

Minutes

City of Hartford Zoning Board of Appeals

May 13, 2019

Call to Order - Member Peter Erdman called the meeting to order at 4:30 p.m. in the Common Council Chambers of Hartford City Hall, 109 N. Main Street.

Roll Call - Member Erdman requested the secretary (Justin Drew) read a roll call. In attendance were members Nicole Flanagan, Kevin Volm, Peter Erdman and Micki Hoffmann. Absent was Chairman Carl Hulbert.

Member Erdman asked for a vote on the minutes from July 23, 2018. Motion by Volm, second by Flanagan to approved minutes. Motion carried.

Mr. Drew noted that the Board would need to hold a vote to waive sworn testimony. Motion by Hoffmann, second by Volm to waive sworn testimony. Motion carried.

1570 Meadow Lane: Variance from Minimum Side and Rear Yard Setback from 5 Feet to 1 Foot at 1570 Meadow Lane, Tax Key Number 36-3302-001-028

Mr. Drew noted that the Board would need to hold a vote to waive sworn testimony. Motion by Hoffmann, second by Volm to waive sworn testimony. Motion carried.

Mr. Drew read the public notice and proceeded to review the request. The owner of the property is requesting a variance from the minimum side and rear yard setback from 5 feet to 1 foot, in order to place a shed on the property without removing any more trees than necessary.

Mr. Drew then reviewed the criteria required for approval of a variance:

- A) Preservation of Intent - No variance shall have the effect of permitting a use in any district that is not a stated permitted use, or conditional use in that particular district: The intent of the accessory use/structure limitation can be defined through the Intent portion of the zoning code, 13.0104: "Regulate Lot Coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage" and "Preserve and Protect the natural as well as man-made aesthetic characteristics of the City of Hartford". The Rs-2 zoning designation covers larger lots and this particular subdivision has an emphasis on tree preservation in landscaping. The subdivision covenants require 'No tree on the outside 15' of the perimeter of each lot shall be cut or moved without the prior written consent of the Developer'.

Mr. Drew indicated that the condition has been met.

- B) Exceptional Circumstances - There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties in the same

district and the granting of the variance would not be so general or recurrent in nature as to suggest that the zoning ordinance be changed:

The lot, although large, is wedge-shaped and the house was located farther back from the property line in order to preserve existing trees. This limits the space available in the back of the lot for an accessory structure. The owner has requested placement of the shed at the upper corner of the wedge, on the southern lot line closest to lot 25, which is currently vacant. The shed will not be placed along the lot line to the north. The owner will be working with the developer for approval of the location due to the trees in the back of the lot. The shed cannot be placed in the street yard of the property.

Mr. Drew indicated that this condition has been met.

- C) Economic Hardship and Self-Imposed Hardship Not Grounds for Variances - No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for granting of a variance:

The applicant does not claim economic or self-imposed hardship in its request.

Mr. Drew indicated that this condition does not apply.

- D) Preservation of Property Rights - The variance must be necessary for the preservation and enjoyment of property rights possessed by other properties in the same district and same vicinity:

The owner is requesting the variance in an attempt to accommodate his own needs while respecting the tree requirement for the subdivision and addressing his neighbors' concerns. The shed is a permitted accessory use in the Rs-2 District. Placement of the shed is restricted due to the accommodations that were made for tree preservation.

Mr. Drew also noted the added requirement of a 10' separation requirement between the house and the shed. Mr. Drew indicated that this condition has been met.

- E) Absence of Detriment - No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this ordinance or the public interest:

Placing a shed within one foot of the lot line in the far corner of an Rs-2 lot surrounded by Rs-2 lots will not create detriment due to the multitude of trees in the area serving as visual cover, and the larger size of the lot itself and adjoining lots. The adjoining lot is vacant and although an irregular shape, does not have the same sharp wedge as 1570 Meadow. Therefore, more options for house placement and accessory structure placement exist on the adjoining lot.

Mr. Drew indicated that this condition has been met.

- F) Additional Requirements in Flood Plain Districts:

Mr. Drew indicated that this condition does not apply.

Mr. Drew recommended approval of a variance request for 1570 Meadow Lane for a decrease in side and rear setbacks from five feet to one foot. This recommendation is based on findings that:

The variance preserves the intent of the ordinance by regulating lot coverage based on structure location and protecting the natural characteristics of the subdivision and ultimately the City of Hartford.

The shape of the lot and natural landscaping requirements of the subdivision limits the space available for an accessory structure.

The proposed location does not create detriment due to tree coverage and lot size.

Member Erdman invited discussion by members. Member Hoffmann asked about the size of the shed. Mr. Drew responded that the shed would be 10' x 12'. Member Erdman asked about the number of trees that would be required to be removed to accommodate a 5' setback. Mr. Drew replied that he did not know, but that the owner of the property would be able to respond to the question during the public comment time. Member Volm noted that any tree removal would require approval of the developer.

Member Erdman asked for appearances in favor of the granting of the variance. Joseph Yustus, owner of the property, appeared and the building would require removal of a small group of trees, which he would need to get approval for, from the developer. He noted that he was trying to preserve two large trees by requesting this variance. Elaine Finck, 1546 Meadow Lane, spoke in favor of the building at its proposed location.

Member Erdman asked for appearances in opposition of the granting of the variance. There were no appearances in opposition.

Member Erdman asked for further comments from Board members. Member Flanagan asked if the granting of this variance will make it harder for the developer to sell the lot. Mr. Drew stated that he had spoken to the owner of the lot, whose concern involved the size and use of the structure - he did not want a garage on the site. The owner finds the proposed size and use acceptable. Member Hoffmann noted that there have been past issues in the City with owners of adjacent lots denying access to their land for a neighbor to take care of a shed. Mr. Drew stated that the City has approved a garage in an older part of the City with a similar setback. Member Erdman noted that the reason for zoning is to protect spaces, and future owners should be considered. Member Erdman indicated that he would like to see the shed set farther back.

Motion by Volm, second by Flanagan, to approve a variance request for 1570 Meadow Lane for a decrease in side and rear setbacks from five feet to one foot. Members Volm, Flanagan and Hoffmann voted aye, Member Erdman voted nay. Motion failed (one member absent required a unanimous approval).

Motion by Flanagan, second by Volm to adjourn meeting. Motion carried. Meeting adjourned at 5:08 p.m.

Zoning Board of Appeals, May 13, 2019

Respectfully Submitted,
Justin Drew, City Planner