

**BOARD OF ZONING APPEALS  
MEETING**

**July 22, 2020**

The regular monthly meeting of the Oregon Board of Zoning Appeals was called to order in the Oregon Municipal building by Chairman Bill Reed. Other members present included David Andrus, Ron Vuketich and Dave Golis. Member Michael Rowe was absent. Also present were Building and Zoning Commissioner James Gilmore, Inspector Mark P. Kelly, and Acting Secretary Alex Schultz.

The meeting was called to order at 5:12 p.m.

Mr. Golis moved to accept the June 24, 2020 regular meeting minutes as submitted. Seconded by Mr. Vuketich. All members were in favor.

Chairman Reed informed the applicants they are a Board of five members, and they would need (3) yes votes or more for their waiver to be approved. Since there were only four members present, they had the option of having their variances heard tonight or postponing until next month's meeting. All applicants chose to proceed.

The following items were on the agenda:

W-1648-20 Waiver of Ord. 182-2006; Section 1155.01(a)(c) relating to accessory buildings. The location is 5418 Bay Shore Road. The applicants/owners are Sue & Mike Rable.

Mr. Schultz stated before the meeting gets started, he would like to remind everyone that waiver W-1648-20 has been withdrawn by the applicant.

W-1646-20 Waiver of Ord. 182-2006; Section 1155.01(c) relating to accessory buildings. The location is 5049 Merlot Drive. The applicants/owners are Joel & Tammie Tegtmeier.

Joel Tegtmeier stated he would like to build a shed, or accessory building, that is going to be three feet from the property line and will not be in the rear. From his estimation it leaves three feet from the neighbor's property line but from where the building sets it is supposedly two feet. It is going to be beside his existing residence.

Mr. Vuketich said his print shows four feet from the property line and three feet from his existing house.

Mr. Tegtmeier stated when he drew them up that was his estimation.

Mr. Gilmore said there was a survey of the original house and deferred to Mark Kelly, who worked up the measurements, to speak on what he feels the setbacks will be on the side yard and away from the house.

Mr. Kelly stated based on the original site plan of the property it only showed a certain distance and it exceeded it from what he had originally proposed. So,

based on that, he determined it was approximately two feet from the property line and about a foot from the house.

Mr. Golis stated the survey from Mr. Oravec says thirteen feet and asked if this was correct.

Mr. Kelly responded yes; thirteen feet is what it originally showed.

Mr. Golis said that left five feet right, thirteen feet minus eight feet leaves five feet.

Mr. Kelly confirmed the shed is eight foot and then we have three foot from the house.

Mr. Golis clarified that it was three feet from the house and two feet to the property line.

Mr. Tegtmeier stated it could go the other way if they prefer, three feet from the property line and two from the house.

Chairman Reed said there are a couple of different items here. The rear yard is one of them and the proximity to the house is the other. He then asked if the two foot on the property line is also in question.

Mr. Gilmore answered yes.

Chairman Reed asked how close you can put a shed to the property line.

Mr. Gilmore replied you can put a shed three foot from the property line and in today's world you have to be ten feet from the house. But our new proposal that is going in front of Council now allows you to be three feet from the house.

Chairman Reed stated so that is three feet from the house and three feet from the property line.

Mr. Gilmore answered that is right. So, even with the change in code it still would need a one-foot variance.

Chairman Reed asked if the new code change is still going to require rear yard only, or are they addressing that issue also.

Mr. Gilmore stated it is still going to remain rear yard only. But with the new code when you are within five feet of the house you would have to have ½-inch drywall on any portion that falls within that five feet of the house.

Chairman Reed asked the applicant what the main reason is he would not want to move it further back into the rear yard.

Mr. Tegtmeier responded he has plans to put a pool in the back yard.

Chairman Reed asked if there were any other questions from the Board or if there was anyone else there to speak for or against the matter. There were none.

Mr. Vuketich made a motion to approve W-1646-20 to allow the shed in the side yard only. Seconded by Mr. Andrus. All members voted in favor. Variance granted by a vote of 4-0.

