



MINUTES OF THE ZONING & PLANNING BOARD OF APPEALS

**MONDAY, MAY 20, 2019, 5:30 PM
CITY HALL, ROOM 604 - THE HARRY MAIER ROOM**

A. ROLL CALL.

I. Members: Don Carlson - Chair, Gregory Babcock - Vice Chair, Tommy Everman, Noel Halvorsen and Jim Hutchison

Does anyone need to abstain from voting? Who was out to the property? Did you speak to anyone regarding this variance request?

Members present: Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, Excused:

Others present: Ald. John Vanderleest, Ald. Kathy Lefebvre and Ald. Veronica Corpus-Dax

All Board members stated no to going out to any properties or speaking to anyone regarding the variance requests. Jim Hutchison stated he may have to abstain from a request on the agenda.

B. APPROVAL OF THE AGENDA.

I. Approval of the agenda for the May 20, 2019, meeting of the Zoning & Planning Board of Appeals.

Don Carlson asked that Agenda Item E1 be moved up to the first item, followed by Agenda Item D9 at the request of Ald. John Vander Leest.

Moved by Tommy Everman, seconded by Gregory Babcock to approve the agenda as amended. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

C. APPROVAL OF MINUTES.

I. Approval of the minutes from the April 15, 2019, meeting of the Zoning & Planning Board of Appeals.

Moved by Tommy Everman, seconded by Jim Hutchison to approve the minutes. Motion carried.
Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

D. REGULAR BUSINESS.

I. Election of Chair and Vice-Chair of the Zoning & Planning Board of Appeals.

Moved by Tommy Everman, seconded by Jim Hutchison to nominate Don Carlson as Chair of the Zoning & Planning Board of Appeals. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

Moved by Tommy Everman, seconded by Don Carlson to nominate Gregory Babcock as Vice-Chair of the Zoning & Planning Board of Appeals. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

2. Romero Coleman, property owner, proposes to construct a shed in the rear yard of a property in a Low Density Residential (RI) District at 1337 Alpine Drive. The applicant requests to deviate from the following requirement, General Ordinance (GO) 28-91 highway setback (Ald. V. Corpus-Dax, District 2).

Moved by Noel Halvorsen, seconded by Gregory Babcock to hold over the agenda item to the next scheduled meeting. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

3. Eddie A. Martinez, property owner, proposes to expand an existing driveway in a Low Density Residential (RI) District at 1650 Fiesta Lane. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1709(a)(1), front yard setback (Ald. A. Nicholson, District 3).

Moved by Gregory Babcock, seconded by Jim Hutchison to grant the variance as requested. Motion carried.

Yes- Don Carlson, Gregory Babcock, Noel Halvorsen, Jim Hutchison, No- Tommy Everman, Abstain-

None

4. Jeff Zeise, on behalf of Dave Jones, property owner, proposes to construct a deck onto an existing principal dwelling in a Low Density Residential (R1) District at 831 Elmore Street. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-604, Table 6-2, side yard setback (Ald. R. Scannell, District 7).

Moved by Noel Halvorsen, seconded by Gregory Babcock to grant the variance as requested. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

5. Michelle Myers, property owner, proposes to relocate the existing driveway in a Low Density Residential (R1) District at 911 Rolling Green Drive. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1705(d)(2), residential driveways (Ald. J. Brunette, District 12).

Moved by Noel Halvorsen, seconded by Tommy Everman to grant the variance as requested. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Jim Hutchison, No- None, Abstain- None

6. Judy Dickinson, property owner, proposes to install a porch to a principal dwelling in a Low Density Residential (R1) District at 1930 Preble Avenue. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-604, Table 6-2, front yard setback (Ald. K. Lefebvre, District 6).

Moved by Noel Halvorsen, seconded by Tommy Everman to grant the variance as requested. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

7. Michelle Minikel and Brian Welsch, property owners, propose to construct a new detached garage in a Low Density Residential (R1) District at 1024 South Roosevelt Street. The applicants request to deviate from the following requirements in Chapter 13, Green Bay Zoning Code, Section 13-615, Table 6-4, side and rear yard setbacks and Section 13-609 maximum impervious surface (Ald. B. Galvin, District 4).

Jim Hutchison recused himself from this Agenda Item.

Moved by Tommy Everman, seconded by Noel Halvorsen to grant the variance as requested. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, No- None, Abstain- Jim Hutchison

8. Jon LeRoy, Mau & Associates, on behalf of Titledown Brewing, property owner, proposes to make site and parking improvements in a Planned Unit Development (PUD) at 200 Dousman Street. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1706(a), driveway width (Ald. R. Scannell, District 6).

Moved by Tommy Everman, seconded by Noel Halvorsen to grant the variance as requested. Motion carried.

Yes- Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

9. Dan Lequia and Debra Whiting, property owners, propose to expand an existing driveway in a Low Density Residential (R1) District at 142 Blithe Street. The applicants request to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1709(b)(1), side yard setback (Ald. J. VanderLeest, District 11).

Per the request of Ald. John Vander Leest, this item was moved to Agenda Item D2.

Moved by Tommy Everman, seconded by Member Noel Halvorsen to grant the variance as requested. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

10. Nicole Longhi, property owner, proposes to construct a porch onto an existing principal dwelling in a Low Density Residential (R1) District at 954 Mather Street. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-604, Table 6-2, side yard setback (Ald. R. Scannell, District 7).

Moved by Noel Halvorsen, seconded by Jim Hutchison to grant the variance as requested. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None, Abstain- None

E. INFORMATIONAL.

I. Reconsideration of a previously denied variance request at 621 Challenger Drive.

This was discussed by the Board. There was no action taken.

2. Discussion revisions to process and application to the Board of Appeals.

A discussion was had among Board members to update the BOA application and process. No action taken

F. ADJOURNMENT.

Moved by Board Member Noel Halvorsen, seconded by Board Member Jim Hutchison to adjourn.
Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Noel Halvorsen, Jim Hutchison, No- None,
Abstain- None

VERBATIM MINUTES

- Call to order. First off gentlemen, were any of you out to see the properties before us tonight?
- [Together] No.
- No one. Did you speak with anyone regarding the various requests before us tonight.
- [Together] No.
- And do you expect to abstain from voting on any of the issues tonight?
- I may abstain from one.
- Okay.
- No.
- Okay. Regarding the approval of the agenda, I'd like to mention a couple of items that we may want to consider. First of all, we do have this issue of a letter that Paul has shared with us regarding a previous decision that we've made. So I would propose we would put that first. We also have Alderman Vander Leest, would like to move up item number nine. So if you gentlemen all agree, we'll put that after that, and then we'll follow the rest of the agenda. So far so good?
- Sounds great.
- Great. What about the minutes from the last meeting?
- Can we get a motion for the agenda please.
- Yes, we can.
- I'll motion to approve the agenda items, moved things, is that--
- As amended.
- As amended, thank you.

