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Board of Zoning Appeals

May 26, 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 **287 526 927.**

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, Ron Blum – Planning Commissioner
Members absent:	
Staff present:	Planning Manager Jason Zimmerman and Planner Myles Campbell

Approval of Agenda
MOTION made by Nelson, seconded by Orenstein to approve the agenda of May 26, 2020, as submitted. Staff took a roll call vote and the motion carried unanimously.

Approval of Minutes
MOTION made by Nelson, seconded by Carlson to approve the April 28, 2019, meeting minutes as submitted. Staff took a roll call vote and the motion carried unanimously.

1. **1421/1435 Rhode Island Ave North**
   Taylor Ward, Applicant

   Requests:
   Section 113-88, Subd. (f)(1)(a) – 10 feet off the required 35 feet to a distance of 25 feet at its closest point to the front yard (east) property line.

   Section 113-88, Subd. (g)(3) – 11 square feet off the maximum allowed 1,000 square feet of accessory space to a total area of 1,011 square feet

   Section 113-88, Subd. (n)(4) – Wavier to allow a second curb cut without a second legal garage

   Section 113-88, Subd. (n)(2) – 3 feet off the required 3 feet to a distance of 0 feet at a paved area's closest point to a side yard line

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All four requests were presented on at the same time.
Myles Campbell, Planner, started with a background on the lot which originated as 3 smaller lots that were then combined into a single parcel in 2008; the existing home at 1421 was built in 2009. A subdivision request was recently approved to make two 80-feet lots; 1421 to the south and 1435 to the north. The first two variance requests are related to the new property at 1435 and the second two variances in this list are related to the 1421 property.
An existing curb cut and driveway is located on this property and is now situated on the property line of the two lots. This driveway was grandfathered in when the lots were combined but now with the lot split, the driveway needs to be brought to conformity or remove the curb cut. **Campbell** presented a slideshow with photos of the lots and plans to illustrate the location and the variance requests. Campbell reminded the group that there are three main items to consider during a staff analysis:

1. Consistency with Zoning Code
2. Consistency with Comp. Plan
3. Property exhibits "practical difficulties"
    a. Reasonable use
    b. Unique circumstances not created by the landowner
    c. Does not alter the essential character

Campbell reviewed the zoning code and said staff felt all four requests largely matched with the purpose statement in the city code. When looking at code related to the R-1 district, the requests would not allow additional unit density, garages and recreational vehicle storage are complementary to residential use, but an additional curb cut is a more significant deviation from the purpose of the R-1 district. Looking at the 2040 Comprehensive Plan, the requests generally fit with the goals of the Land Use and Housing Chapters of the 2040 Comprehensive Plan. Action on the curb cut (variance or removal) resolves subdivision conditions. This project is a great example of reinvestment and infill development.

Regarding the front setback variance request: keeping the home in line with others on the street is reasonable. The City acquired the additional ROW, this was not a choice made by the homeowner, this action created a shallower lot to build on than surrounding properties. Keeping the home in line with the others is less disruptive to the neighborhood character.

Regarding the accessory structure: having a garage is reasonable however the site has a two-car garage and an additional one is an optional amenity. The lot is standard and therefore the limitation is the existing garage that remained. 11 extra feet of additional area would not be a noticeable impact to the existing character. Additionally, 11 feet could be found by reducing the single-car garage width slightly and still maintain space for a standard width vehicle.

Regarding the curb cut and driveway: vehicle storage in rear yards is expected however secondary curb cuts and driveways without garages are discouraged and disallowed in the cases of new builds. The home's proximity to the southern property line likely won't allow enough room to extend the primary driveway across the rear yard. Street parking levels don't constitute a unique

circumstance. Grandfathered curb cuts exist in many older single family neighborhoods throughout the city, but few are granted conformity through variance requests. Shared driveways aren't uncommon either but require the owner draft a private easement providing joint access and maintenance.