Chairman Reed then made a motion to approve W-1646-20 to keep the shed three feet from the property line and two feet from the house with 5/8-inch drywall on the wall facing the side of the house. Mr. Vuketich seconded. All members voted in favor. Variance granted by a vote of 4-0.

W-1647-20 Waiver of Ord. 269-2001; Section 1133.02 relating to building setbacks. The location is 3458 Navarre Avenue. The applicant is Rodney Gyurke for owner Karly Rane Properties.

Rodney Gyurke, owner of Oregon Insurance and Crimson Renee hair salon on the corner of Navarre Avenue and Athens Road, stated they would like to put an addition onto the side of the building. There is already an addition on the back of the building and they would like to extend that addition along the back and also bring it out into the side yard so they can add three more offices on the side of the building that will be about 12 feet by 12 feet each. The building addition will have approximately a 25-foot 4-inch front yard building setback, which is approximately 4 feet 8 inches from the required 30-foot front yard building setback. He has gone to both the neighbor behind the funeral home as well as the neighbors right behind the property and has signed letters from both stating they are okay with it. By them pulling out 12 feet and adding the offices will put the end of their building right in line with the homes down Athens Road.

Chairman Rowe asked if there were any questions from the Board or if there was anyone there to speak for or against the matter. There were none.

Mr. Andrus made a motion to approve W-1647-20. Seconded by Mr. Andrus. All members were in favor. Variance was granted by a vote of 4-0.

W-1649-20 Waiver of Ord. 059-2011; Section 1165.01 relating to flood plain. The location is 2054 Driftwood Lane. The applicant/owner is Jonathan Niese.

Eric Hoffman of Hoffman Builders came forward on behalf of the applicant and stated after the house was demolished, they discovered there was brick, rubble, and bottles underneath some of the excavation. So instead of a six-foot crawl wall they ended up having to dig an eight-foot full wall. At that time, they dug it all out and instead of filling it back up with five feet of stone they wanted to try and see if they could get it passed to get a basement. Also, FEMA had come out and redid the flood plain. It is in the process; it just has not been accepted. So, they are asking for a six-month variance to allow that to happen and then they will come back and resubmit.

Mr. Gilmore clarified that we have a preliminary mapping from FEMA that shows this particular property coming out of the flood plain. Now that

preliminary mapping was supposed to be approved almost a year ago and it never has happened. As Eric said, they had to excavate quite deeply and felt that the elevation would change, so they hated to fill it in because they wanted a basement. So fast forward here we are, and they are ready to occupy it. After speaking to Melissa Purpura, the City's law director, and asking what our options were, she suggested we come to the Board of Zoning Appeals because that is the appeal process for the flood plain. It is not a zoning issue so much as a flood plan issue and she said this Board would have the authority to extend that. At this time Mr. Gilmore confirmed that the applicant was actually requesting a two-year variance as stated on their application. He added that if it has not changed in two years, he believes they are just going to have to fill it in. He also wanted the applicant to understand that if they apply for flood insurance, he doubts FEMA would be grant it.

Chairman Reed questioned the status of the crawl/basement now and asked if the floor has been poured.

Mr. Hoffman replied that was correct.

Mr. Andrus asked if the foundation had vents and everything else in case there is a flood.

Mr. Gilmore stated there are no flood gates.

Mr. Golis asked if it was designed to account for the hydrostatic pressure that could come from flooding.

Mr. Hoffman answered that supposedly the architect had said there are no issues because they have had a sump croc down there for some time and there has not been a drop of water.

Mr. Golis asked if the utilities are all elevated above base flood elevation.

Mr. Gilmore responded yes; they are.

Chairman Reed asked if it was a nine-foot basement.

Mr. Hoffman stated it is eight-foot.

Chairman Reed asked how thick the walls were.

Mr. Hoffman replied they are ten-inch walls.

Mr. Golis asked if they were reinforced.

Mr. Hoffman responded yes.

Mr. Golis stated there was a Technical Bulletin they put out that requires an architect to verify that it meets certain criteria, and he would recommend that to the Building Department.