- I'll second.
- Okay, it's been moved and seconded that we approve the agenda as amended, all in favor.
- [Together] Aye.
- Five zero. Now we can move onto the minutes from the last meeting, April 15th.
- Motion to approve the minutes.
- I second.
- Okay, we have a motion made and seconded to approve the minutes from the last meeting, all in favor.
- [Together] Aye.
- Five zero, all right. Let's go onto to regular business. First of all, Paul, do you want to discuss the fact that you have received a letter.
- I could, sure.
- And then we'll discuss whether we feel we want to take it any further than listening to you.
- Right, so it's an informational item. Let me just get down here a little bit. So we received a letter last month addressed to the Zoning Administrator and to the Board, to reconsider an item that was on the November 2018 agenda. That item was denied, 621 Challenger. I don't know if I have the graphic in here or not, but I wanted to share some language with you. I included some of that into your packet as well, the formal application, it was a fence issue, it had exceeded 50% of that side of the house, and the Board chose to deny that request. The applicant was here and spoke. They did not choose to pursue this at circuit court appeal process, as far as we know. We received a call a few months later from an attorney representing the applicant, inquiring about the process and all of a sudden received a letter asking for reconsideration. So the staff felt we should put this on, for your consideration, I guess. We couldn't stop them from appealing to the Board, so to speak, so it's an informational item for you to consider the reconsideration, I guess, of the appeal that was denied.
- Okay.
- So based on Chapter 13, your decisions are final. Based on State statute, if they don't appeal within 30 days, again, it's final. There's also case law that we looked at in the Board of Appeals handbook that you do not have to reconsider an item unless there's substantially new evidence that's presented. I didn't see any that was, so we were not going to support that reconsideration, but staff felt that we couldn't do that on our own, that was a consideration that the Board would have to acknowledge and address. I was in communication with the applicant today. She could not make it today, she had asked that it be held up, so she could appear in person to talk to the Board about that reconsideration. I can offer that to you, if you'd like to hold it to the next meeting, you certainly can, or I suppose you can act on it. And again, staff is not supporting that without seeing further evidence that was supplied.
- All right, okay, thanks. Your thoughts gentlemen?
- I concur with Paul's recommendation and not go any further with this, but, I am one of five.
- So what's up right now if we vote to not allow the recommendation, or vote to not consider it.

- It's simply an informational item, so it's not an action item necessarily.
- We don't need to take action, but since we've gone so far as to have an attorney's letter and a letter from Paul, I think some sort of action from us in light of the, at least implicit request to reconsider, should be made by us.
- If you were to consider reconsidering the item, and I don't know if you'd want to take them back through the application process, have them demonstrate the new evidence that they have, or may have, may or may not have, I guess. So it's just for direction from the Board to staff about how you want to pursue handling this.
- Yeah, and we do have this rule that we don't want to reconsider old decisions as a routine because we may get people coming back and coming back and coming back, and that's the basis for the old rule. As I say, I'm just one of the five, I would support Paul's recommendation.
- But in all fairness, I just let the applicant know last week that we were putting this on the agenda, the original applicant could not make it. He needs further notice because of work. The letter from the attorney, she could not make it tonight as well, so that's why she'd asked for it to be delayed, but again, that's a choice you'll have to make.
- Did the letter say that there was new information that fundamentally changes the situation?
- I did not see that, but I guess the applicant--
- Did they argue that?
- I think that's something the attorney would have to argue.
- But I mean, did the letter say it--
- I did include it.
- I don't have any interest in hearing it again.
- Yeah.
- There's no compelling reason. It was like, oh my gosh, I forgot to bring up this really critical thing while we were talking that would help you see the hardship.
- Yeah, I read the letter again, and I'm not seeing anything additional. It talks about, it's arguing what was argued.
- They just want another kick at the cat.
- I won't make a motion on this one, I would prefer it come from one of you guys.
- You could just receive and place on file, the request from him, you don't have to take any kind of formal action, because it's an informational item. I guess if you wanted to reconsider it, then you could redirect staff to contact the applicant, and proceed from there.
- Yeah, and if just we receive it and place it on file, then you can feel free to contact them and just say they didn't take any action on your request, right?

- Yeah, and then they'll escalate it from there, okay. Then I guess we won't take any action. Our action will be to take no action on the item as presented for us. Are we ready to move on?

- Yep.

- Yeah.

- All right, let's go to item number nine so that we can take care of the time restrictions of Alderman Vander Leest. Is Mr. Lequia and Ms. Whiting here?

- [Dan] Yes.

- [Debra] Yes.

- Could you come forward please, and make your case for why we should grant variance.

- [Dan] We have a driveway currently existing next to our home with, fairly close to the property line, and it's quite difficult in the winter time for visitors.

- You can sit down if you care to.

- [Dan] Okay, where, here or?

- Absolutely.

- [Dan] In the wintertime progresses, especially if they don't have a very small, like a small subcompact car, to get out with the snow and everything, it's a challenge also on the front sidewalk, right in the front of the house given the width.

- [Debra] I don't know if the, when we bought the house, it's the way it was, but I'm not sure if they've expanded something in the front, 'cause the driveway really goes in a strange way, there's a tree right there, and then the driveway comes and the garage is in the back. And so each time we come back out of one of the driveway on the side, it's also really hard to stay on the driveway, and end up going over and making mud and things like that. So besides the safety, for especially like older parents, and stuff like that in the winter, 'cause you just kind of go off the side of the driveway. And it's just.

- [Dan] So the expansion we're asking for, at it's maximum width is only 18 inches, and then tapering down to less than that.

- [Debra] Just in that, kind of that middle section, because that's where it's tightest. We don't want to go back to where the garage is at all. It's kind of a couple of feet in front, beyond the house, I guess, to start kind of like a bit of an oval.

- [Dan] It's difficult to see in the diagram, but there's a very narrow strip on that short side of the home, that's where it's 18 inches and then it tapers down to nothing at 18 feet towards the front, and only seven feet, or three and a half feet, seven feet towards the back.

- What I, either I wasn't paying attention, or I couldn't figure it out from your application, is how close to the property line, not the other house, but the property line do you propose to go?

- [Dan] Within a foot of our property line, and that would still be seven feet, four inches from their home.

- Okay, so the ordinance requires two and a half, and you want to take it from down to one.

- [Dan] Yes.
- [Debra] In that middle section.
- [Dan] In the middle section.
- In the closest part.
- [Dan] In the closest part.
- [Debra] Yeah.
- Do you have a back yard, a door in the back of your house, or is the only--
- [Dan] On the side, there's a door on the front of the house, and then on the side of the house.
- But not in the back.
- [Dan] Not in the back.
- So other than the front entrance, the only entrance to the house is through, on the driveway side.
- Right.
- Okay.
- [Dan] There's a patio of course, but that's locked, and it's not really accessible for us, especially in the winter.
- What does your neighbor think?
- [Dan] He's had no objections at all.
- [Debra] Yeah, he even asked me if we were going to do that, or whatever, that, it didn't bother him.
- It looked like the driveway was kind of broken out, did you propose to replace the--
- [Dan] That's what's triggering all this, is the desire to fix it, we want to just widen it a little bit next to the house so we can get in and out easier.
- [Debra] A new drive way, yeah.
- I'm sorry, can you help me understand what's the current distance at the choke point there, between the edge of the driveway and the property line right now.
- [Debra] Currently it's 30, it's two and a half feet right now. The driveway is right at--
- It's two and a half feet, so it's already not conforming right.
- It's okay.
- It's okay right now.

