

CITY OF WHITEFISH

BOARD OF ADJUSTMENT

Date: Tuesday, January 5, 2021

Place: Via Webex (online)

Recorded By: Dabney Langellier

Members Present:

Mike Kelley

Joe Courtney

Jeff Fisher

Ian Hasson

Doug Peppmeier

Scott Wurster

Parker Kelly

Members Absent: None

Staff Present: Wendy Compton-Ring

A. CALL TO ORDER & ROLL CALL

Summary: Vice-Chair Mike Kelley called the meeting to order at 6:00pm.

Mike Kelley offered kind words to honor and remember Herb Peschel, the Board Chair who passed away last year. He will be missed.

B. BOARD OF ADJUSTMENT APPOINTMENTS

1. SELECTION OF BOARD OF ADJUSTMENT CHAIR

ACTION: Doug Peppmeier made a motion to nominate Mike Kelley as the Board Chair. Ian Hasson seconded the motion and all were in favor. The motion passed unanimously.

2. SELECTION OF BOARD OF ADJUSTMENT VICE-CHAIR

ACTION: Mike Kelley made a motion to nominate Doug Peppmeier as the Board Vice-Chair. Ian Hasson seconded the motion and all were in favor. The motion passed unanimously.

C. APPROVAL OF JANUARY 7, 2020 MINUTES

Summary: Members reviewed the minutes of January 7, 2020.

ACTION: Doug Peppmeier made a motion to approve the Minutes of January 7, 2020. Mike Kelley seconded and all were in favor. The motion passed unanimously.

D. COMMUNICATION FROM THE PUBLIC

Summary: None

E. OLD BUSINESS

Summary: None

F. PUBLIC HEARINGS

1. WZV 20-01 – GREG & ERIN CHAPMAN

Summary: A variance request by Greg and Erin Chapman to the side yard setback in order to construct a new home on an unaddressed lot on Houston Drive located at Tracts 35AEA, 23A, and 22AC in S23 T31N R22W.

Wendy summarized her staff report for members noting a couple of key points:

- The variance request is a reduction of the side yard setback from 15-feet to 10-feet. All other zoning development standards for the property will be met.

- In 2017, the neighborhood where this property is located was annexed, as it was wholly surrounded.
- In 2018, the property was rezoned from a Flathead County zoning designation to a comparable Whitefish zoning district. The prior County zoning of R-1 (Suburban Residential) allowed nonconforming lots (minimum lot size of 1 acre and 150-foot width) to be eligible for a 10-foot side yard setback. The rezone of WSR (Whitefish Suburban Residential) in 2018 requires a minimum lot area of 1 acre and width of 130-feet with a side yard setback of 15-feet. There is no provision to reduce the side yard setback for nonconforming lots.
- This lot is a legal nonconforming lot at 0.38 acres and 68-feet wide.
- Should this lot retain the 15-foot side yard setback, there are 38-feet remaining for the building envelope. Nearly half the lot is made up of side setbacks under the current zoning.
- Most of the homes in the neighborhood, including the homes immediately adjacent, were built prior to the City zoning and have a 10-foot side yard setback.
- The hardship is the result to lot size, area, and width. This hardship is not peculiar to this applicant's property, but to many of the lots in this neighborhood.
- The applicant is showing the request is the minimum needed to alleviate the hardship. No other encroachments are requested.
- This variance request does not confer a special privilege to the applicant as a number of the homes in the neighborhood have a 10-foot setback or less.
- No comments in opposition to the proposal have been received. However, a number of neighbors are in attendance this evening.

Recommendation: Staff recommends the Board approve the variance with the two conditions listed in the report.

Members discussed the following items:

- Although most of the lots in the neighborhood are nonconforming to WSR zoning regulations, this was chosen to maintain the character of the neighborhood.
- There are a number of undeveloped lots in this neighborhood. The Board's decision is not precedent setting. Each applicant would need to come forward with a variance request.
- With current zoning, the lot would need to be 130-feet wide, not 68-feet, to be considered conforming.

Greg Chapman, the applicant, was in attendance with his attorney, Brian Joos. They spoke briefly in regards to the variance request:

- The owner wants the opportunity to build something similar to what the other neighbors have constructed and maintain the character of the neighborhood. If half of the lot is taken up by setbacks, the structure will have to be a garage forward design.
- When the neighborhood was annexed into the City and the lots were rezoned, it was suggested that each owner should apply for a variance to the side yard setbacks.

Members discussed the following items:

- The variance request is for the building envelope only, not the entire lot. The owner intends to build a single-family home.
- The owners purchased the property this year and were aware of the setbacks at that time. In addition, the owners notified the adjacent neighbors of their desire to develop the lot with a 10-foot setback.

Community members commented on the variance application:

- Laura Niers, the property owner to the East – Laura is in opposition to the reduced setback. More space between the residences is preferred, not less. Laura's permanent residence is in Canada and due to COVID, she has been unable to get down to walk the property to see what

the Chapmans are requesting and how it may affect her home next door. In addition, she did not receive a notice about this public hearing. She only learned of it today from someone else and would like more time to prepare.

- Mike Talbot, the property owner across the street – Mike received his notice just last night and has concerns about the notification process.
- Brad Bulkley, 2124 Houston Dr – Brad never received a notification. He only heard about the public hearing from a neighbor. Brad is in opposition to the variance request.

Members discussed the following items:

- Members reviewed the map of the neighboring properties that were mailed a notification of the variance request and public hearing. The City receives a certified list from Flathead County for all properties within 150-feet of the Chapman’s property. The notifications were mailed on December 11, 2020 ten days earlier than required by the regulations. In addition, a legal notice was put in the Daily Interlake on December 20 and 21, 2020 and information was placed on the City's webpage.
- Joe Courtney requested the mailing list be included in the packet for future applications. Staff will check with the city attorney that this information needs to be in the packet.
- A motion must be made by the Board within 60 days or the application will go thru automatically. Sixty days from the date of the application is January 19, 2021.
- If the Board makes a motion to table the variance request, the applicant will need to agree to extend this timeframe.
- Board members expressed concern about making a decision since a number of neighbors did not receive a notification due to the mail service.

The Board agreed to take a 3-minute recess, so Greg Chapman and Brian Joos could discuss the matter privately.

Greg Chapman stated he has followed all the rules and regulations and just wants to be a good neighbor. He will consent to tabling the variance request if the Board wishes to do so.

ACTION: Scott Wurster made a motion to table the variance application WZV 20-01 until the next meeting on February 2, 2021. Ian Hasson seconded the motion and all were in favor. The motion passed unanimously.

G. NEW BUSINESS

Summary: None.

H. GOOD AND WELFARE

1. MATTERS FROM BOARD

Summary: None.

2. MATTERS FROM STAFF

Summary: No other applications have been submitted at this time. However, the Board will meet again on February 2nd to review the Chapman application once again.

I. ADJOURNMENT

Summary: The meeting adjourned at 7:00 pm.