Mr. Gilmore stated it is Technical Bulletin 10-1, and they could make that part of their motion. It basically requires an engineer's or architect's stamp that says that it will withstand the pressures that may be put upon it by flooding.

Chairman Reed asked if there were any other questions from the Board or if there was anyone there to speak for or against the matter. There were none.

Mr. Golis made a motion to approve W-1649-20 to allow the lowest floor elevation to be below the base flood elevation for a period of two years with the condition that a design professional demonstrate the foundation walls are capable to withstand the hydrostatic pressures in accordance with FEMA Technical Bulletin 10-1 and if FEMA fails to approve the maps the space be filled up to the base flood elevation. Seconded by Mr. Andrus. All members were in favor. Variance was granted by a vote of 4-0.

W-1650-20 Waiver of Ord. 182-2006; Section 1155.01(c) relating to accessory buildings. The location is 2043 Lakeview Avenue. The applicant/owner is Martin Zak.

Martin Zak stated where they are located the lots were originally 40-foot by 80-foot lots. So, even to build the house that they are now living in, which was three lots being 120 feet wide by 80 feet deep, they had to get a variance for that home. Then to put an accessory building in they would be in the lake. He is asking to be able to build a garage. Referring the overhead, he stated there was a picture of the house that they live in to the right and then the two cottages that are next to it going down to the south. If he removes those buildings and takes those two 40 foot by 80 foot lots and combines them to have 80 feet by 80 feet and then combines that to make one parcel along with the home that they live in, which would make five lots across or 200 feet by 80 feet and then he would put the accessory building in the side yard if that is acceptable. He then showed a picture of the garage he wants to put there.

Chairman Reed said going back to the original house placement there was no rear yard setback and asked if that was according to code or subdivision by-laws.

Mr. Gilmore stated he believes his backyard really extends partially into the lake; so that is his rear yard. He commented that he would be allowed to extend his house as far as he has that proposed garage if he wanted to. He needs five feet on one side and eight on the other and he has five feet on one side and then 23 feet on the other. So, if he were to even build a separate house he could do it here, or if he combines the lots he could extend his original house all the way to where the proposed garage is five feet away from the property line.

Chairman Reed indicated that on most outbuildings there is a maximum footage compared to the overall size of your yard and stated this pretty much takes up the entire yard.

Mr. Gilmore said that is true; but the back yard is still there it is just part of the water. He stated further that the percentage is 30% of your rear yard and this is

the side yard. But he wanted the Board to understand that the footprint of the house could be as large as this whole thing.

Chairman Reed added that even in the side yard, it is more than the 30% of the area allowed.

Mr. Gilmore confirmed that yes; currently it would be.

Chairman Reed asked if that is also an issue in front of them.

Mr. Gilmore answered no; because it is not located in the rear of the property and the code specifically says rear yard.

Chairman Reed asked what about height.

Mr. Gilmore replied they checked the height and the mean height is 20 feet.

Chairman Reed asked if there were any other questions from the Board or if there was anyone there to speak for or against the matter. There were none.

Mr. Andrus made a motion to approve W-1650-20. Seconded by Mr. Vuketich. All members were in favor. Variance was granted by a vote of 4-0.

W-1651-20     Appealing Ord. 269-2001; Section 1159.03(c)(h) relating to home occupations. The location is 10 Drake Boulevard. The applicant/owner is Heather Tscherne.

Heather Tscherne introduced herself and her husband, Brett and thanked the Board for allowing them to speak tonight. She stated she has her Independent Contractor's License as well as her Managing Cosmetology License. They decided it would make financial sense to add a salon into the build of their new home. They worked with an architect and followed all of state board of cosmetology's rules and regulations. They then applied for their home's permit that included the salon, which was accepted. They assumed if any questions arose at that point they would be addressed at that time by the city; so, they proceeded. They have followed all of state board's regulations for an in-home salon, that includes a separate entrance apart from the main entry into their home, a private bathroom unattached from the main living space, as well as a ventilation fan that meets state board requirements. She is also obligated to follow all the sanitation standards set forth by the board including closing her doors in the case of a state-wide shut down due to Covid-19 and will be inspected by the board regularly. She is a single stylist working in her salon. No other stylists will be working at any point within her salon. She works part-time hours while her husband is home from work and only four days a week. She does not double book her clients, meaning it strictly will be herself and a single patron within her business. No sign will be displayed outside of her home to promote her business. Their driveway is large enough to accommodate her client's parking there and therefore never be parking in the street obstructing traffic. On average, she has 2-3 clients per day, and they will be parked for an extended time receiving their services. No extra traffic will be coming into their neighborhood or at least no more than the average household brings in. They are also the first home within the Drake; therefore, no