- It's already at the setback point now.
- It's right at the setback point, okay. So they want to go from two and a half feet down to 18 inches, or you're adding 18 inches?
- [Debra] Adding 18 inches.
- Okay.
- [Debra] Unless, if, I guess even a foot would help, if it seems like it's too much.
- Well you don't want to clip the house, right.
- [Dan] Well, that's happened.
- [Debra] Well, yeah, yeah.
- So the new concrete, at its closest part to the neighbor's home would still be seven feet, four inches, instead of eight feet, 10 inches.
- Okay.
- Yeah.
- Tommy or Greg, you want to pitch in, any questions?
- I think I get the gist of what is trying to happen.
- Okay.
- Mr. Alderman, did you care to comment?
- [John] I was out to this site and checked it, and I think if they just get that 18 inches, it'll help them a lot as far as when they back out, 'cause the driveway's right next to the house, and it doesn't look like it's going to be any problem for the existing property owner next door. It'll just make things a lot smoother as far as not hitting the house or whatever, when they're going in and out, and they'll stay on the driveway properly.
- Okay, thank you.
- But I was to the site, and it doesn't look like it is a problem to me.
- Okay, thank you. All right, if we have no further questions, we'll deliberate, so you guys can return to your seat. I think we understand what you're looking for.
- [Debra] Okay, thank you.
- Your thoughts gentlemen? This looks pretty easy.
- I don't know what else they could do.
- It's a very narrow line.
- Yeah.

- Yeah.
- And the house fits.
- And I don't know if--
- A car's width.
- Does it narrow back, geez, it seems like we've seen these a lot coming up.
- Yeah.
- I can certainly imagine opening a car door and falling off the edge the .
- Yeah, I think this fits within that kind of unique property line, property situation--
- Yeah.
- No where else to go.
- We see sometimes, and I think that constitutes that hardship that we look for sometimes, is the property, does it allow you to do normal things, that kind of--
- Yeah.
- Yeah.
- Which property is it Paul, that are--
- [Paul] Oh, sorry, it's this one right here. In the shadows is the garage.
- Yeah.
- Okay.
- Does everybody park to the--
- Yeah.
- But it's, the others have got some of the similar layout, but there's more side yard. This house is closer to the lot line on that side than the others are down the street, so they've kind of got it kind of built in. What's the actual current width of that driveway by the house, do we know that from these dimensions, I can't figure it out from what we're seeing here.
- [Dan] On that narrow side.
- Yeah, what is that current driveway width?
- It's gotta be eight feet or something.
- Yeah, it doesn't look real big, it doesn't look bigger than seven or eight feet, but.

- It says eight feet, 10 inches on the top right. Concrete curb is eight feet 10 inches from the neighbor's house.
- Well that's from the neighbor's house, what's the width of the driveway, as it is right now, that's what I'm trying.
- I believe it's nine feet.
- Nine feet wide.
- And then there's that the door there .
- You could really never park there because of the door swings.
- Yeah.
- Yeah.
- Yeah.
- That's kind of wonky.
- I don't need to be, I'll approve that.
- Yeah, I think we're in agreement.
- All right, motion to approve.
- Second.
- Okay we have a motion made, and seconded, to approve the variance as requested, for item number nine, house on Blithe Street. All in favor?
- [Together] Aye.
- Five zero, you're good.
- [Dan] Thank you very much.
- [Debra] Thank you.
- You're welcome.
- Very good information, I appreciate that.
- Okay, we can now revert to the original, is Mr. Coleman here?
- Are we doing one, under election.
- Yes, we, by, fiat of the Chairman, I think we'll move item one, I don't think expect the people here to find any enjoyment or entertainment in our election.
- Is that better, moving that, okay.

- Let's go with number two. If Mr. Coleman isn't here, we don't need to go any further.
- Move to table.
- Very well.
- Second.
- I can give you an update, actually. They've been really helpful.
- All right.
- So this was from the last meeting.
- Yeah this is the one from the--
- Where we were talking about the highway setback?
- 1337.
- The one with the strange highway.
- Yeah. All right, so here is the property in question, 1337, adjacent to I-43. The applicant wanted to construct a garage within a 50 foot setback. So the Board asked me to contact the DOT, and I did, and I talked to David Nielsen at the DOT office. This plat goes back to the early 2000s, and at that time a 50 foot setback was applied to that subdivision plat, so any new land division adjacent to a highway or a freeway receives that 50 foot setback, there's no questions asked about that. That's based under State Statute . So the setback was placed on the plat, and that allowed for still some buildable area for the principal dwelling, and there was actually a note placed on the plat at that time that no construction could occur in that 50 foot setback. So as staff, we placed it on the Board of Appeals' agenda because it was a dimensional issue. This is typically where those issues come. However, the Board does not have jurisdiction in this case. It's not in the Zoning Code. We do have the ordinance adopted, but it was more or less to put us on alert that any new land division should have that 50 foot setback when it's adjacent to a highway. So staff doesn't believe it's within the jurisdiction of the Board to even act on, it's more of a matter for Wisconsin DOT to enforce. So I think you could take some action, but I don't think you can approve or really even consider it.
- Really or even deny.
- We can't, I think what you're saying, Paul, correct me if I'm hearing your right, we can't say, oh yeah, we can grant a variance around the setback off the highway. But we could still act in other ways to grant a variance with other--
- That is true.
- Chapter 13 considerations, right?
- Sure, so knowing that there is a 50 foot setback that might be considered hardship in some sense, repositioning that building--
- To let them put it elsewhere.
- Right, right, so that's a good point. So I think the applicant--

- So he could still do that, and we in fact brought up issues like that ourselves when he was here, that he could have moved it, in which case he wouldn't need a variance.
- Right, right. So the original request as stated, really, is not within the jurisdiction of the Board.
- Yeah, so the real thing I was concerned about was whether this was in some way moot because of age and--
- It's a real thing.
- It's a real thing, and I appreciate, especially, us being told that we don't have jurisdiction anyway, so.
- But in this case, though, we should, I think we should ask staff to communicate with the petitioner and say, come back with an alternative that's outside that 50 foot setback, and then we'll hear it as though we're hearing it for the first time.
- Right, so he could submit a site plan that's compliant, right, with that setback and still meets all the other standards, or you could hold open the request, so to speak, in case he needs to do some other encroachment, I guess.
- Yeah, I don't think he had any other variance issues other than that 50 footer.
- Right.
- I know his guy next to him was building a bigger place or something. So, yeah, I guess we owe him that much that if he still needs a variance, we can hold the item open to not require him to coming back and paying another 75 bucks.
- Right, if you want to hold him for 30 days or something to that effect, and I'll communicate with him and see what he'd like to do. If not, it'll just lapse.
- Okay, so hold it until our next meeting.
- Yep, until I can communicate with him.
- So we need a motion.
- So moved.
- Second.
- Okay, it's moved and seconded that we move the Coleman variance request forward 30 days, to give him another 30 days if he requires a variance, to still pursue it. All in favor?
- Just--
- Go ahead.
- I was just going to say, when we say 30 days, we're really talking about the next meeting, in case it happens to fall 31 days, and then we're gonna go, sorry Fred, you're at 31 days.
- Good point. The next meeting, we should probably be more clear on this, since we do have meetings getting canceled, so.

