

**BOARD OF ZONING APPEALS
CITY OF PRAIRIE VILLAGE, KANSAS
MINUTES
TUESDAY, May 2, 2023**

ROLL CALL

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, May 2, 2023, 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, Gregory Wolf, Melissa Brown, Nancy Wallerstein, and Jeffrey Valentino.

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

APPROVAL OF MINUTES

Mr. Breneman moved for the approval of the minutes of the October 11, 2022, Board of Zoning Appeals meeting as presented. Mrs. Wallerstein seconded the motion, which passed 6-0, with Mr. Wolf in abstention.

PUBLIC HEARINGS

BZA2023-01 Variance of Required Site Setback
 5200 W. 69th Street
 Zoning: R-1A
 Applicant: Dan McCarthy

Mr. Brewster stated that the applicant was requesting a variance from Section 19.08.015 of the City's zoning regulations to allow a garage to be built 5.3' from the side setback, rather than the required 7'. The development standards require a side setback that is:

- At least 7' on each side
- At least 20% of the lot width on both sides
- At least 12' from any adjacent building

Mr. Brewster noted that the applicant intended to tear down an existing home and replace it with a new home. However, the plan proposed to retain the driveway and existing

garage, which did not comply with side setback requirements. The plan (and existing condition) resulted in the following:

- Separation from the existing home on the west side of at least 29.3' at the closest point (compliant with Section 19.06.015)
- A combined setback of 25.7' for both sides on the subject lot, totaling 20.2% of the lot width (compliant with Section 19.06.015)
- A specific setback of 5.3' on the west (garage) side of the lot (not compliant with Section 19.06.015)

Mr. Brewster noted that Section 19.54.030 of the zoning regulations required 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 did 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 retain the existing structure without further expansion.
2. The variance, if approved, be recorded with the County Register of Deeds within one year of approval.

Applicant and property owner Dan McCarthy was present to discuss the variance. He stated that tearing down the existing garage would significantly increase the cost of the project, and that surrounding neighbors were supportive of the garage remaining in place.

Mr. Lenahan opened the public hearing at 6:39 p.m. With no one present to speak, Mr. Lenahan closed the hearing at 6:40 p.m.

Board members reviewed the golden factors and determined that the proposal met all requirements.

Mr. Wolf made a motion to approve the variance. Mr. Breneman seconded the motion, which passed 6-1, with Ms. Brown in opposition.

OTHER BUSINESS

None

ADJOURNMENT

Chair Patrick Lenahan adjourned the meeting of the Board of Zoning Appeals at 6:41 p.m.

Adam Geffert
City Clerk/Board Secretary