

MINUTES
COLUMBIA CITY BOARD OF ZONING APPEALS
REGULAR MEETING
TUESDAY, OCTOBER 2, 2018
7:00 P.M.

WHITLEY COUNTY GOVERNMENT CENTER

MEMBERS PRESENT

Jon Kissinger
Dwayne Knott
Dennis Warnick

MEMBERS ABSENT

Marquis Jones
Anthony Romano

STAFF

Nathan Bilger
Amanda Thompson

ATTORNEY

Dawn Boyd

VISITORS

Four visitors were listed on the guest list at the October 2, 2018, Columbia City Board of Zoning Appeals meeting. A guest list is included with the minutes of this meeting.

CALL TO ORDER

Mr. Knott called the meeting to order at 7:00 P.M.

ROLL CALL

Ms. Thompson read the roll call with members present and absent listed above.

CONSIDERATION AND ADOPTION OF THE SEPTEMBER 4, 2018, REGULAR MEETING MINUTES

Mr. Kissinger made the motion to approve the September 4, 2018, meeting minutes as presented. Mr. Warnick gave the second, and the motion carried with a unanimous vote.

ADMINISTRATION OF THE OATH TO WITNESSES

In total, three guests were sworn in by Ms. Boyd during the meeting.

OLD BUSINESS

There was no old business.

NEW BUSINESS

1. 18-C-VAR-6

Casey Herendeen requested a Variance of the maximum allowable height of a front yard fence at 300 W. Bay Bridge Court, Columbia City. Mr. Bilger summarized the Staff Report and described that the petitioner had installed a 5' open aluminum fence prior to realizing that a permit was needed. The fence is located in the required front yard, where non-chain link fences are limited to 3' in height. The front yard also contains a 20' Utility and Drainage Easement, and the Board of Works did recently review and approve the fence's location in the easement. Mr. Bilger stressed that in the future, Longfellow Boulevard will be developed eastward, and this lot's frontage on that street will become more apparent. In the Review Criteria, Mr. Bilger did not find any practical difficulty to support the Variance, and he noted that the Board should consider whether or not an approval would degrade the effectiveness of the Zoning Ordinance.

Mr. Warnick asked if another fence in this area was the same height as the proposed fence. Mr. Bilger replied that he believed there was one, but it was a rear yard fence and therefore in compliance with the regulation. Mr. Knott asked for clarification on whether or not the setback distance was to be considered. Mr. Bilger replied that if the fence were moved 12' south, behind the building line, then the height would be in compliance. If the fence remains forward of the building line, then only the height is in need of resolution. So, the Board could consider either the location or the height. Mr. Bilger noted that the petitioner could have constructed their fence on the southern part of the property, with the same amount of area enclosed, and avoided the need for a Variance approval.

Mr. Knott invited the petitioner to speak. Joel Herron was sworn in and stated that he had installed the fence for his girlfriend, Casey Herendeen. He explained that he avoided building on the south side of the property because she needed a gate large enough to allow passage for the lawn mower, and utilities are located in that area. The only way to include the gate without interfering with the utilities was to build on the north side of the lot. Also, Mr. Herron said he considered that another home will eventually be built on the south side of the lot, and he didn't want the fence to be too close to that home. The north side would not have a neighbor and so, seemed a better location overall.

There was no one else who wished to speak, so the public portion of the meeting was closed for Board discussion. Mr. Kissinger asked if the easement and setback along Longfellow Boulevard would follow east as the street is developed. Mr. Bilger replied that he expected it would be. Mr. Warnick was concerned that allowing this encroachment would set a precedent for others in the subdivision. Mr. Kissinger agreed. Mr. Bilger asked the petitioner if the Home Owner's Association had given approval of the fence. Mr. Herron was unaware that an association existed. Mr. Bilger was confident that one was in place and directed the petitioner to contact Granite Ridge Builders for more information. Mr. Warnick suggested the petition be continued so that the HOA could make their decision first. Mr. Herron stated