- That's right.
- So that's the motion, until the next meeting.
- Yes.
- Next available meeting.
- That's what I heard.
- [Together] Aye.
- All right. Okay, Mr. Martinez, property on Fiesta Lane.
- [Jamie] I'm Jamie, and I'm his cousin, and I'm here on behalf of the applicants.
- Okay, all right.
- 1650 Fiesta?
- [Jamie] Right.
- [Paul] So it's located right here.
- [Jamie] That's right.
- Single family, principal dwelling, detached garage here. Here's a street view of the property. And I think the applicant's hoping to widen the driveway in the front setback, so in essence creating an expansion to the drive this way, to gain another parking spot. At least that's how it appears based on the aerial photo provided by the applicant.
- And a little widening along the left side of the driveway too.
- [Jamie] The left side, but I know it's two and a half feet from the property line. We don't want to encroach on that, so that was just part of the plan. But we're not asking for a variance.
- So you're not asking for a variance there.
- [Jamie] We're just asking for the variance for the right side, on the front setback.
- Okay.
- Yeah.
- And what is the case you can make for us regarding your need and why we should grant the variance.
- [Jamie] Well, the residents at this home is a couple. The husband's line of work requires him to have a lift truck and a dump trailer at all times which he utilizes every day, and it really clogs up that narrow driveway, it's a pretty long set up. The wife doesn't really feel either comfortable or competent enough to move that vehicle sometimes, so expanding the driveway to the right, that would be pretty much like her dedicated little area, she drives a Ford Edge, and that would alleviate her hardships in trying to get out and start her day, do what she has to do. It just would be a lot better for her, she wouldn't have to deal with that monstrosity of a vehicle that the husband has, so, it's pretty much for her more than anything. Sometimes, because the husband has a

personal vehicle sometimes, so if say the work truck is in back of her vehicle, she kind of gets stuck there if the husband's not around. So that's pretty much why we're here. And I know the City told me if the garage would have been attached to the house, you wouldn't need a variance. So I don't know, why it would be if the garage was detached it's considered two different circumstances.

- Sure, on single stall garages that are attached, you can widen eight feet either side of the garage door opening, provided you're not in front of the front door.

- Oh, okay.

- But that doesn't apply in this case as it's detached.

- I hear you saying the words, and I remember hearing it many times from the years I've been on here, but I never thought about it in that way, that it, the expansion that is implicitly allowed for a single stall garage could be applied in front of the house.

- Like the neighbors did there.

- So what is being contradicted here?

- It goes to that meaning--

- Right, so it's an encroachment in the front setback. So basically, a driveway has to lead back to a parking spot behind the setback line. And this is a parking area that's within a front setback area that's prohibited under the ordinance.

- Front setback, could you point to the front setback.

- Yep, so that would be the area between the principal dwelling and the right of way line here. This is considered the front yard setback. So this is an acceptable driveway 'cause it leads to a parking spot behind the setback here. The average building setback. The problem here is that that parking is in the front setback, it doesn't lead to another parking spot.

- Oh, okay, it doesn't lead directly, okay, got it.

- And is this widening proposal go to the extent of the front pedestrian entry door to the house?

- It does not.

- It would be just shy of that.

- A step shy of that.

- Okay, so could we go back to that aerial again, Paul. So, basically if they converted their, well, can we see the one where the expansion is, I'm sorry, that one, so basically if they converted their living room, or whatever that room is right there to a garage, they could pave this front yard setback and park there, right, that's what we're?

- They could.

- What if they put a little overhang walkway between the house and the garage, right? Possible ease-way kind of construction, I know that you, it has to be a bona fide, at least in the staff's opinion, a bona fide construction.

- Right.
- Right.
- Not just a tent or something similar.
- Correct.
- But that will only get him eight feet. He's asking for 12, but still, that's--
- The idea of the other ordinance to allow the widening is in many cases the driveway depth is not very great. So it allowed them to go horizontally, not vertically, to expand the driveway, so that's why that exception's built in because they came to the Board many times to get variances like that. So that's a built in exemption to do that widening. Here there is sufficient depth and parking in the garage to have stacking, and have parking. In other scenarios it's not, so.
- It's more about the vehicles that they're stacking in this case that's causing some concern.
- It's the juggling. Like the neighbor, they stack side by side.
- Well, and they're stacking deep too, you can see they're parking behind these vehicles too. Yeah, they're going two deep and two wide.
- Right, so that could be a case, I believe that's a single stall garage, I suppose they could in theory widen that.
- And it looks like they've gone all the way to the property line, whereas this is a little shy of it.
- Right. Our concern from staff is having parking in that front setback, we want to see the structure, the dwelling, not so much the parking in front of the principal dwelling.
- I understand that, but as Noel pointed out, if there was a--
- Yeah, but you've got a two by two parking lot on the property right next door. It's kind of tougher to say, no you've gotta tow the line.
- And there's no room in the back.
- Now if the garage were farther back in the lot you could maybe do the shuffle back there, but it's not the case.
- [Jamie] Yeah, we explored that possibility, but, like you said, it's not possible.
- You could lift up the whole garage and--
- And tear it down and build a new one.
- Walk it back about--
- And walk it back 15 feet, yeah.
- Any other questions for the applicant, gentlemen?

- Okay sir, thank you. I think we will debate amongst ourselves. If we have any questions we can ask you.
- [Jamie] Thank you.
- Thoughts, gentlemen.
- Did you see if there's any neighbors or Alders present, that might--
- Yes, is there anybody else that wishes to speak for or against the issue tonight, on this issue? Okay. I appreciate the argument made. I'm struggling with this notion that if that garage had been considered attached, that this would all be copacetic.
- Right, it's like that case that we had last week, it's like last time, if we put a box at the corner of the house, in the corner of the garage, to connect the two structures, then it's an attached garage, then you can go eight feet wider on the other side. And especially with what you've got right next door, it's one of those things where it's, I want to be consistent in holding these ordinances, but at the same time, I want to be mindful of what's actually happening on the ground too.
- Right. And that's my thought. There's a good reason, I think that the hardship has been explained.
- And it looks like the petitioner, Paul, you didn't make this map with the dimensions on it, and stuff like that, that came from the petitioner? The petitioner's pointing out that they're wanting to expand the one side and that they're going to stay within the setback on the side yard. They're noting specifically that this thing is not going to block the front entry door of the house, and there's a number of things that are showing that they've carefully analyzed this situation here, and they're trying to minimize their impact and their deviation from the rules here.
- Tommy, Greg?
- If the garage was farther back, I might have, but there's really nowhere else to go.
- Yeah, exactly, if the garage were farther back, we could conceivably argue otherwise.
- Yeah, pave a slab to the side of the garage, and deal with it that way, right.
- Yeah, my counterpoint, I'm most likely going to vote no. I think for me it's that the property itself, not the dwellings and the buildings. If there was a proposal to say, like, hey, we're gonna move the garage back, and then we can expand and do this and this and this. But I feel like we're solving problems for them, and to consider this proposal, right now, it's to consider as is, and to me, I don't see the hardship. I see a personal hardship, but again, I don't think that the actual property structure, as in the last one, where it was an issue, it's a thin slot, whatever, you know, the garage can get moved back and then you've got solutions and stuff like that. So it's a difficult situation, I don't feel great about it. Demolishing a garage and moving it back to solve a problem is expensive and everything, but for me.
- And it's a lot more expensive than paving out.
- Yeah, but I think that's what we always talk about, the decision we make live with the property, long term, not the people, and so for me, we make a decision here, it lives with that property forever, until someone decides to come and take it down, and then they have that exception already granted which means they can keep it forever. And so that to me is what I always try and consider. So, I'm a no.
- All right.

