

MINUTES OF THE REGULAR PLANNING COMMISSION MEETING

**PLANNING COMMISSION/
BOARD OF ZONING APPEALS
December 18, 2007**

Commissioners Present: Cowman, L. Smith, Rhodes, Bonner

Commissioners Absent: McLean, Gage, Wrischnik

Others Present: Justin Givens, Amy Barenklau, Paul & Patsy Staley, Steve Hammonds, John Pinkerton

Item 1: Consider minutes from the November 20, 2007 meeting

Chair Cowman called the meeting to order with the first order of business the consideration of the minutes from the November 20, 2007 meeting.

Commissioners Rhodes and Bonner made a motion to approve the minutes as submitted, with all Commissioners voting in favor.

Item 3: Public Hearing – Consider an application for a variance on the maximum size of an accessory structure – 105 E. Piankishaw.

Commissioners Smith and Cowman made a motion to open the public hearing with all Commissioners voting in favor.

Planner Givens stated that the applicants, Paul & Patsy Staley, were in attendance then presented the staff brief. Paul and Patsy Staley of 105 E. Piankishaw have requested a variance from the maximum size of an accessory structure for a lot less than 12,000 sq. ft. The Staley's lot is a traditional 55 x 127.5 or 7012.5 sq. ft. Typically, lots these sizes are allowed a maximum size of 8.5% of the total lot area, which is slightly less than 600 sq. ft. The Staley's are proposing a 912 sq. ft. structure that will include a two-car garage at 576 sq. ft. with an additional 336 sq. ft. of workshop space. The combined total area of the house and accessory structure will be 2105 sq. ft. well within the maximum coverage limits of 70%

Analysis:

To approve a variance, the Board of Zoning Appeals shall apply the following standards with staff commentary included in *italics*:

- A. Under no conditions shall a variance permit a use that is not otherwise permitted in the district. The applicant shall be instructed to submit a zoning change request (Section

21.210) or a beneficial use appeal (Division 21.400), which are the only ways such a change of use may occur.

- B. Special circumstances or conditions exist peculiar to the land or building for which the variance is sought that do not apply generally to lots, land, or buildings in the neighborhood.
- C. The special circumstances and conditions have not resulted from any act of the applicant subsequent to this Ordinance's adoption.
- D. The special circumstances and conditions are such that strict application of this Ordinance's provisions would deprive the applicant of the reasonable use of the land or building.
- E. Granting the variance is necessary to relieve the applicant of an unnecessary hardship imposed by the regulations.
- F. The variance granted is the minimum necessary to relieve the unnecessary hardship and permit a reasonable use of the land.
- G. Granting the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed, and is otherwise not detrimental to the public welfare.
- H. Granting the variance is in harmony with this Ordinance's purposes and intent.
- I. Granting the variance is not inconsistent with the Comprehensive Plan.

Based upon the fact the applicant will meet all required setbacks and be below the maximum coverage requirement staff does not feel that the granting this variance would be a detriment. As accessory structures are allowed in this residential district, staff does not feel that granting this variance is harmful to the neighborhood or surrounding properties in terms of a decrease to property value or health and is in harmony with the intent of the LDO. Under the regulations in the LDO, the applicant would be allowed to build several structures up to a total of 1065 sq. ft. and remain within his setbacks and under the 70% maximum coverage.

Issue:

Does the Planning Commission wish to approve this Variance Application?

Actions:

Approve / Not Approve the Variance Application

Recommendation:

It is staffs recommendation that the Planning Commission approve the Variance

Planner Givens explained that if the proposed garage and workshop were separate buildings, they could be built without the variance. He indicated that he felt the intent of the LDO is to allow one accessory structure, not multiples.

Commissioner Rhodes confirmed that the structure would meet a 5-foot setback with Planner Givens.

Mr. Staley explained that the structure could have been smaller, but they felt they needed the extra room for storage.

There were no additional comments from those in attendance.

Commissioners Cowman and Rhodes made a motion to close the public hearing with all Commissioners voting in favor.

Planner Givens stated that Commissioners may want to consider addressing the number of accessory structures allowed in the future.

Commissioners Cowman and Bonner made a motion to approve the variance on the maximum size for an accessory structure at 105 East Piankishaw. All Commissioners voted in favor.

Item 2: Public Hearing – Consider an application for a variance from the minimum setbacks for an accessory structure at 27094 Hospital Drive.

Commissioners Smith and Cowman made a motion to open the public hearing. All Commissioners voted in favor.

Planner Givens stated that the applicant, Steve Hammonds was in attendance, then presented the staff brief. Steve Hammonds of 27094 Hospital Drive has submitted an application for a variance from the minimum setbacks for an accessory structure. Mr. Hammonds lives on a steep hill with several plateaus that he has used effectively for his house and a horse barn. Mr. Hammonds would now like to build a storage shed. The most logical place for this shed based on the topography of the property is the proposed location.

The LDO states that the minimum setback for side yards in the Estate District is 50'. Mr. Hammonds is proposing a shed that will setback 40+ feet from one side and 10 +/- from the closest neighbors property.

Analysis:

To approve a variance, the Board of Zoning Appeals shall apply the following standards with staff commentary included in *italics*:

- A. Under no conditions shall a variance permit a use that is not otherwise permitted in the district. The applicant shall be instructed to submit a zoning change request (Section

21.210) or a beneficial use appeal (Division 21.400), which are the only ways such a change of use may occur.

- B. Special circumstances or conditions exist peculiar to the land or building for which the variance is sought that do not apply generally to lots, land, or buildings in the neighborhood.
- C. The special circumstances and conditions have not resulted from any act of the applicant subsequent to this Ordinance's adoption.
- D. The special circumstances and conditions are such that strict application of this Ordinance's provisions would deprive the applicant of the reasonable use of the land or building.
- E. Granting the variance is necessary to relieve the applicant of an unnecessary hardship imposed by the regulations.
- F. The variance granted is the minimum necessary to relieve the unnecessary hardship and permit a reasonable use of the land.
- G. Granting the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed, and is otherwise not detrimental to the public welfare.
- H. Granting the variance is in harmony with this Ordinance's purposes and intent.
- I. Granting the variance is not inconsistent with the Comprehensive Plan.

Based on the steep terrain and other topographical issues including floodplain and gas and railroad easements, staff does not feel that this variance is unwarranted. Additionally, staff does not feel that the proposed location will harm the neighboring properties in terms of property value or health as the proposed structure will still be behind line of sight for the adjacent house. Because of these reasons staff feels that this variance application is with merit and would recommend its approval.

Issue:

Does the Planning Commission wish to approve this Variance Application?

Actions:

Approve / Not Approve the Variance Application

Recommendation:

It is staffs recommendation that the Planning Commission approve the Variance

There were no comments from those in attendance.

Commissioners Bonner and Cowman made a motion to close the public hearing, with all Commissioners voting in favor.

Commissioners Cowman and Rhodes made a motion to approve the variance in setbacks for an accessory structure at 27094 Hospital Drive. All Commissioners voted in favor.

Item 4: Items from Staff

Planner Givens presented the schedule for 2008 to the Commissioners.

An update on the Harshman's court case was given.

Item 5: Items from Commissioners

The Commissioners did not have any items at this time.

Item 7: Adjournment

Commissioners Cowman and Smith made a motion to adjourn with all Commissioners voting in favor.