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Board of Zoning Appeals

June 23, 2020 – 7 pm

REGULAR MEETING MINUTES

This meeting was held via Webex in accordance with the local emergency declaration made by the City under Minn. Stat. § 12.37. In accordance with that declaration, beginning on March 16, 2020, all Board of Zoning Appeals meetings held during the emergency were conducted electronically. The City used Webex to conduct this meeting and members of the public were able to monitor the meeting by calling 1-415-655-0001 and entering the meeting code **133 535 5486.**

Call to Order
The meeting was called to order at 7 pm by Chair Orenstein.

Roll Call

Members present:	Nancy Nelson, Richard Orenstein, Chris Carlson, Sophia Ginis, Kade Arms-Regenold, Adam Brookins– Planning Commissioner
Members absent:	
Staff present:	Planning Manager Jason Zimmerman and Planner Myles Campbell

Approval of Agenda
MOTION made by Ginis, seconded by Brookins to approve the agenda of June 23, 2020, as submitted. Staff took a roll call vote and the motion carried unanimously.

Approval of Minutes
MOTION made by Ginis, seconded by Nelson to approve the May 26, 2019, meeting minutes as submitted. Staff took a roll call vote and the motion carried unanimously.

Before moving to the first Variance request, **Chair Orenstein** requested staff review the standards by which the Board evaluates a variance request. He then explained the meeting procedure to the applicants.

1. **75 Brunswick Ave N**
   Michael Anderson, Applicant

   Request:
   § Section 113-88, Subd. (f)(1)(b) - 11.2 ft. off of the required 25 ft. to a distance of 13.8 ft. at its closest point to the rear yard (west) property line.

   Myles Campbell, Planner, presented the history of 75 Brunswick Ave N and the variance request by the applicant. The variance, as proposed, was generally in line with the City's Zoning Code and Comprehensive Plan. **Campbell** pointed out that it also met the practical difficulties standard for a

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variance. It was noted however, that a similar outdoor area could be achieved through the construction of a patio that would not require a variance due to a less significant rear setback requirement. For this reason, staff recommended denial of the variance.

Member Carlson asked for clarification on the setback requirements for a patio and **Campbell** explained the City has a 3 ft. setback from rear and side property lines. The applicant explained he had considered both the deck and patio options, but decided a deck would be a more practical option. He referred to the grade of the rear lot requiring additional consideration for a patio, as well as the elevated location of the existing backdoor. Additionally, the applicant was concerned about the potential need to remove an existing tree in the rear yard if he were to build a patio.

Board Members asked the applicant if the alternative recommendation of a patio would be feasible for his uses. The applicant responded that he was not made aware by staff that a patio would have the reduced setback amount, but that he still felt a deck would be his first choice. **Member Ginis** raised the idea of a wooden deck that was elevated off the ground by a concrete slab, as an option to have the aesthetic of a deck while still keeping the structure below 8 inches in height. **Chair Orenstein** asked for clarification on where measurement would be taken from. Staff stated they would still be looking at total distance from grade, but the slab could be partly buried in portions in order to achieve level grade and still meet the height requirement. Board members continued to discuss the potential a patio with the applicant, while acknowledging their understanding of his use of the rear yard.
With no other questions for the applicant, **Orenstein** opened the public forum. **Member Arms-Regenold** requested that the Chair read aloud the neighbor's letter for the record. **Orenstein** agreed and read the letter submitted by John and Kathy Watkins, the owners of 112 Paisley Lane. In response to the letter, the applicant stated he did not plan to use the rear of his yard in a disruptive manner.
Orenstein opened discussion amongst the Board. **Planning Commissioner Brookins** stated that he was sympathetic to the applicant's desire to use his rear yard. He suggested a possible compromise to allow for a variance in the 8 inches of height, rather than the setback variance requested. The Board discussed this and had concerns about how to rephrase or draft the language of a new request to mirror Brookins' comments. Staff suggested the variance request, as written, be kept and a condition limiting the maximum deck height be attached. **Carlson** asked staff if the Board was able to amend a request. **Campbell** replied that the Board was able to modify variance requests if they felt the modification might make an impact on their decision. **Orenstein** asked the applicant if the modification to the request would be amenable. The applicant replied he was open to some type of compromise if that would help the Board come to a decision on the matter. **Member Nelson** stated that occasionally the Board has acted to table a vote on a particular case to allow time for the applicant to work with staff to find a compromise. There was some discussion of this idea amongst the Board and the applicant, who is eager to begin work on the project this summer. **Arms-Regenold** raised the possibility of a special meeting to allow for some review time while expediting things slightly. **Campbell** asked if the Board were comfortable with the setback, as shown on the proposal from the applicant, in which case they could take a vote at this meeting with the height condition as

stipulated by Brookins. Discussion occurred and consensus occurred on the deck's location with the height condition.

MOTION made by **Chair Orenstein** to approve the variance of 11.2 off the required 25 ft to a distance of 13.8 feet at the rear lot line for the deck, with the added condition that said deck not exceed 12 inches in height from grade. The motion was seconded by **Brookins**.
Staff took a roll call vote and the motion passed unanimously.

2. 5505 Phoenix Street
Daniel Supalla, Applicant

Request:
Section 113-152, Subd. (c)(1)(a) - 2 ft. over the allowed 4 ft. in height for fences in a front yard to a total of 6 ft.

Myles Campbell, Planner, started with a background of the applicant and presented on the variance request for the increase in front yard fence height. The home is located across the street from Highway 100 and while not directly abutting, staff felt the request for a taller privacy fence was reasonable. **Campbell** further stated that the City was considering an amendment to its code language around screening to address these types of locations in the near future, and that staff was recommending approval of the variance. With no questions for staff from the Board, the applicant, gave a brief presentation. He stated that with the recent stay at home order, he was looking to make greater use of his rear yard and that while the noise mitigation from the highway was a central concern, there was also a high level of traffic and activity along Lilac Drive. Board Members did not have any questions for the applicant.
Member Nelson commented that she is always sympathetic to corner lots that effectively have two front yards despite how the lot itself is used. **Members Nelson**, **Arms-Regenold**, and **Brookins** all noted that similar variances had been approved in the past. **Member Ginis** added that she would be reluctant to deny the variance given staff comments about an upcoming change in the zoning code that might allow the project by right. Members discussed briefly before taking a vote.

MOTION made by **Brookins** to approve the variance as requested by the applicant at 5505 Phoenix Street, it was seconded by **Nelson**.
Staff took a roll call vote and it passed unanimously.

Adjournment
MOTION made by **Nelson**, seconded by **Orenstein** and the motion carried unanimously to adjourn the meeting. Staff took a roll call vote and the meeting adjourned at 9:03 pm.

Richard Orenstein, Chair

Amie Kolesar, Planning Assistant