- But I might be one of four, you know.

- What are your thoughts, Greg?

- I'm okay with it. I mean, I wasn't thrilled about it being in front of the house, but it's not blocking the door.

- Right.

- You know, so that's kind of the garage aspect of it, where else do you go. And just looking at the neighborhood, the characteristics of the neighborhood, to me, is compelling too. You know, how the neighborhood is structured. So I'm okay with it.

- Well you look at 1647 across the street has got a detached garage in the back, but they've widened that driveway to almost double the width of the one we're talking about at 1650 here. The only difference is that that house has got a little bit more room on the side so that you're not noticing it as much, but it is actually encroaching into the front of the house. It's just a matter of degree.

- And that's why we're here.

- I mentioned it, Greg, that whole block has problems, you know, if you look at it. I mean, how many of those people have variances, or built things that haven't gotten variances. But I mean, we could probably walk down each one of those buildings and see issues. But I think in our training we went through, to consider past situations doesn't necessarily grant precedence.

- Right.

- Right.

- So I'm looking at it going, well, that's difficult, but at the same time it doesn't mean that that's what we should use for our kind of logic.

- Tommy, maybe you should make a motion to deny and see if you--

- Well, right now, I could, but I'm on the other side of this coin right now I think.

- You wouldn't get a second.

- I don't think so.

- I think four of us are in violent agreement.

- I'm waiting for someone to make a motion. I'll keep talking all night long, you know that about me.

- All right, a motion would be--

- I'll make a motion to approve the variance.

- I'll second it.

- Okay, regarding the Martinez property on Fiesta Lane, we have a motion made and seconded to approve the variance as requested, all in favor?

- [Together] Aye.

- Opposed?
- Nay.
- Four to one. Good.
- [Jamie] Thank you guys.
- Thank you.
- You presented the case well, sir.
- [Jamie] Thank you.
- Okay, what's next.
- 831 Elmore.
- It is Elmore. Number four, Mr. Zeise.
- [David] He's the contractor, I'm David Jones.
- Oh, okay.
- [David] I thought he'd be here, but.
- It looks like you'll have to carry the day.
- [David] I guess so.
- Okay, we have a property on Elmore Street.
- [David] 831.
- So you want to add, the applicant wants to add, maybe you should explain this Paul, 'cause there was a fire ordinance that is hanging on this as well?
- Well there's something that the Boards can't and can address, and that's from a building code perspective, so just the side yard setback is the only issue you can really address. So I believe there's two decks or porches that are being added to this structure.
- [David] That's what we wanted, yeah. Actually, the City had some concerns about the fire exits I guess because it was a multi-family, of course, the place is loaded with windows, and there's 20 inch windows everywhere, and there's three or four exits out of the building there. But either way, where we are now is she was saying, I told her that it was pretty close to the next building over, she said, well, you're gonna have to get a variance to put it in there, so basically my hands are, she's got me in a vice saying that you put it in there, and so you get the variance, or that's just it, basically, so.
- So this is a two story structure, in a low density residential lot. So these two decks that are being added are part of the principal dwelling, so to speak, so because there's a two story, there's an eight foot side yard setback. So it appears that on the top one he's encroaching three feet, and within four feet of the lot line. So

even though, at the other issue is for the building side, up here on the application, that's not for the Board to consider, it's simply a straight side yard setback issue, from eight feet down to three feet, and four feet.

- Yeah, but, with the whole question of need hinges on, the item you just said we can't consider.

- Right. That's not within the jurisdiction of the Board, that's probably a Uniform Dwelling Code issue that our inspector will have to.

- Well, basically, I think what we're being asked to do is consider the side yard setback variance because they're adding things that were required by some orders from the City in some other fashion, right?

- But there may be other like, safety issues there, that impose that--

- Yeah, that are not something in our.

- Relevant.

- Can we see the aerial photo again for this here. So we're looking at the David Jones.

- [Paul] Yep, 831.

- 831 here. But this is actually, it looks like there's two David Jones' properties there, they share a driveway and parking area here. In fact they share it with a property even around the corner on Norwood at 420. It's like a multiple building with a parking lot behind there and stuff.

- [David] Right, behind, there's a shared parking lot at the back there. I own both those buildings, I'm the same David Jones.

- Yeah, on Elmore, but then it looks like they also park for 420 Norwood back there as well?

- [David] Right, right, right, right, right, right.

- And there's like two apartments in each of these buildings, or four apartments in each of these buildings?

- [David] There's a three and a four.

- A three and a four.

- Yeah.

- And the side yard we're talking about encroaching on for these porches is the side yard between the two buildings that you own.

- No.

- No.

- It's between 830 and 829.

- [David] Well actually between 831 and 833 is where we were looking to put it.

- Yeah, that's what I thought too based on the aerial, or about the drawings here.

- Oh, then I was confused.
- Yeah, 'cause we're seeing the front of the house at the bottom of that drawing, so it's actually--
- Okay.
- Good point, Noel.
- So he's got his own little mini complex right there.
- So it's between, it's not between 831 and 829, it's between 831 and 833.
- [David] 833.
- Both of which you own.
- Right.
- Yeah. And which have a shared parking area. This, we've got to treat this, 'cause it's on a separate parcel, as like a single lot, and a stand alone thing. But in actuality, this is a multi-building development site.
- I'm glad you pointed that out, Noel, because maybe I was confused. I honestly thought it was between 829 and 831.
- So, Paul, why can't you just make it into one parcel? What's the objection and why would he not want to?
- To make it one parcel.
- Based on the zoning that would be creating further non-conforming use I guess.
- Oh really, what would, and I guess it's not worth going into here, Noel, you understand it, it's fine. There's a reason why you wouldn't want, but nevertheless, you know it's both of them.
- What's the red line, what's the blue line?
- The red line was the original lot line, when the land was platted, and the blue lines are the current legal parcel lines.
- So when we're talking about the property line, we're talking about the blue line.
- [Paul] Correct.
- Okay, okay.
- Don, you see those little, there's those little Zs over that red line, those are showing that that's all one continuous parcel, and that's how it looks connecting them together.
- Oh, got it.
- So it used to be this address until up to the res, part of the big property of the rain.
- So for my own education, just 'cause I'm still learning everything, what we're saying is that used to be three parcels, and then someone maybe bought all three, and then changed it to five different parcels?