added traffic will be driving past any other household. She recently went door-to-door to her direct neighbors' homes explaining her situation and what her business entails. Every door she knocked on was willing to sign her paper in favor of her salon. She has eight signatures. In closing, she hopes everyone will consider these points when making their decision and she hoped "Hair by Heather" will be open soon and she will be happy to answer any questions.

Mr. Gilmore stated there was an application for a home occupation that was presented to him and the Board has a list of the items that he is to consider if he is going to approve it administratively. The item that he got hung up on was the extra traffic that may be generated by having this particular type of commercial business in a house. So, on that fact alone he thought it would be prudent for the Board of Zoning Appeals to make that decision. And the Board of Zoning Appeal can put extra provisions on this to safeguard the current neighborhood. From a zoning point of view that in a residential district people have the expectation that there will be no visible commercial operation going on. So, the Board should keep that in mind and put in whatever safeguards, if any, providing they are ready to approve it.

Mr. Golis asked Mr. Gilmore if they make a motion that includes some additional restrictions does that give his Department the authority to enforce those as the zoning official.

Mr. Gilmore responded that was correct.

Chairman Reed asked if there were any other questions from the Board or if there was anyone there to speak for or against the matter.

Dwayne Haskell stated he is a member of the community and lives in the Drake Subdivision and he is in support of this.

Mr. Golis made a motion to approve W-1651-20 with the conditions that there is a maximum of four customers per day and only one patron at a time, that there is no exterior signage advertising the business, and that the customer parks in the driveway and not the street. Seconded by Mr. Andrus. All members were in favor. Variance was granted by a vote of 4-0.

W-1652-20      Appealing Ord. 269-2001; Section(s) 1107.06(a) & 1103.02 & 1127.03 relating to accessory buildings. The location is 5760 Eagles Landing Drive. The applicant/owner is Chris Conley.

Chris Conley stated he and his wife are looking at adding a pool and a pool house structure directly behind their house. Their plans are to build a two-story structure with the top story having a small living space for family and guests. It would not be a permanent residence to any one person. The only variance they are seeking today is to have a separate dwelling on their established residence space. They plan to fully cooperate with all the other building and zoning requirements including the three foot around the back end and the side of the property and ten feet spacing from the house. Referring to the AREIS overview, he added that they also own lot 105, in addition to lot 104, and can fill out the

proper combination forms if needed. He also mentioned that they would follow all the HOA and deed restrictions as far as the exterior of the way the existing building looks. They would match all the current exterior construction of what they currently have. The first floor will essentially just be a double garage with space for the pool equipment and a small half bathroom. The upstairs will be a very small loft-style living space.

Mr. Golis stated you cannot have two living units in a property that is zoned for single family. He feels like a building addition would be a better route to go. He feels like it would fit the integrity of the neighborhood a little bit better and may even work out a little bit better form them because if their parents want to come and spend time with the children in the winter are they going to want to go back and forth through the snow or would it be easier if they had their own suite at the end of the house where they could walk out and see the children or also have a space to retire to and be separated from the family when it gets a little loud for them.

Mr. Gilmore added that if it is attached there is no rule on how many bathrooms, bedrooms, or how many kitchens you have.

Mr. Conley asked for the definition of attached.

Mr. Gilmore stated the way we have been interpreting it is that it has to have a roof structure that attaches it. It can be an open porch or a covered porch, but the roofs have to tie into each other.

Mr. Conley extended his variance request to next month.

With no further business the meeting adjourned at 6:22 p.m.

Alex Schultz,  
Acting Secretary