

MINUTES
MARSHALL CITY ZONING BOARD OF APPEALS
Regular Meeting Thursday, July 16, 2015
7:00 P.M. – COUNCIL CHAMBERS

CALL TO ORDER

This meeting was called to order by Chair Feneley at 7:05 p.m.

ROLL CALL

Members Present: Board Members Beach, Byrne, DeGraw, and Feneley

Members Absent: Board Members Karns, and Revore

Staff Present: Lisa Huepenbecker, Community Services Project Coordinator

Motion by Byrne, supported by DeGraw, to excuse the absences of Board Members Karns and Revore. On a voice vote; **Motion Carried.**

APPROVAL OF MINUTES

Motion by DeGraw, supported by Byrne, to accept the minutes of the April 16, 2015 regular meeting as submitted. On a voice vote; **Motion Carried.**

APPROVAL OF AGENDA

Motion by DeGraw, supported by Beach, to approve the agenda of the July 16, 2015 regular meeting as submitted. On a voice vote; **Motion Carried.**

AUDIENCE PARTICIPATION

No public comment.

NEW BUSINESS

Appeal #15.03 – Dimensional Variance filed by Marshall Excelsior at 1506 George Brown Drive from §156.181 Mixed-Use and Non-Residential Districts – I-1 (Research and Technical) required front yard setback of 50’.

Staff reported Marshall Excelsior is requesting a dimensional variance for the required front yard setback in order to build additional office space. She reported the Planning Commission received the site plan for Marshall Excelsior at 1506 George Brown Drive at the regular July 8, 2015 meeting. The site plan will be reviewed and a decision will be made at the August 12, 2015 meeting. Staff also noted that this variance request has been specifically supported by the LDFA Board.

Jim Zuck, representative of Marshall Excelsior at 1506 George Brown Drive, stated that due to the company's continued growth, the current office space no longer suits their needs. The company plans to add technical and engineering staff and needs additional office space. He explained as the company has grown, they have maximized the use of their existing parcel with building additions, and they have purchased a nearby lot, which

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is being fully utilized. He explained there are no other options for expansion at this location without a variance. He noted that the property is located at the end of a cul-de-sac, which causes the building to be set back further than required of the surrounding properties. He pointed out that the variance would place the front of the building in line with neighboring façades.

Motion by Beach, supported by Byrne, to approve Appeal #15.03 for Dimensional Variances filed by Marshall Excelsior at 1506 George Brown Drive from §156.181 Mixed-Use and Non-Residential Districts I-1 (Research and Technical) required front yard setback of 50' by 30' leaving a required front yard setback of 20'.

Using the Dimensional Variance Worksheet, the board cited the following items pertaining to this variance:

- Strict Compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted purpose. **Board Members discussed that denial of variances would prohibit owner from using the property for a permitted purpose. The business is located in an industrial park and the need for additional office space aligns with the permitted use. If relief from the setback requirement is not granted, the petitioner would have not have the ability to accommodate the growth of the company and would have to consider relocation.**
- The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant or be consistent with justice to other property owners. **Board members remarked that the property owner would be done justice with the office addition. Due to the location of the cul-de-sac and subsequent setback requirements, a lesser variance than requested will not give substantial relief to the property owner.**
- The need for the variance is due to unique circumstances peculiar to the land or structures involved that are not applicable to other land or structures in the same district. **Board Members discussed that the lot being located at the end of a cul-de-sac creates unique circumstances peculiar to the land or structures involved. The resulting setback requirement for this property is not applicable to neighboring lots.**
- The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors. **Board Members discussed that the need for the requested variance is somewhat self-created. The original placement of the building was such that any additions to the front would require a variance.**
- The variance will not cause significant adverse impacts to adjacent properties, the neighborhood or the City and will not create a public nuisance or materially impair public health, safety, comfort, morals, or welfare. **Board Members noted that the area is an industrial park and the variance is not likely to cause any impacts on adjacent properties.**
- The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience, or an inability to attain a higher financial return. **Board Members discussed that failure to grant the variance would prevent expansion at this location, and therefore the company may be required to relocate.**

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On a roll-call vote-ayes: Beach, Byrne, DeGraw, and Feneley; nays - None. **Motion Carried.**

Appeal #15.04 – Dimensional Variance filed by Lori Kline-Closson at 536 Cosmopolitan from §156.181 Mixed-Use and Non-Residential Districts – R-2 (Suburban Residential) required front yard setback of 30’.