- I don't know the history of the parcels.
- In theory maybe, we're talking theoretically, not specifically, but is that what the lines really mean?
- It's actually only four, but yeah.
- Well the south one too, right?
- Right.
- Would have been part of that too, right?
- Yeah, but, yes, it's three lots there that--
- Well not for, I'm just, oh, but 825 would be the fourth one, 'cause that line fits within those three, wow.
- This sort of, half of downtown looks like that.
- Oh really.
- Yeah.
- Paul, is there, just again, for me, question. Is there any difference between this being an apartment use, like is it zoned differently than like a normal residential.
- No, it has low density residential zoning, so that's where the side yard setback of eight feet is applied.
- Beyond what's being considered right now, are there other encroachment things that have already been granted for this property?
- Not that I'm aware of, no.
- Well it's already, if that porch is four feet wide coming out of the house, they'll want to lower, and we're at a four foot setback from the lot line, then that bump out on the house is within six feet of the side lot line already, and so it's already within the eight foot setback. I don't think we're adding insult to injury by--
- Right, so depending on when the structure was built, there may not have been any zoning requirements.
- Right, right.
- Chances are, yeah.
- I think this is a, just, this is cobbed-up, and we're not significantly increasing the cobbed-up-ness of these properties, we should say yes to this.
- That isn't a principle of our Board that, but I understand the points.
- Yeah.
- That's a standard.

- We have no policies, I just want to make it clear. The Board of Appeals have no policies. Each one of us does, but.

- What other options are there here, is there any other option going off the front or back?

- I don't know what's been discussed as far as the building itself, and what prompted the request, but.

- [David] Well, what it was is that, because it came out certain ways she said that it had to have another exit out. Now it just seemed like the most logical place to put it would be opposite of the one exit that was already there. I didn't see much point in trying to put it right next door to the other two doors, right next to each other, so, the only place that it would really, I think, add to the safety aspect of it is if we put it on the opposite side of the other house.

- I don't have any objection.

- Yeah, I agree.

- Could I, just again, I might be the one guy here, but, it's good for me.

- We count on you.

- I know, thank you guys. Why is this happening again? Just the short version, so the City came in and did an inspection and said, hey, you need two exits on it, or he's doing an expansion and that triggered that you need two exits on each one of these properties, like what was the--

- I don't know the full history. I don't know if there was some direction from our staff as far as enforcement, or.

- [David] Well, a tenant complained because her carpet was dirty, she wanted it changed, the City came in, but you got to change the carpet, and by the way, blahsay blahsay, and--

- For fire safety, you need more exits in this unit, and so this is the solution.

- As long as I'm here, it looks like there are some other things that need attention, okay.

- Yeah.

- Yeah.

- Okay, so.

- [David] Well, yeah yeah, well either way, that was it, yeah, like the tenant needed a vacuum cleaner, that was probably what was needed the most.

- But there was a complaint, somebody from the City came out, and this is what one of the things that came from it, okay.

- You get a thing too from the inspection side is depending on when the structure was built, and it may have been built as a single family, I don't know. Several structures, older structures have been converted through the years. It's not to say they had been done illegally, and that's not a reflection on the current applicant, it's just saying that we run across this quite a bit where these units are two families that were illegally or legally converted, but don't meet code so to speak.

- Right.

- Oh yeah, I mean, is this--

- So I think it's a life safety issue when an inspector goes, they just can't put blinders on, I think they have to investigate and make sure there's a safe environment for people who live there.

- Yeah.

- So for us, I can appreciate the argument, it's already in a goofed up stage, I can't remember, what was, the specific phrase, but to perpetuate that, is that, what's the City's stance on that?

- To perpetuate the use, or?

- If we're looking at this situation and saying, was it cobbled up, it's a cobbled up situation, we're not, by adding this we're protecting life safety, but at the same time we're pushing down further, like you had just mentioned, there's tons of properties that either legally or illegally gotten into these weird positions, and by us contributing to it and saying, yes, let's continue to add to it, is that, you've been on the Board for a while, Don, is that kind of what, I'm looking for understanding, is that a good way to look at things.

- Yeah, I'll tell you what the City would say, the ordinances are the way they are. There is no grandfathering. Every ordinance, every request for a variance is one that's taken in independence of all the others. And so in this case, if Paul were asked to represent the City's interest in this, it would be that the ordinance is what it is, and there's got to be some variance granted on the basis of our judgment that it's, that's the only way it can be done. There isn't a grandfathering thing. Noel's argument of it being already non-conforming, and we're not making it significantly worse non-conforming, it is a good policy for Noel, it's not necessarily the policy for anybody else. But put it as a point, nevertheless, what Noel said would be part of the argument that we can take into consideration to determine do we meet a hardship.

- Well, it's what creates the hardship, so this property being, I think, maybe multiple issues going on, that's what's creating a hardship, but at the end of the day, how that context is important, because if we're just saying, well, this structure as, just like the last one, where the garage is built too close to the house. Had that property been built with that garage back, we've got no issue, so is it the property or is it the land?

- It might be the zoning, because we have requirements that go all across the board, right, for homes that were built in 1890s and homes that were built in the 1990s, our requirements are the same for those. So the challenge is, when those improvements are made, and they can't meet that ordinance, they have to come before the Board to explain why they can't. So there's not a cure-all here necessarily.

- Yeah, if this were a multifamily property, and both of those buildings were on the same parcel, we wouldn't be having a conversation about building porches on the side of the building, because that would just be part of the way you do that project, and so when I take that to the situation, those two buildings are gonna be locked together forever. That inward unit, there's no driveway for it, maybe that car that's parked there that can't go any deeper into the lot than that is serving that, but everybody's got to park behind this, and they've got to cross through a parking lot off of Norwood to get in there, you know, in some respects, it's like all three of those buildings are kind of lashed together, until those buildings are gone. Until somebody comes along and says, oh, it's time to redevelop that place, this is gonna look like that. And so I don't think we're exacerbating the problem by considering porches in between those two structures on Elmore, I think we're increasing the safety of those buildings, we're allowing the owner to develop something that makes sense and comply with the City in other ways, and I'm going to support the variance.

- Last question, I promise, because I know I'm on the losing end, but this is an education opportunity for us. Is it possible for things like this, to be able to come and say, hey, what variances have been approved for

something like this, ahead of time, or when the property was built, I have so many questions, but I don't want to bog everybody's time down with this situation, so I think there is a lot of conversation that could happen from this, and I can make a total counterpoint to everything that was just talked about. I don't want to do that, 'cause I don't want to waste everybody's time, but there's so many things that I have questions going. When is a good time, after this? For me to ask some questions to you.

- Sure.

- Okay, cool, all right.

- Those properties were built 100 years ago. My biggest concern on this map is it looks like there's a gore between 829 and 831 on the tax parcels, there's like a gap or gore, there's an overlap.

- [David] Overhang.

- It's like you see like a double blue line there?

- Yeah, well look at 829 and 825, there's a shared driveway going back to two different garages that sit right on the property line.

- Right, right.

- These are homes that were built probably before the cars, or for cars or vehicles, so that's why they're kind of retrofitted through the years to kind of adapt to what residents want.