In conclusion, staff recommendations are as follows:

- Staff recommends **approval** of the variance request of 10 feet off the required 35 feet to a distance of 25 feet at its closest point to the front yard (east) property line.
- Staff recommends **denial** of the variance request of 11 feet off the maximum allowed accessory structure area of 1,000 to a total area of 1,011.
- Staff recommends **denial** of the variance request of a waiver of the second garage requirement in order to keep an existing secondary curb cut.
- Staff recommends **denial** of the variance request of 3 feet off the required 3 feet to a distance of 0 feet at the paved area's closest point to the side yard property line.

Chair Orenstein asked what caused the issue for the curb cut since it had been in existence. **Campbell** responded that the subdivision approval process requires the new lots be conforming and the existing driveway was considered a non-conformity. There are other lots with a second driveway that lead to the back of the lot and are used for vehicle storage. Those driveways are grandfathered in and as long as the property isn't subdivided, it'll remain grandfathered in.

Taylor Ward, Applicant, stated the appeal for him to purchase the property was the second driveway so he could store recreational vehicles and keep them off the road. **Jason Zimmerman, Planning Manager,** asked the applicant if his boat could be stored at the northern property. **Ward** responded that his parents will be living at the southern property and it's their boat. He will be living on the northern property and the existing driveway is too narrow for the boat. He also stated the financial burden of removing the concrete and the city requirements for a contractor to replace the curb cut. **Member Nelson** asked the applicant if reducing the attached garage width would be still a usable space and **Ward** responded that he can reduce the width, he just would prefer to have a wider garage for ease of use.
Chair Orenstein asked if there were any members of the public wishing to speak, none were present. **Campbell** reminded the Board they had a letter in the packet from a neighbor of the applicant, supporting the driveway variance.
The Board entered in to a discussion about the variance requests and a motions request was made for each individual variance.

A **MOTION** was made by **Nelson** and seconded by **Orenstein** to follow staff recommendation and <u>approve</u> the variance request of 10 feet off the required 35 feet to a distance of 25 feet at its closest point to the front yard (east) property line. Staff called a roll call vote and the motion passed unanimously.

A **MOTION** was made by **Orenstein** and seconded by **Nelson** to follow staff recommendation and deny the variance request of 11 feet off the maximum allowed accessory structure area of 1,000 to a total area of 1,011. Staff called a roll call vote and the motion passed unanimously.

A **MOTION** was made by **Orenstein** and seconded by **Carlson** to follow staff recommendation and deny the variance request of a waiver of the second garage requirement in order to keep an existing secondary curb cut. Staff called a roll call vote and the motion passed unanimously.

A **MOTION** was made by **Carlson** and seconded by **Blum** to follow staff recommendation and deny the variance request of 3 feet off the required 3 feet to a distance of 0 feet at the paved area's closest point to the side yard property line. Staff called a roll call vote and the motion passed unanimously.

2. 4725 Olson Memorial Highway
Mike Olson, Applicant

Requests:
Section 113-95, Subd. (g)(10)(c) – 10 feet off the required 30 feet to a distance of 20 feet at its closest point to the wide yard (west) property line

Section 113-95, Subd. (f)(10)(b)(2) – 10 feet off the required 35 feet to a distance of 25 feet at its closest point to the front yard (west) property line

Section 113-151 – Waiver of the prohibition on parking within the front yard landscaped area

Section 113-151, Subd. (c) – 3 spaces off the 36 parking spaces required for a total of 33 parking spaces on the property

Myles Campbell, Planner, started with a background of the applicant and the four variance requests that will be addressed together. The property is a current office building on Olson Memorial and the applicant is intending to build an accessory storage structure on the lot. The gross square footage of the principal structure is 9,216 and the lot area is about 38,583 sq. ft. There are currently 28 parking spaces including 2 handicap spaces. Variances were approved in 2000 for a significant expansion o the building to the west. The expansion wasn't completed but the parking distance from the side and rear property were brought in to conformity as part of the approvals. Staff used the same three items in their analysis as with the previous variance.

