

Board of Zoning Appeals Minutes
City of Roeland Park
4600 W 51st Street, Roeland Park, KS 66205
June 8, 2017, 6 p.m.

Members Present:

Tom Madigan, Paula Gleason, Mike Baugher, Courtney Craig

Members Absent:

John Christensen

Others Present:

Steve Mauer, City Attorney

John Jacobson, Building Official

Jennifer Jones-Lacy, Finance Director/Asst. City Administrator

I. Approve Minutes from 5/4/17 Meeting

Motion: Ms. Craig motioned to approve the minutes, seconded by Ms. Gleason. (THE MOTION PASSED 4-0).

II. BZA 2017-03 – 4846 Fontana, Swimming Pools

A. Open Hearing – Staff Report, Applicant Presentation, Open Public Comments

Staff Report

Mr. Jacobson explained that performance information on installation of a pool is not provided in the City's Zoning Code but it is referenced in Chapter 13, which discusses installation requirements. The application's home doesn't allow a pool under the City's requirements. However, the family who is applying for the variance has a child with special needs and a swimming pool is the only way this child can safely get exercise. He recommended approval.

Mr. Madigan asked if the applicant wanted to make any comments. Kevin York, the contractor said they were installing an above-ground pool with a privacy fence and deck around it. Due to the boy's condition all of the materials have been donated.

Mr. Madigan explained to the applicant the process.

Carolyn Macan, the applicant said that her son's condition is so rare that it's named after him. Since he turned seven, aqua therapy is no longer covered under insurance so by having a pool, it would force him to get out of bed and his siblings could swim with him. She said it would be life changing for him.

Mr. Madigan closed the public hearing and opened board deliberation.

Ms. Gleason said she has no issues with the variance and Ms. Craig also said she had no issues but asked that she vote last.

Mr. Madigan called roll to vote on the variance.

BZA 2017-03	Madigan	Craig	Gleason	Baughner
Uniqueness	Y	Y	Y	Y
Effect adjacent property	Y	Y	Y	Y
Would it create a hardship to applicant?	Y	Y	Y	Y
Public interest	Y	Y	Y	Y
Spirit and intent of the law	Y	Y	Y	Y

The variance request was approved with no conditions.

I. BZA 2017-04 – 4300 W. 51st Street

A. Open Hearing – Staff Report, Applicant Presentation, Open Public Comments

Mr. Madigan opened the hearing with applicant presentation.

Christine Cooper said her son Daniel Cooper is the person building this home. She said a house would have to sit almost on the property line. She provided an illustration of where they are requesting to move the house, which she said was centered in the lot facing 51st Street.

Staff Report

Mr. Jacobson said it has a large section of the lot that was vacated right-of-way that hasn't been built on to date. She said they want to build closer to the right-of-way to afford some backyard to the home itself. To comply with City rules, the house would have to be built right up to rear property line which was a concern for many of the neighbors. The large amount of road right-of-way is what caused for the variance request. As for the house, the plans are to design it in congruency with the neighborhood aesthetic. He also said that the rear setback for the house would be in general conformance with the neighborhood. He said his primary concern was sight triangles. He took a look at that and after reviewing it there was no issue.

Mr. Madigan asked if the City has received any negative feedback on this item. Mr. Jacobson said when he met with neighbors they were concerned about the impact on the neighborhood but after sharing the plans with them they seemed to have most questions answered.

Mr. Madigan said anyone wanting to speak in favor to please stand and speak.

Said she owned the property directly behind this parcel. If they were to put the house where it was supposed to go it would be seven feet from their fence and so she is in favor of the variance.

Daniel Cooper, the would-be homeowner said he just came from Houston and is committed to living in the home for the long-term. He said it would be a good-looking home that would be a part of the

community.

The architect who designed the home said they would be using materials that are consistent with the neighborhood and that it would add value to the City.

Mr. Madigan closed the public hearing and began board deliberation.

Mr. Madigan asked Mr. Mauer if they have to vote on each criteria separately or if they can be voted on all together. Mr. Mauer said it only needed to be one motion for all items.

MOTION: MS. GLEASON MOVED AND MS. CRAIG SECONDED TO APPROVE THE VARIANCE REQUEST. (MOTION PASSED 4-0)

BZA 2017-03	Madigan	Craig	Gleason	Baughner
Uniqueness	Y	Y	Y	Y
Effect adjacent property	Y	Y	Y	Y
Would it create a hardship to applicant?	Y	Y	Y	Y
Public interest	Y	Y	Y	Y
Spirit and intent of the law	Y	Y	Y	Y

Ms. Craig asked if there needed to be any conditions due to the sight-lines if anything were to change.

Mr. Jacobson said he didn't think that would be necessary.

Mr. Madigan said the variance was approved with no conditions.

II. Discuss BZA Board By-Laws

Mr. Madigan asked if everyone had an opportunity to read the proposed by-laws. Mr. Madigan said there was one point where draft minutes should be available and he said he would like to ask staff what's reasonable. Ms. Jones-Lacy asked for clarification. Mr. Madigan said there have been times in the past where it's taken 9 months to a year to get minutes. Mr. Jacobson said 30-45 days should be more than enough time.

Ms. Jones-Lacy asked if the Board wanted to put that time frame in the by-laws or just have it as a practice.

Mr. Madigan asked if 60 days was okay with the board. Everyone concurred.

Ms. Jones-Lacy asked about section 5 of the bylaws which stated that notifications should be a distance of 200 feet. The City code currently states that the notification must go out 100 feet. If the bylaws are changed they would be in conflict with the city code. That could be changed.

Mr. Jacobson said most general notifications are 200 feet.

Ms. Jones-Lacy said that it would need to be changed with the Planning Commission and Council and she said she thinks 100 feet is sufficient.

Ms. Gleason said notifying for 100 ft means you still notify 10 people and its still posted in the paper.

Mr. Madigan said he had two instances where neighbors contacted him and said they were never notified about the meeting. In each case they were next door to the homeowner requesting the variance.

Ms. Craig said that's another issue.

Mr. Madigan said to change it to 100 feet.

Ms. Craig asked if there should be a timeline for how far in advance applicants need to contact him to get a meeting schedule.

Mr. Jacobson said that's dependent on the Board's schedule and it's important not to get too specific in the bylaws so as not to paint yourselves into a corner on what must be done.

Mr. Madigan said the bylaws will help provide the Board with direction on operations.

Ms. Craig said she also wanted to point out that the bylaws require a simple majority of those present to make changes to the bylaws. If there are only three people present at the meeting that would mean two people could change the bylaws.

Mr. Mauer if said if you wanted to adjust that just take out the words "of those present" at any meeting and make the statement say that changes to the bylaws require a simple majority of the Board then it would take three of five.

The Board agreed to remove that language of the proposed bylaws so that the bylaws require a majority of the Board to make changes.

Mr. Madigan said he will be a Council member and so his BZA seat will be vacant. Ms. Jones-Lacy said that prior to that change taking place we'll put the notice on our website and seek out applicants for the position.

Mr. Madigan said that the BZA is a group of common sense people and in the past the Board has approved some things that it perhaps shouldn't have but tonight were two good examples of folks that deserved variances. He also said that John Jacobson has a lot of experience and he's someone the Board can ask questions of and get answers.

MOTION: MR. BAUGHER MOVED AND MS. CRAIG SECONDED TO APPROVE THE BYLAWS AS AMENED. (MOTION PASSED 4-0).

MOTION: MS. GLEASON MOVED AND MS. CRAIG SECONDED TO ADJOURN THE MEETING.
(MOTION PASSED 4-0).