- Exactly.

- I think a motion's in order.

- I would move to approve the variance as requested.

- Second.

- Okay, we have a motion made and seconded to approve the variance requested for the property on Elmore Street, 831 Elmore Street. All in favor.

- [Together] Aye.

- Opposed. Five zero.

- Yep.

- Five zero, you have your variance.

- All right, thank you.

- [David] Thank you.

- Next up, Michelle Myers, 911 Rolling Green Drive.

- [Michelle] Hello.

- [Paul] Yes, they probably would.

- [Michelle] So what I'd like to do is change the physical location of the driveway. It's currently very steep, the hardship is safety, I have fallen three or four times every winter. When it, ice is the worst.
- Yeah, that's what does it to us all, I'm literally.
- Well, it's a good lean though, sir.
- Yeah, she's also trying to hold the--
- Understand, understand.
- [Michelle] So it is a side by side duplex. It's a nearly mirror image. The side I live in is about 100 square feet larger, but you can see that it would naturally come out the front there. But the variance is having two driveways to the front of the house, I believe?
- Right, correct, so you would--
- [Michelle] So that is why I'm here today.
- So you would reconstruct it over at door--
- Correct.
- Correct.
- [Michelle] The garage door would be on the side then.
- And the new driveway poured and the old one torn out.
- [Michelle] Correct.
- I'm convinced, seriously, right there.
- And you would close in this--
- [Michelle] That would be closed in.
- In winter it's horrible.
- I'm convinced too, so if you want to jumpstart the conversation.
- I look at that, and look at that car bottoming out.
- I would like to put Paul on the spot, and say what is the basis for the City not liking what she's proposing.
- Because you can't have two separated driveways on the same--
- I understand that, but why would they object in that case? What would be the--
- It's a requirement of the low density residential district.
- Which is, this is a duplex, so that's different in that case, which then creates the--

- Right, so you're entitled to one driveway kind of per street frontage, which they currently have, this is a little unusual, this situation.
- So it forces duplexes on a block face to have centrally located garages and forces duplexes on corner lots to have one going on either side.
- Bingo, that was where I was going to go next, okay.
- And it's an aesthetic thing, it's not a health safety or welfare, it's just somebody's idea of a way houses should look in a neighborhood.
- Reducing the parking area again, or appropriately replacing the driveway.
- I think that driveway's ridiculous as it stands, I move approval.
- I second.
- Okay, well done. We have a motion made and seconded after elaborate conversation to approve the variance that's requested for 911 Rolling Green Drive, all in favor?
- [Together] Aye.
- Five zero, you've got it.
- Thank you.
- Thank you very much.
- Excellent presentation.
- Yeah.
- The tide just, the pictures did a really good job.
- Good job.
- Thank you.
- That's amazing.
- It really is rolling.
- Oh, you doubt if I had questions there, buddy.
- I would have still made the motion.
- Ms. Dickinson on Preble Avenue.
- [Judy] Hi.
- Hi.

- [Judy] Okay, I'm asking to have a porch put on the front of my house in place of a stoop that's very old and deteriorated. And, this is the picture of the stoop that's, it is settling into the ground and we already tried to do an extra step to get into the house. And that's settling right along with it again. Also, I have a major problem with rain. I have a slant on the roof that's catching a lot of rain, and it's a salt box house and it has very little eave, so it rolls right down into the foundation. And I have problems with water that seeps in from the floor line with the wall line in the basement, periodically, it's not there all the time, but if the ground gets pretty saturated, then I start seeing that happening. It's not like it's a river, it's a seeping, oozing, and if it's really bad it starts to trickle down to where your drain is, that kind of thing.

- Is that particularly in the front of the house?

- [Judy] Particularly in the front, yes, because I have a shorter roof that's on the backside, and the other thing is though, the proposal, the reason why it changes, I don't know if you need this or not, oh, you got that nice picture there, how nice, well, the proposal is to have that roof divided up a little bit with a porch that will actually boost the rain away from the foundation, and it will divide the rain out so it's not all coming in real--

- On the one side, yeah.

- [Judy] Inundating the eaves troughs to the point they can't handle it. And then the other thing that I'd like to point out is the intent is to take away the bushes that were there in the front, take away the sidewalk that comes up from the front, and have the entry right from the driveway up the steps to the porch, which would be built at the level of entry into the house. So my full intent is to make it safer. You can see the driveway and sidewalk connection for my personal, there's a little stump there, that'll be removed as well. I had a dear little birch tree that died, so I have to get rid of that too. But my whole intent is to make it a safer place, and to alleviate the problems of the water. And overall it will look a lot nicer.

- And the problem that you ran into is what you're proposing is larger than 25 square feet?

- [Judy] It sure is.

- And it's in the front yard setback.

- [Judy] I believe they measure that out as 22 by six. So obviously it is more, but this way I've got a nice flat area with a roof over my head when I walk in. I don't have that problem of when you're lifting things into the house, and it's up steps and down, and the whole intent is to have it a lot easier to get in and out, again, more protection. I wouldn't have the problem with all that shoveling of snow. You've got a public sidewalk, a driveway, and then immediately my sidewalk to go to them, and it's just kind of where do you put the snow anymore when it really gets to be winter. So it's helpful, in my estimation, to just remove the sidewalk that's on my property, and have it just come right up from the driveway right up.

- Can I see the one to the right.

- [Paul] Sure.

- What is it, maybe you can explain in more detail what the City's concern would be that requires this going for a variance.

- It's simply an encroachment of the front setback.

- Yeah, 'cause it's 25 foot front yard setback, and we're looking at about 20 foot here.

- Well, when we take the average in the block--

- Well then the next door really skews that average.

- Yeah, we almost have to discount that because it's almost too large, but it's encroaching into, we kind of took a line, you know that porch is gonna come out a little further into that front setback.

- [Judy] Well you see where the shadowing goes in, that's the two bushes, and then that dish in, that's eight feet out from my house. That porch that will be put in, will be two feet closer to the building, so not only would the bushes be gone, the sidewalk would be gone, and the stoop that's there would be eight feet going back to six feet.

- I kind of think it will probably look nicer with the covered porch, and I think those are some prodigious shrubs you've got there. They are more massive than this porch would be.

- [Kathy] They are, they are, yes. You even have some dear robins. I'm the Alder of the District, and I went out and met Judy, and I saw it, and I think this would be an improvement on the house. You can see that roof. No sized gutter is gonna take care of when there's a downpour, all that water, it's just gonna, comes over, and I saw the porch, she had put a little wooden step in there to get in the front door. That's how much that has sunk.

- [Judy] Well I've actually had water that, when I had an ice dam and had heavy downpours, it rolled into the living room, right through, it went down the side of the house door entry, and actually saturated into the living area, that was happening, a couple of times that that had happened, that's the extremes though, we're not talking about something that happens all the time. But definitely I do have to have something changed, and soon, because this is not gonna work, this has got major cracks in it and settling, and the door, unfortunately it is rusting a little.

- So the 25 square feet is like five by five, and that doesn't then include the steps going down. So as the applicant has stated, she's out about eight feet. She's gonna bring it back to six, she doesn't get any credit for that?

