

CITY OF WHITEFISH

BOARD OF ADJUSTMENT

Date: Tuesday, February 2, 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, Senior Planner

A. CALL TO ORDER & ROLL CALL

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

B. APPROVAL OF JANUARY 5, 2021 MINUTES

Summary: Members reviewed the minutes of January 5, 2021.

ACTION: Joe Courtney made a motion to approve the Minutes of January 7, 2021. Ian Hasson seconded and all were in favor. The motion passed unanimously.

C. COMMUNICATION FROM THE PUBLIC

Summary: None

D. OLD BUSINESS

Summary: None

E. PUBLIC HEARINGS

1. WZV 20-01 – GREG & ERIN CHAPMAN

Summary: Continuation from January 5, 2021 Board of Adjustment meeting. 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 provided a brief summary of the application and updates since last month's meeting:

- After reviewing the application at the last meeting, the Board made the motion to table the item due to the delays with the Post Office and neighbors not receiving the notice.
- Staff placed another legal notice in the Whitefish Pilot and an additional notice went out to adjacent landowners.
- The applicant provided an updated and more detailed site plan along with additional comments on the application.
- Additional comments were received from the public.

Recommendation: Staff is still recommending the Board approve the variance with the two conditions listed in the report.

Members discussed the following items with staff and the applicant:

- Many of the homes in this neighborhood are older than 2018 when the zoning changed.

- If the variance is not approved, the applicant will have to meet the current setbacks, which will restrict them to a 38-foot building width. The applicant will still be able to construct a home with this width.

Mike Kelley reiterated it is the Board members' responsibility to do their due diligence. Staff provides information and a recommendation for members to consider. However, the Board makes their own decision.

Greg Chapman, the applicant, and his attorney, Brian Joos, spoke to the Board about the following items:

- Strict compliance to the zoning setbacks will limit the use and therefore demonstrates there is a limitation.
- The property's 68-foot width, as opposed to the 130-foot minimum required in this zone, makes this lot peculiar. This lot was created in 1935, prior to the current zoning regulations, and as a result is half the size of the required lot size minimum.
- This request cannot be addressed without looking at the neighboring properties and the neighborhood in general.
- If this variance request were approved, this would not be precedent setting, as variance requests are determined on an individual basis.
- A variance is part of the zoning regulation process and this is a non-conforming lot.
- The Board is in a difficult situation because no matter what the decision, someone will be disappointed. Hopefully, the Board will look at these nine criteria and go with the staff recommendation of approval.
- The applicant wants to build a home that does not stick out and conforms with the rest of the neighborhood.

Members discussed the following items with the applicant and his attorney:

- The neighbors to the east, the Moore's, did not submit a comment, but they do not have an objection to the variance request.
- The Chapman's purchased the property from the Moore's.
- A boundary line adjustment between the Moore's to the east and the property in question would not be an option due to the existing structures on the Moore's property. Their structures are too close for a boundary line adjustment to be possible.

Community members commented on the variance application:

- Brad Buckley from 2124 Houston Drive thanked board members for taking the time to visit the property. The Buckley's are still in opposition to the to the variance request. If approved this may diminish the value of Niers' property and that of the neighborhood, as well.
- Laura Niers from the property directly to the west still objects to the variance request. The proposed structure will run the full length of the property and with the reduced setbacks will be very close to the Niers' existing structures. A detached garage might afford the Chapman's some alternative design options.
- Ben Cavin from 2130 Houston Drive is in opposition to the variance request. Mr. Cavin has a narrow lot and his home is roughly 34 feet wide. There are number of lots and existing structures like this in the neighborhood.
- Mike Talbott from 2125 Houston Drive is in opposition to the variance request. When the neighborhood annexed into the City in 2017, the neighborhood was afforded the protections of City zoning. Therefore, Mr. Talbott is hoping the Board will stick to the required zoning for the neighborhood.

ACTION: Doug Peppmeier made a motion to deny variance application WZV 20-01. Joe Courtney seconded the motion for denial and all were in favor. The motion passed unanimously. Variance request WZV 20-01 is denied.

Doug Peppmeier spoke to his reason for denial noted the following Findings of Fact:

- The lot was purchased after annexation into City limits and the applicant was aware of the setback restrictions on this lot prior to purchase.
- Criteria #1, the applicant will still be able to construct a home on the lot. In addition, there are other lots with similar dimensions that have utilized their property. Therefore, strict compliance will not limit reasonable use of the property.
- Criteria #6, this will affect the neighboring properties, as the neighbors have vocalized.
- Criteria #8, this variance will confer a special privilege. The homes noted with reduced setbacks were built based on the zoning that was in place at that time.

F. NEW BUSINESS

Summary: None.

G. GOOD AND WELFARE

1. MATTERS FROM BOARD

Summary: None.

2. MATTERS FROM STAFF

Summary: There will be another Board of Adjustment meeting on March 2nd. Please let staff know if you are unable to attend.

Board members are encouraged to ask questions of the City staff, who are here to assist them.

H. ADJOURNMENT

Summary: The meeting adjourned at 6:52 pm.