that there were at least six other fences in the subdivision, privacy fences in fact, that were six feet high. Mr. Kissinger replied that six foot fences are allowed if they are not in the front yard. Mr. Warnick explained that the petitioner's lot has two front yards. The Board expressed to Ms. Herendeen and Mr. Herron that they were concerned that future residents on Longfellow Boulevard would expect to be also be allowed six foot front yard fences if Ms. Herendeen's fence were to be approved. Mr. Warnick made the motion to continue the petition pending the HOA's decision. Mr. Kissinger gave the second, and the Board voted unanimously to carry the motion.

2. 18-C-VAR-7

James Cardinale, Jr., requested a Side Yard Setback Variance to allow for the construction of a single-family home and attached garage at 344 W. Orchid Court, Columbia City. Mr. Bilger outlined the Staff Report and explained that Lots 24 and 25 in Oakdale Ridge had been found to be unbuildable because material from a former greenhouse is buried in that area. The petitioner desired to obtain Lots 23 and 24 and construct a home across both lots but the builder will not cross the lot line without expensive soil tests to prove the ground is stable. So, Mr. Cardinale has requested to construct his home on Lot 23, but with a 3" setback from Lot 24. Looking at the site plan, Mr. Bilger stated that the proposed home would fit within the setback requirements for Lot 23 if the home were shifted north. He said that another solution would be to combine Lots 23 and 24, but that would be done through the replatting process and would not ensure that Lot 24 would not be split back off again in the future and built upon. Mr. Bilger suggested that a deed restriction be recorded to ensure that Lots 23 and 24 must be sold together for as long as the home is in non-compliance. Mr. Bilger stated that Staff found the Variance to be supportable due to the practical difficulty regarding the fill.

The Board considered Mr. Bilger's suggestion and different scenarios and corresponding solutions that might be necessary in the future. Mr. Knott invited the petitioner to speak. James Cardinale, Jr., was present. He stated that Mr. Bilger had explained the situation perfectly. Mr. Cardinale added that he had spoken with Wigent Excavating, who had buried the greenhouse, and they expressed that all of Lot 24 was unbuildable. They had told him that even a few feet past the property line would not contain clean soil.

There was no one else present who wished to speak. The public portion of the meeting was closed for Board discussion. Mr. Warnick made the motion to approve the petition as presented and with the condition that a deed restriction be recorded, as suggested in the Staff Report. Mr. Kissinger gave the second, and the Board voted unanimously to carry the motion. Mr. Bilger told Mr. Cardinale that he would work with the developer to get the deed restriction in place before the sale.

OTHER BUSINESS

Mr. Bilger directed the Board's attention to the proposed meeting schedule distributed in the meeting packets. Mr. Warnick expressed that there should be more time between the meeting deadline and the meeting date. Mr. Bilger agreed. Ms. Thompson will distribute new deadlines for the proposed meeting dates.

Mr. Bilger announced that the County BZA recently ruled that all Setback Variance petitions for new construction must be accompanied by a survey. Mr. Knott asked if only the relevant area could be surveyed instead of the entire property, due to the cost. Mr. Bilger agreed that this would be possible. Mr. Warnick made the motion to approve the suggestion and require surveys for Setback Variance petitions for new construction in the City's Jurisdiction. Mr. Kissinger gave the second, and the Board voted unanimously to carry the motion.

ADJOURNMENT

There being no further discussion, Mr. Kissinger made a motion to adjourn the meeting. Mr. Warnick gave the second, and the members voted unanimously in favor. The meeting was adjourned at 7:39 P.M.

GUEST LIST

1. James Cardinale ----- 1411 Bell Brook Boulevard, Bluffton, IN
2. Casey Herendeen ----- 300 W. Bay Bridge Court, Columbia City, IN
3. Derek Crosson
4. Joel Herron