Lori Kline-Closson, 536 Cosmopolitan, stated she is requesting a variance for the required front yard setback in order to add a front porch to her home. She explained that several years ago, the large tree that provided shade to the front of the house died, and she has since purchased a non-permanent pergola for shade to reduce cooling costs. She stated a front porch would be a permanent solution to shading the home, would enhance the aesthetics of the house and foster a sense of community and neighborhood security.

DeGraw inquired as to whether the porch would be screened-in or enclosed in any way that would obstruct the sight line on Cosmopolitan. Kline-Closson reported that the porch would be open.

Staff reported she had received signed comments from neighboring property owners as follows:

- Kyle and Kelly Brisson, 529 Cosmopolitan, stated they are in favor of a variance to construct a front porch at 536 Cosmopolitan.
- Matthew Schnaare, 538 Cosmopolitan, stated he supports the request for a variance and sees no adverse effects to the petitioner adding a front porch. He noted the petitioner has undertaken several projects to improve their home and has added to the beauty of the neighborhood.
- Bobbie and Ken Machata, 537 Cosmopolitan, stated they support the variance request and feel the porch will further enhance the aesthetics of the home.

Using the Dimensional Variance Worksheet, the board cited the following items pertaining to this variance:

- Strict Compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted purpose. **Board Members discussed that the use of a front porch is permissible in this zoning district. Board Members also noted that the addition of a porch would be more visually suitable for the area than the current pergola.**
- The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant or be consistent with justice to other property owners. **Board Members discussed that the property owner, as well as adjacent property owners, will be done justice with this improvement to the home as it increases the value of the property and contributes to the beauty of the area.**
- The need for the variance is due to unique circumstances peculiar to the land or structures involved that are not applicable to other land or structures in the same district. **Board Members discussed that the land and structures in the same district are very similar to the home’s current features.**
- The problem and resulting need for the variance has not been self-created by the applicant or the applicant’s predecessors. **Board Members discussed that the need for the requested variances arises from the death of a shade tree and was not self-created by the applicant.**

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- The variance will not cause significant adverse impacts to adjacent properties, the neighborhood or the City and will not create a public nuisance or materially impair public health, safety, comfort, morals, or welfare. **Board Members discussed that while the approval of the variance will result in a departure from a uniform appearance of homes along this street, the line of sight is already obstructed from landscaping and foliage and this issue does not constitute an adverse impact to adjacent properties. Board Members noted that several neighboring property owners had contacted staff to express support for the variance.**
- The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience, or an inability to attain a higher financial return. **Board Members discussed that failure to grant the variance would not cause more than a mere inconvenience to the applicant; however, the construction of a front porch is an improvement that adds to the value of the home.**

Motion by Beach, supported by DeGraw, to approve Appeal #15.04 – Dimensional Variance filed by Lori Kline-Closson at 536 Cosmopolitan from §156.181 Mixed-Use and Non-Residential Districts – R-2 (Suburban Residential) required front yard setback of 30’ by 11’ leaving a required front yard setback of 19’.

On a roll-call vote-ayes: Beach, Byrne, DeGraw, and Feneley; nays - None. **Motion Carried.**

Re-Elect Officers

Motion by DeGraw, supported by Byrne, to re-elect Feneley as Chair and DeGraw as Vice Chair of the Zoning Board of Appeals. On a voice vote; **Motion Carried.**

OLD BUSINESS

None

PUBLIC COMMENT

None

REPORTS

Staff invited Board Members to the Zoning and Sign Ordinance Work Session on July 29, 2015 from 6:00 P.M. to 8:00 P.M. in the City Hall Training Room.

Feneley reported that she has plans for an upcoming move but will continue to serve on the Zoning Board of Appeals at least through the spring of 2016.

ADJOURN

Meeting adjourned at 8:09 pm.

Respectfully submitted,

Crystal Lane