

CITY BOARD OF ADJUSTMENT

MINUTES: September 3, 2008

Troy Boucher, Acting Chairman called the meeting to order at 6:00 p.m. The City Board of Adjustment met in the City Council Chambers.

Name	Title	01/03/08	02/06/08	03/06/08	04/02/08	05/02/08	06/04/08	07/02/08	08/06/08	09/03/08	10/08/08	11/06/08	12/03/08
Leon Pattyn	Chairman	Cancelled	1	A	1	1	1	Cancelled	1	A			
Barbara Walborn	Boardmember		1	A	1	1	A		1	1			
Lyn McKinney	Boardmember		1	A	1	A	1		1	1			
Troy Boucher	Vice Chair		1	1	1	1	A		A	1			
Daniel Eggen	Boardmember		A	1	1	1	1		A	1			
Brent Nelson	Boardmember		1	1	A	A	1		A	1			
Paul Cox	Boardmember		1	1	1	A	1		1	1			

TOTAL NUMBER OF APPLICATIONS 2008	01/03/08	02/06/08	03/06/08	04/02/08	05/02/08	06/04/08	07/02/08	08/06/08	09/03/08	10/08/08	11/06/08	12/03/08	TOTAL
Variance	0	2	2	2	2	2	3	3	5				

Acting Chair Boucher asked Nicole Cromwell, Zoning Coordinator to introduce the City Board of Adjustment Members and Planning Department Staff. The following staff was in attendance:

- Nicole Cromwell, Planner II/Zoning Coordinator
- Candi Beaudry, Director
- Dave Green, Planner I
- Elizabeth Allen, Planning Clerk

Public Comment:

There were none.

Approval of minutes:

On a motion by Boardmember McKinney, seconded by Boardmember Walborn approved with a 6-0 voice vote the minutes August 6, 2008 were approved.

PUBLIC HEARINGS:

Acting Chair Boucher asked Ms. Cromwell to read the determinations for granting a variance as well as review the rules for the procedure by which the public hearings will be conducted.

Ms. Cromwell reviewed the procedures by which the meeting is conducted. She read the determinations for granting a variance.

Public Hearing:

Return Item #1: - **City Variance #1030 – 1407 Lake Elmo Road** - A variance from BMCC 27-308 requiring a maximum 30% lot coverage to allow a maximum of 32% lot coverage to allow the construction of an addition to an existing single family home on Lot 15, Block 3 Arrowhead Subdivision in a Residential 7,000 (R-70) zone. Tax ID: A02571. David Harris is the owner.

Ms. Cromwell read the legal description and **Dave Green** reviewed the staff report with an overhead PowerPoint presentation for the audience and reviewed the surrounding properties while explaining the existing zoning of the subject property. He said staff is forwarding a recommendation of denial.

Boardmember Walborn recused herself from discussing this variance because she has a conflict of interest.

Discussion:

Boardmember Nelson asked how many square feet the owner is over. **Mr. Green** stated that the applicant is 296 square feet over the allowed lot coverage.

Applicant:

David Harris, 1407 Lake Elmo Dr., he requires two variances. One is for his overage on his garage size. He would also like a variance to tear down the carport and garage and create a recreation room. Water from Lake Elmo currently runs into his basement and this will help to fix that problem.

Proponents:

Opponents:

Rebuttal:

The public hearing closed at 6:20 p.m.

Motion:

On a motion by Boardmember Cox to approve with conditions, seconded by Boardmember Eggen and approved 4-1-1 voice vote Variance #1030 was approved with the following conditions:

- 1) The applicant must keep his addition to the size shown on the drawing submitted with building permit 08-692, not to exceed 32% lot coverage;
- 2) The applicant must install a drainage swale on the south property line to ensure runoff from his property does not drain to the neighbors;
- 3) The applicant must meet the requirements of the City Building Code which may include a fire wall on the south wall of the addition.
- 4) The applicant must have his permit secured by February 6, 2009, and have the addition completed by August 6, 2009.

On a substitute motion by Boardmember Eggen to approve with conditions and a 6 month time limit, seconded by Boardmember Cox and approved with a 5-0-1 voice vote.

