

Zoning Board of Adjustment

Minute Record June 23, 2022

The Zoning Board of Adjustment met at 7:00p.m. on June 23, 2022, at the Municipal Building, 142 No. 7th Street, Seward, Nebraska. Upon roll call the following Board Members were present: Jacob Miller, Brad Vancura, Melvin Varner, Greg Voss, and Dan Ellis. Other Officials present: City Mayor, Josh Eickmeier, City Administrator, Greg Butcher; and Municipal Building Administrative Assistant, Sara Van Cura.

Absent member was: Tim Janousek.

All proceedings hereafter shown were taken while the convened meeting was open to the public. The meeting with the Board of Adjustment was called to order by Board Chairperson Ellis at 7:00p.m. He requested that all individuals speaking during the public hearing limit their comments to five minutes.

Administrative Items

1. Yearly Appointment of Chairperson

Voss nominated Dan Ellis, seconded by Vancura to nominate Dan Ellis as Chairperson for the Zoning Board of Adjustment.

Aye: Miller, Vancura, Varner, Voss, Ellis.

Nay: None

Absent: Janousek. Motion carried.

Minutes

1. Consideration of Approval of Draft Minutes of December 5th, 2019.

Moved by Miller and seconded by Varner, to approve the minutes.

Aye: Miller, Vancura, Varner, Voss, Ellis.

Nay: None

Absent: Janousek. Motion carried

Public Hearings

1. 7:00pm: Peter Glawatz application for a variance from the requirements of ULDO 410-32.4—Setback Adjustments, 410-32.5 Accessory buildings and garages, and 410.32.8 Fence regulations, for property located at Lot 12 and the South 23.33 feet of Lot 11, Block 89, Harris, Moffitt, Roberts Addition, commonly referred to as 406 N. 2nd Street.

Chairperson Ellis opened the public hearing.

City Administrator Butcher stated building permit application submitted by Peter Glawatz. The building permit is asking for some decking, fence, swimming structure or reflecting pool. Due to the location and layout of the lot, which is a corner lot with a front yard setback and a streetside yard setback. The front yard setback is where it is addressed, and the side yard is Roberts Street. We have been working with Peter for an extensive period of time. Butcher read the code violations from the letter sent from Zoning Director Dworak to Glawatz. The proposed items, specifically their proximity to the right-of-way is the issue. Roberts Street has an eighty-foot right-of-way, measured forty-feet from the center. The request was to provide stone or walled fence, and the reflection pool is considered a structure. The 25-foot setback is from the right-of-way.

Varnier asked if there is still requirement for fence to be approved by City Council. Varnier stated that 225-13.1 says that no fence shall be constructed on public right-of-way unless approved by City Council.

Diana Vogt, 3504 N 58th Omaha Nebraska, spoke on behalf of Mr. Glawatz to talk about some of the things they would like to do. Some of the problems arise from the house being built in 1871. The stairs on the south side already encroach on the 25-foot setback. It will not infringe on the neighbor's use of property. They want the fence, so they are not infringing on their neighbors.

Ellis stated we have 6 criteria to strictly adhere to and number 1 being undue hardship. Ellis asked Vogt to explain how it would cause an undue hardship.

Vogt, the lot is so small and built so long ago, there basically isn't a thing they can do to modernize the house or add attractive landscaping. Enforcement of these restrictions would preclude them from rehab the house. They really want this to be an addition to the City of Seward and become a tourist attraction once it's fully restored.

Ellis asked about criteria number two and if there are no other lots in this neighborhood that has the same conditions of being small.

Vogt stated that is what she observed.

Ellis asked if Ms. Vogt has maps showing other houses and their setbacks.

Butcher read criteria number 3.

Vogt stated this will not put anything closer to any other building and only moving things towards the street.

Butcher read criteria number 4.

Vogt stated Nebraska case law, common law, and statutes that deal with this is focused on profit. Vogt stated clearly no profit will come of this. They want to restore it to how it was originally built. Vogt continued to criteria number 5 stating it will not be a detriment to the common good.

Ellis questioned if the fence would still be stone or cement, there could be a sight line issue with the neighbor to the east.

Vogt stated that currently their view is blocked by a hedge.

Ellis stated that the material of fencing is to be something that can be moved.

Vogt explained that the fence material would have to be addressed.

Miller asked where the sidewalk line is now.

Discussion was held on the current location and requirements for the sidewalk.

Butcher stated if the entire sidewalk moves it would be 4.5 feet across into the ROW.

Varner stated he was stuck on criteria number 2.

Butcher stated we would prefer there would not be any obstruction in the ROW.

Butcher also stated that by granting or denying this variance, it does not prohibit from restoring the home.

Peter Glawatz, 1013 Carol Dr West Hollywood CA, stated it infringes on the use of their property.

James Tipper, 1013 Carol Dr West Hollywood CA, spoke as well.

Butcher stated that there are six criteria that must be considered. All six criteria must be met. If you lose on one, the variance cannot be granted.

Vogt requests this to be tabled to a later date.

Roger Glawatz, spoke in favor of the variance.

Chairperson Ellis closed the public the hearing.

Vancura made a motion to table to allow them to bring more information
Miller seconded

Butcher stated we should set a time table to meet again.

Ellis asked Miss Vogt when it would be best to meet.

Glawatz and Tipper stated they will be in town July 5th and 6th

Vancura made a motion to amend the motion to table for 60 days
Miller seconded

Ellis stated from looking at these 6 requirements, number 1 and 2 will be hard to be convinced.

Aye: Miller, Vancura, Varner, Voss, Ellis.

Nay: None

Absent: Janousek. Motion carried

2. Reports

3. Agenda Items

None

Meeting adjourned at 8:03 PM.

Sara Van Cura
Administrative Assistant