

**BOARD OF ZONING APPEALS  
CITY OF PRAIRIE VILLAGE, KANSAS  
MINUTES  
TUESDAY, OCTOBER 11, 2022**

**ROLL CALL**

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, October 11, 2022, at 6:30 p.m. in the Council Chambers of the Municipal Building at 7700 Mission Road. Chair Patrick Lenahan called the meeting to order at 6:30 p.m. with the following members present: Jonathan Birkel, James Breneman, Melissa Brown, and Nancy Wallerstein.

The following individuals were present in their advisory capacity to the Board of Zoning Appeals: Chris Brewster, Multistudio; Nickie Lee, Deputy City Administrator; Greg Shelton, Council Liaison, and Adam Geffert, City Clerk/Board Secretary.

**APPROVAL OF MINUTES**

Mr. Birkel moved for the approval of the minutes of the July 12, 2022, Board of Zoning Appeals meeting as presented. Mrs. Wallerstein seconded the motion, which passed 4-0, with Mr. Breneman in abstention.

**PUBLIC HEARINGS**

BZA2022-02            Variance of Required Site Setback  
7431 Belinder Ave.  
Zoning: R-1B  
Applicant: Anthony Fiorello

Mr. Brewster stated that the applicant was requesting a variance from Section 19.08.015 to allow an egress window well to encroach more than 50% into the required 6' side setback. R-1B development standards require a side setback that is:

1. at least 6' on each side
2. at least 20% of the lot width on both sides
3. at least 12' from any adjacent building

Section 19.44.020, "Yard Exceptions", also allows window wells to project into the required yards by 4', but all encroachments are limited to no more than one-half the required setback.

Mr. Brewster continued, stating that in this case, the egress window well would be limited to a 3' encroachment, and no closer than 3' to the property line. The applicant is proposing a 3' encroachment and the well being placed 2' from the adjacent property line, which is consistent with the encroachment allowance. Due to the nonconforming situation, this results in a variance of 12" from the resulting location and a variance of 6" from the permitted 50% exception when applied to the existing actual setback. The request is associated with remodeling an existing house and an existing building foundation.

Mr. Brewster noted that Section 19.54.030 of the zoning regulations requires the Board to find that all five of the following "golden factors" be met to grant a variance:

1. Uniqueness - That the variance requested arises from such condition which is unique to the property in question, and which is not ordinarily found in the same zone or district and is not created by an action or actions of the property owner or the applicant.
2. Adjacent Property - That the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residents.
3. Hardship - That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.
4. Public Interest - That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
5. Spirit and Intent of the Regulation - That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.

He added that if the Board does approve the variance, it should be subject to the following conditions:

1. That the variance be granted only to the extent shown with the submitted application, sufficient to allow the minimum required egress window well of 36" deep.
2. The variance, if approved, be recorded with the County Register of Deeds within one year of approval.

Applicant and property owner Anthony Fiorello was present to discuss the variance.

Mr. Birkel asked whether a bedroom was being installed in the basement which would require the egress window. Mr. Fiorello stated the space would include an office, a bathroom, and a playroom, but not a bedroom.

Mrs. Wallerstein asked if there would be a cover over the window well. Mr. Fiorello said there would.

Mr. Birkel also asked if the egress window could be placed at the back or the front of the house instead. Mr. Fiorello stated that the home's furnace and water heater were located in an unfinished area of the basement at the front of the house, and that the foundation did not extend all the way to the back of the house, which sits on a concrete pad.

Board members reviewed each golden factor and determined that the proposed addition met all requirements.

**Mrs. Wallerstein made a motion to approve the variance. Mr. Breneman seconded the motion, which passed 5-0.**

## **OTHER BUSINESS**

None

## **ADJOURNMENT**

Chair Patrick Lenahan adjourned the meeting of the Board of Zoning Appeals at 6:40 p.m.

Adam Geffert  
City Clerk/Board Secretary