Substitute Motion:

Boardmember	Yes	No	Abstain	Not Present
Leon Pattyn				x
Barbara Walborn			x	
Lyn McKinney	x			
Troy Boucher	x			
Daniel Eggen	x			
Brent Nelson	x			
Paul Cox	x			

Motion:

Boardmember	Yes	No	Abstain	Not Present
Leon Pattyn				x
Barbara Walborn			x	
Lyn McKinney		x		
Troy Boucher	x			
Daniel Eggen	x			
Brent Nelson	x			
Paul Cox	x			

Boardmember Walborn rejoined the Board

Item #2: City Variance #1033 – 146 Terry Avenue - A variance from BMCC 27-310(i) requiring a minimum setback for a detached garage of 20 feet to allow a minimum setback of 15 feet to allow the construction of a 22ft X 22ft new detached garage on a 3,000 square foot parcel of land in a Community Commercial (CC) zone, on the North 90 feet of Lot 10 and the West 8 1/3 feet of the North 90 feet of Lot 11, Block 9, Suburban Subdivision. Tax ID: A15889. Joe Sherman is the owner.

Ms. Cromwell read the legal description and **Dave Green** reviewed the staff report with an overhead PowerPoint presentation for the audience and reviewed the surrounding properties while explaining the existing zoning of the subject property. He said staff is forwarding a recommendation of conditional approval.

Discussion:

Boardmember Eggen asked for clarification on the site plan and the other required setbacks. **Mr. Green** clarified.

Applicant:

Joe Sherman, 146 Terry, he clarified some of the site plan. He would like to ask the board to approve the variance. He has no problem having fire walls for this project.

Proponents:

There were none.

Opponents:

There were none.

Rebuttal:

The public hearing closed at 6:34 p.m.

Motion:

On a motion by Boardmember Walborn, seconded by Boardmember McKinney and approved with a 6-0 voice vote Variance #1033 was approved with the following conditions:

- 1) The detached garage may be built with the 15 foot front setback but must meet all other applicable code, including zoning, building and engineering.

- 2) The applicant must obtain a building permit by March 3, 2009 and have the building constructed by September 3, 2009.

Motion:

Boardmember	Yes	No	Abstain	Not Present
Leon Pattyn				x
Barbara Walborn	X			
Lyn McKinney	X			
Troy Boucher	X			
Daniel Eggen	X			
Brent Nelson	X			
Paul Cox	X			

Discussion:

Item #3:City Variance #1034 – 215 Burlington - A variance from BMCC 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 33% for a new carport on a 7,000 square foot parcel of land in a Residential 7,000 (R-70) zone, on Lots 7 & 8, Block 20, West Side Addition Subdivision. Tax ID: A18037. Daniel and Penny Struckman, owners.

Ms. Cromwell read the legal description and **Dave Green** reviewed the staff report with an overhead PowerPoint presentation for the audience and reviewed the surrounding properties while explaining the existing zoning of the subject property. He said staff is forwarding a recommendation of conditional approval.

Discussion:

Applicant:

Daniel Struckman, 215 Burlington. They have lived at this property for 24 years and would like to live in the property for another 24 years. They have done extensive updating to their home and this is one of the projects that want to complete. They have had no objections from any of the neighbors.

Proponents:

Harold Silkwood, 216 Burlington. He is in favor of the variance. They have done a beautiful job on their home and he would like to see them continue to improve it.

Opponents:

Rebuttal:

The public hearing closed at 6:44 p.m.

Motion:

On a motion by Boardmember Cox, seconded by Boardmember Walborn and approved with a 6-0 voice vote, Variance #1034 was approved with the following conditions:

- 1) The applicant must build the carport in substantial conformance to the drawing submitted with this application and shown with this staff report.
- 2) The applicant must obtain a building permit by March 3, 2009 and have the building constructed by September 3, 2009.

Motion:

Boardmember	Yes	No	Abstain	Not Present
Leon Pattyn				X
Barbara Walborn	X			
Lyn McKinney	X			
Troy Boucher	X			
Daniel Eggen	X			
Brent Nelson	X			
Paul Cox	X			

Discussion:

Boardmember Walborn recused herself from discussing this variance because she has a conflict of interest.