Regarding the accessory structure setback: these structures are allowed in the district and this structure otherwise meets the use, size, and design standards of the code. The lot layout creates issues locating a detached structure. The connection to the parking lot is also necessary to move materials to and from vehicles. The structure would abut a large parking lot to the west, a railroad to the south, and not impact any principal issues.

Regarding the front setback and overhang: the overhang redesign is reasonable in its finish and scale; previous variances have approved much more intrusive changes to the front setback. The lot has a unique shape and the cul-de-sac causes the front yard to narrow near the building entrance. An updated overhang matches the finishing on the accessory structure and staff doesn't feel it detracts from nearby structures.

Regarding new accessible spaces: the new space locations will reduce the distance between the lot and building entrance. Maintaining the current location of the accessible parking is an option, but would result in fewer parking spaces on site. This item would impact the view from the frontage road and essentially create a parking par at the end, this may not detract from the character but it's a notable change. The location in relation to the frontage road eliminates a landscaped buffer and that is a significant variance from code.

Regarding minimum parking provided: the applicant has increased total parking provided on site while maintaining good circulation through the existing lot. The current lot is at the max for usable spaces but providing additional parking to the east, as approved in 2000, isn't optimal as it requires additional setback variances and increases the site's total hardcover. Additional spaces shouldn't have an impact on existing character.

In conclusion, staff recommendations are:

- Staff recommends **approval** of the variance of 10 feet off the required 30 feet to a distance of 20 feet at its closest point to the side yard (west) property line.
- Staff recommends **approval** of the variance of 10 feet off the required 35 feet to a distance of 25 feet at its closest point to the front yard (west) property line.
- Staff recommends **denial** of the variance of a waiver of the front yard landscaped area requirement for the added accessible spaces off of the frontage road.
- Staff recommends **approval** of the variance of 3 parking spaces of the required 36 spaces required for the lot. *Additionally*, staff is open to increasing this variance approval to 6 spaces off the required 36 in the case that the Board does not approve the preceding variance allowing the new accessible spaces.

Mike Olson/Brett Amundson, Applicants, responded that the goal for accessible parking to the front is to create equal access to the front of the building. Board members asked if there was an elevator in the rear and the applicant responded no but they're installing a lift at the front and with the added front access, all tenants will have the ability to use the front door. They didn't want to create a situation where anyone who needed ramp access, had to use the back door.

Chair Orenstein asked if there were any members of the public wishing to speak, none were present.
The Board entered in to a discussion about the variance requests and a motion request was made for each individual variance.

A **MOTION** was made by **Orenstein** and seconded by **Nelson** to follow staff recommendation and approve the variance of 10 feet off the required 30 feet to a distance of 20 feet at its closest point to the side yard (west) property line. *Added Condition:* the applicant will construct the facility consistent with the plans submitted or be held to the standards of the materials section of the zoning code, whichever is more stringent. Staff took a roll call vote and the motion passed unanimously.

A **MOTION** was made by **Nelson** and seconded by **Orenstein** to follow staff recommendation and approve the variance of 10 feet off the required 35 feet to a distance of 25 feet at its closest point to the front yard (west) property line. Staff took a roll call vote and the motion passed unanimously.

A **MOTION** was made by **Nelson** and seconded by **Carlson** to follow staff recommendation and deny the variance of a waiver of the front yard landscaped area requirement for the added accessible spaces off of the frontage road. Staff took a roll call vote and the motion passed unanimously.

A **MOTION** was made by **Orenstein** and seconded by **Nelson** to follow staff recommendation and approve the variance of 6 parking spaces off the required 36 spaces required for the lot. Staff took a roll call vote and the motion passed unanimously.

Adjournment
MOTION made by **Nelson**, seconded by **Chair Orenstein** and the motion carried unanimously to adjourn the meeting at 9:03 pm.

Richard Orenstein, Chair

Amie Kolesar, Planning Assistant