

Minutes of a Board of Adjustment hearing held on May 31, 1986, in City Hall at 7:00 P. M.

Present were Chairman Howard Fuller, members of the Board Lynnette Neff and Charles Coleman. Also present were Terry Gardner, Lou Gardner, Gerry Bowman, Erica Ward and Ramona Rosenlund, who recorded the minutes.

Meeting was called to order at 7:20 P. M. when Mrs. Neff entered the meeting, thus making a quorum present. Prayer was offered by Mr. Coleman.

Mr. Fuller introduced the members of the Board and explained that they are volunteers serving for the purpose of helping uphold the Zoning Ordinance of the City. They are to work with property owners who request a variance but must follow the guidelines set up. They can consider hardships which are on the property, such as odd shaped remnants of lots, etc., and they can consider small or minor departures from the ordinance. They cannot grant major variances from the zoning ordinance.

He said they must consider the following in determining if the variance should be granted:

1. Does the zoning ordinance lead to practical difficulties or undue hardships on the part of the property owner in the use of this property?

2. Is the hardship unique to this property?

3. Is the hardship caused by actions on the part of the land owner? (Self-created hardship).

4. Is the land owner unable, at a reasonable cost, to acquire adjacent land so as to meet the dimensional standards of the ordinance?

5. Will the proposal alter the essential character of the area?

6. Is the proposal in conformance with the spirit and intent of the zoning ordinance?

Mr. Fuller went on to explain that the Board has the function of serving as an advocate of the public interest and must take care to assure that the public welfare is preserved and substantial justice is done. He explained that hardship meant a property that can not be used in any way unless a variance is granted and that it cannot be a self-created hardship. For instance if someone chops up his property and leaves a piece too small, this is a self-created hardship and a variance cannot be granted for the property.

Mr. Gardner was asked to explain what it is he wants to do and he said he wants to build a garage on the east side of his house. The house is facing south and is a corner lot. Mrs. Neff asked if there was already a carport there and Mr. Gardner said no, just a drive strip. Mrs. Gardner said when they bought the house there was an underground garage but the lot slopes so, that they couldn't get in and out very

well in the winter time, so they want to build another one.

Mr. Gardner said they want to build a double one. He said the drivestrip comes straight off the street from the south with a 30 foot sideyard on the side where they want to put the new garage and that the property slopes to the north so they can't build on that side.

Mr. Fuller said the problem is that there would only be a nine foot sideyard on the east side of the building and there is a 17 foot sideyard on the opposite side of the house. Since the front setback is 30 feet, the east sideyard should be at least 20 feet.

Mrs. Neff asked what was in the lot to the back or north side and Mrs. Gardner said they had a garden, lawn, etc.

Mr. Fuller asked if anyone had any questions or information they wanted to give. Mr. Bowman said having the garage the way they wanted it did not bother him. Mrs. Ward said it did not bother her either. Mrs. Neff said one purpose for the side yard was to keep the houses in a somewhat straight line and to protect everyone so their neighbors did not build too close. Mr. Fuller said it is also so the view for oncoming traffic will not be obstructed. Mr. Gardner said he understood the city had a resolution that there was to be no more building to the east of them because of a water problem and as they were near the county on the edge of town, this did not matter. No one else knew of such a resolution and there is a lot in the subdivision to the east of them.

Mr. Fuller explained that if the Gardners objected to the decision of the Board they had the option of requesting the City Council to change the Zoning Ordinance or of appealing the decision to the District Court within 30 days.

Mr. Fuller asked they could cut the size of the desired garage in half so as to leave the required side yard and Mr. Gardner said that would give them an 11 foot garage which would not be of any use.

Mr. Fuller again asked for questions, explaining then they would be notified by mail of the decision of the Board as this what the law requires or they could call the city office in the morning and find out.

There was a short discussion of alternative ways to place the garage with the Gardners saying they could not place it any other way because of the sloping property. Mrs. Neff said the Board can't set a precedent or the ordinance would be of no value. Mrs. Gardner asked then what about the Samuelson house which was built within a few feet of the property line. Mr. Fuller said if a mistake is made by someone, they can not do anything about it. They can't be responsible for errors of someone else. They can not enforce the ordinance, just do what they have the power to do. He explained they can set stipulations in connection with granting a variance. There may appear to be a number of infractions of the ordinance but in most cases they were prior to the zoning ordinance.

Mrs. Ward asked what if someone has animals but not right to have them. She was told that if someone complains, it would be looked into

and they would have to get rid of the animals. It was explained that in the Westover Subdivision no one has animal rights as the protective covenants prohibits them and these covenants run with the land.

As there were no more questions or comments, the Gardners and others were dismissed at 7:40 P.M. while the Board made their decision.

Mrs. Neff asked how wide the garage would have to be in order to be for one car. It was thought that it might be a minimum of 15 feet. She said if they could cut it down to that, they would have a side yard of 15 feet and would only need a variance of 5 feet. Mr. Coleman what they are asking is 11 feet variance and this is more than half of the required amount of 20 feet, which he would not consider minor.

Mr. Fuller made a motion to deny the request as it is beyond their power to grant a variance so large. Mrs. Neff seconded the motion. Vote was unanimous for denial.

Meeting adjourned at 8:00 P. M.

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Secretary