heinrich	Board member	1	1	E	1	1	1	1	1	E			
Martin Connell	Board member	1	1	1	1	E	1	1	1	1			
Mark Noennig	Chairman	1	1	1	E	1	E	1	1	1			

TOTAL NUMBER OF APPLICATIONS 2017	01/04/2017	02/01/2017	03/01/2017	04/05/2017	05/03/2017	06/07/2017	07/06/2017	08/02/2017	09/06/2017	10/04/2017	11/01/2017	12/06/2017	TOTAL
<b>Variance</b>	<b>1</b>	<b>1</b>	<b>7</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>3</b>	<b>1</b>				<b>20</b>

Chairman Noennig called the meeting to order at 6:00 p.m. The City Board of Adjustment met in the first floor conference room of the Miller Building located at 2825 3<sup>rd</sup> Avenue North.

Nicole Cromwell introduced the City Board of Adjustment members and Planning Department staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator, Karen Husman, Planner I and Robbin Bartley, Administrative Support.

**Attending:**

**Public Comment**

Chairman Noennig opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There were none. Chairman Noennig closed the public comment period.

**Approval Meeting Minutes**

Board member Chesarek made a motion for the approval of August 2, 2017 minutes. Board member Hagen seconded the motion with the following corrections: Variance 1266, the NO votes were called by Jeff Bollman and Oscar Heinrich, Martin Connell voted in the affirmative. Minutes were approved by unanimous voice vote 6-0.

## **Disclosure of any Conflict of Interest, Ex Parte Communications and Site Visits**

A new form has been implemented for any disclosures. If any Board member circled yes to a Conflict of Interest or Ex Parte Communication, it will be explained here.

Chairman Noennig, Board members Hagen and Connell discussed their site visit before the meeting and spoke of the possible options.

### **Public Hearings**

Nicole Cromwell reviewed the procedures for public hearings and stated the Board will open a public hearing and allow public comment this evening. She reviewed the hearing and presentation processes for the meeting and acting on each variance.

Nicole Cromwell read the legal description for **Variance #1267**:

Karen Husman presenting:

**City Variance 1267 –2409 Rosewyn Lane** - A variance from Section 27-308 requiring a minimum 3-foot side setback for a detached accessory structure to allow a 0-foot side setback in a Residential 9,600 (R-96) zone, on Lot 3A of Srite Acres Subdivision, a 7,309 square foot parcel of land. The purpose of the variance is to allow a detached accessory building under construction to remain in its current location. Tax ID: A14554

### **RECOMMENDATION**

Planning Staff is recommending denial of the findings for granting a variance.

### **Questions for Staff:**

Board member Connell wished to clarify that we are talking about the shed not the pool. Staff affirmed and added the shed contains plumbing and electrical. The Building department requires a permit for anything containing electrical and plumbing regardless of the size. It also requires a firewall for anything in a 5-foot setback area.

Chairman Noennig asked for setback requirement clarification. The building code requires 3-foot setback and a fire wall or a 5-foot setback.

Chairman Noennig asked what the distance is now between the house and pool shed. 5 foot 6 inches. Staff indicated the shed is possibly setting on the property line or is over it.

Board member Bollman confirms this variance is for the north property line. Correct, other permits would have to be approved. Board member Bollman stated the east property line issue would also be in question and could we delay action and rehear this because there are 2 issues that need to be resolved.

Nicole Cromwell –the site plan is not accurate. Setbacks are not required for on or under the ground.

Karen Husman- if you choose to delay, an abandonment of the alley from engineering could be pursued. They could also negotiate with the neighbor to the north for an easement.

Chairman Noennig - assuming that the property lines were determined, there is still an issue of setbacks and building code requirements.

Board member Bollman –A lot variance was done in 2010. No setback variances for detached structure setbacks in the area

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**Public Hearing opened at 6:22pm**

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1267**.

**Cheryl Morgan, 2409 Rosewyn, owner**

The shed cannot be seen from the Poly Food Basket. The Poly Food Basket has a retaining wall that was not finished. She finished the wall to retain the mud that was encroaching on her property, at her expense.

Board member Chesarek asked the applicant if she agrees that the shed is on the property.

Cheryl Morgan – the current survey indicates the shed is on the property line. The previous survey did not indicate this. She was unaware of the necessary building permit because it is less than 200 square feet.

**Don Thompson, Thompson Pools**

He believes the pool shed can be altered, the previous rules said you could build to the property line. The City cannot tell him where the alley width begins. He claims the City will never use it as an alley.

Board member Hagen asked if the pool can be 3 foot shorter and move the shed in 3 foot. Yes at a considerable expense. The shed was there when the pool was installed.

Cheryl Morgan points to the photos submitted showing other sheds in the alley. She is upset about the weeds and junk.

**OPPOSED**

None

**The public hearing was closed at 6:42 PM.**

**Discussion**

Board member Chesarek reiterates the issues. He believes this is out of the realm of this board.

Chairman Noennig explains the other issues at hand to prevent a denial. If denied, a one year waiting period is mandatory and the code enforcement does not stop.

Chairman Noennig – gives the applicant an opportunity to withdraw the variance application or continue it for 30 days.

Chairman Noennig made a motion and BOARD MEMBER Bollman seconded the motion to continue **City Variance #1267** for 30 days.

Board member	Yes	No	Not Present
Jeff Bollman	x		
Dave Hagstrom	x		
Paul Hagen	x		
Frank Chesarek	x		
Oscar Heinrich			x
Martin Connell		x	
Mark Noennig	x		
The motion to continue City Variance # 1267, as amended 5-1.			Not Present
<b>Other business.</b>			
The next meeting will be on October 4, 2017.			
<b>The meeting adjourned at 6:52 PM.</b>			

ATTEST: APPROVED by a motion October 4, 2017.