Item #4: City Variance #1035 – 3014 Shady Lane - A variance from BMCC 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 50%; from BMCC 27-308 requiring a minimum front yard setback of 20 feet to allow a minimum front yard setback of 15 feet; and from BMCC 27-404 (a) and 27-404(b) requiring no alteration of a nonconforming structure unless it increases the conformity of the structure and allowing no remodeling or reconstruction of a nonconforming structure that exceeds 50% of a structure’s replacement value to allow the reconstruction and expansion of an existing nonconforming structure on a 8,223 square foot parcel of land in a Residential 9,600 (R-96) zone, on Lot 5, Shady Lane Subdivision. Tax ID: A13881. Genia Demis, owner and Robert L. Stephens, agent.

Ms. Cromwell read the legal description and reviewed the staff report with an overhead PowerPoint presentation for the audience and reviewed the surrounding properties while explaining the existing zoning of the subject property. She said staff is forwarding a recommendation of conditional approval. The applicant is requesting a 30-day delay.

Discussion:

There was none.

Applicant:

The applicant asked for a 30-day delay in this hearing.

Proponents:

Opponents:

Rebuttal:

The public hearing closed at 6:26 p.m.

Motion:

On a motion by Boardmember McKinney, seconded by and approved with a 5-1-1 vote, Variance #1035 was delayed for 30 days.

Motion:

Boardmember	Yes	No	Abstain	Not Present
Leon Pattyn				X
Barbara Walborn			X	
Lyn McKinney	X			
Troy Boucher	X			
Daniel Eggen	X			
Brent Nelson	X			
Paul Cox	X			

Discussion:

Boardmember Walborn rejoined the board.

Item #5: City Variance #1036 – Appeal of Administrative Decision – 3103 Solar Boulevard –

An appeal of an administrative decision, issued through Zoning Clarification 08-615, that Vietnamese Pot-bellied pigs are classified as swine and therefore considered livestock for the purposes of the Unified Zoning Regulations Sections 27-201 and 27-607. The appellant requests that the Board of Adjustment determine that Vietnamese pot-bellied pigs of a certain weight and number should not be considered livestock but should be considered household pets. The property is located at 3103 Solar Boulevard, on a 10,020 square foot parcel of land in a Residential 8,000 zone, on Lot 4, Block 2 of Terra West Subdivision 3rd Filing. Tax ID A28707. Tim Loudan is the owner and Amber Earp is the agent.

Discussion:

Boardmember Eggen asked for clarification as to what the options of the board are. He asked what happens if the board overturns the decision.

Boardmember Cox asked what brought this issue to the board’s attention. **Ms. Cromwell** stated that this is the result of a Code Enforcement complaint.

Applicant:

Amber Earp, 3103 Solar Blvd. This pig is a pet. She spends 90% of her time indoors. She has all of her shots. She spoke with everyone in the neighborhood and none of them had any objections with the

Boardmember Nelson asked what her opinion is of this situation is.

Amber stated that all of the information that she had received before she purchased Penelope and she believed that the pig would be allowed to live with her at her home.

Proponents:

Carrie Keller, 746 Steffanch Square. Penelope has spent a lot of time with her children and she has watched this pet. This is a pet and she is a great addition to the neighborhood.

Opponents:

Rebuttal:

The public hearing closed at 7:11 p.m.

Motion:

On a motion by Boardmember Cox to affirm the decision of City Staff, seconded by Boardmember Walborn and approved by a 6-0-1 voice vote the decision of the Planning Department and Zoning Coordinator were affirmed.

Motion:

Boardmember	Yes	No	Abstain	Not Present
Leon Pattyn				X
Barbara Walborn	X			
Lyn McKinney	X			
Troy Boucher	X			
Daniel Eggen	X			
Brent Nelson	X			
Paul Cox	X			

Boardmember Cox stated that he had friends that had Pot Belly pigs. They are great pets but they belong outside of the city limits.

Boardmember McKinney really feels that this is a matter for the City Council to decide.

Boardmember Boucher researched how pigs are handled in other states and other states have very strict ordinances.

Discussion:

Other Business:

Adjournment:

The meeting was adjourned at 7:21 p.m.

Troy Boucher, Acting Chairman

ATTEST:

Elizabeth Allen, Planning Clerk