- It's 25 square feet, however you slice it I guess. It's been our interpretation as staff.

- Fair enough. And I'm not saying the Council has to go rewrite all their ordinances, but that's the bind we're in, because we're not supposed to write ordinances, but at the same time.

- [Kathy] Yeah, people have to try to live with this and try to fix it, and these are older areas too, they're not like subdivisions where the houses, you know, may have bigger front yards, and then have things that they can work with, but we get these older areas, like some of these others too, what do we do.

- To clarify, for me, Paul, the issue at hand is not the depth, it's the size, correct?

- Correct.

- Total size.

- It's larger than 25 square feet.

- If it's larger than 25 square feet, it then has to be at the setback line. If it's 25 or less, then it doesn't trip that, so that the porch, if the house is at 25 feet off the street, and every other house on that street is 25 feet off the street, you can put a porch out there that's 25 square feet or less, without having to have that porch be behind that 25 foot line, because it's over 25 square feet, it's triggering the requirement that it be behind that setback line, which is either 25 feet, or the average of the others along there. Where we have a problem here is in that we have a little wonky shaped lot, Preble's, the lots are at an angle to the street a little bit, you've got

that one house next door, if Paul averages that one with the others around it on the other side, then the house itself has got to move back for the setback because of the averages, and all that's just kind of goofy. I think that the accommodation of the failure of the existing structure, the really rational modifications that she's talking about making to this, and as much as I'm a fan of monster shrubs, I think that putting the covered porch along with all those other things are a big improvement, and not worth the dickering over what would be at best an inconsistent, or our approximation of this setback.

- Yeah, I think the case and everything that was proposed was great. I just feel like I remember one in the past where there was something about encroaching from the side, that from a consistency, sometimes ordinances are written from like an aesthetic perspective, and then they have to enter from the front, you don't want something entering from your front door from the side, does that sound familiar, any of you remember that?

- No.

- Not necessarily.

- So we don't care from an ordinance perspective that the front door is being entered from the side.

- No.

- No.

- Oh, okay.

- No, 'cause you look at it, that would hold, Tommy, for me, if that porch steps came out to a sidewalk that went all the way down to the main sidewalk. And we said, oh, you've gotta go out the front and walk down the main sidewalk. But already, this one curves over and meets the driveway.

- Okay, cool.

- I think it's the same thing, we're just shortening that distance, right.

- Yep, okay, I'm good.

- I move approval as requested.

- I'll second.

- Okay, we have a motion made and seconded, to approve the variance requested for Ms. Dickinson on Preble Avenue, all in favor?

- [Together] Aye.

- Opposed?

- [Judy] Okay, thank you.

- You're good, thank you.

- How come sometimes it has color and sometimes it doesn't when it brings up the little vote thing?

- Oh, I know, yeah.

- Do we have any idea?
- Mine always get colored.
- Sometimes it's gray.
- Sometimes it's just gray.
- Yeah.
- The things we have to put up with, huh?
- First world problems.
- That'll be a great addition to that house, overhanging the front of the house, the slope, pushing it off.
- Hi.
- We had a similar--
- Have a chair. We're talking Roosevelt's?
- [Brian] Yes.
- All right.
- I'll have to recuse.
- This is the one you're gonna recuse, that's fine, Jim.
- [Brian] I'm happy, I didn't want to make you feel uncomfortable. So there's a current hardship that is imposed by the code, and that is the water leakage in our garage, anything with any fabric on it, bicycle parts, anything like that, molds. So we've done a lot of work to address the drainage in the backyard, but it's just a problem. So what we'd like to do is tear down the existing structure because the walls are all rotten around the base, and put in a foundation that's four or six inches higher, on the same footprint. This probably goes back to some of these houses being rather old, this was built in 1926, it is now closer to the lot line than the four foot requirement. And if we did scoot it over four feet and back in from the side, first of all we'd have a lot less yard on what's already a very small lot. And second, in order to reach the left stall, it's already gonna be a sharp cut. Essentially it won't be a flow at all.
- What's that lot depth?
- I don't know off the top of my head.
- [Brian] I can't read the--
- Paul, can you see down in that other area?
- [Brian] I could divide 4740 by 44, I think.
- If you can do that in your head, sir, I--
- [Brian] Oh no, I have my calculator, so.

- Those are two 55s and that's a hundred and, those are 55 width lots, or it looks like 53.86, so it's double that, it's probably what it is, it's probably 106, 107.
- [Brian] I'm checking your math, 107.72.
- Yeah.
- There you go.
- Yeah, you're just, on a 44 foot wide lot, you'd be putting that garage in the middle of your back yard.
- [Brian] That's correct.
- And then you wouldn't be able to use it, because you can't make the turn.
- [Brian] And so now that I understand what the red line meant, that things might have been platted differently than they are currently.
- Right.
- So you've got a drainage problem, but what you propose is to put a garage in--
- [Brian] Well the garage is already in there.
- It's a new garage.
- [Brian] There's an existing structure that's--
- I understand, you're gonna put a new garage in that's higher.
- Yeah.
- Get you away from the drainage problem, but you run into the variance with the side area.
- [Brian] Mm hm.
- And impervious.
- And impervious.
- Yeah, it's a separate issue. When we contacted the City about this, they said, what's your impervious, the fraction of your area that's impervious? And we said, well that's a very good question. And we are apparently, currently in violation of that.
- Do we have anything on the height, or is that okay?
- I don't believe that's an issue in this case.
- Okay.
- [Brian] Yeah, we were happy to, we talked with Chad I guess, and made sure we were under the--

- 16 feet.
- 16.
- So my problem is that even though it's going, you're building a two story garage, it's not--
- That's not an issue.
- [Brian] No, no, it's not gonna be a, it's more of like a, have some exercise equipment up there or something.
- We had this exact same thing fairly recently.
- This is starting to look familiar.
- Where it was the same kind of layout even, and it was just, there's just no room because it's a 44 foot wide lot, how can he do it?
- Paul, that height thing has no effect on the impervious, right?
- No.
- Okay. So with the impervious that existed at the time of the existing garage is the same percentage as what the new garage would be, right, because it's the same footprint?
- This garage looks like it's not any bigger than the old garage.
- Is that right?
- Right.
- [Brian] I don't think it should be, because our plan was, our builder wanted to make it bigger, but my wife and I are happy with the way it is.
- So you kept the same footprint.
- [Brian] And we'll keep the same footprint. Yeah, no formal plans have been drawn up or anything, because we thought if we cannot get approval, then we can't do this.
- I'll make a motion that--
- Just real quick though, is this a two car garage, is that the idea, so for this lot, it, to make it in far, it should have been a single car garage, is that the idea?
- [Brian] I have no idea, what it was to make it conform.
- But it currently is two?
- [Brian] It currently is two.
- That makes sense.
- [Brian] It's tough to do, we only do it when there's a big dump forecast, but we can only put two in there, but.

- Yeah, no, I'm just trying to figure out if it already broken right out of the gate.
- Well there's no way he can deal with the impervious without essentially taking down his garage.
- Yeah, exactly.
- Right.
- I motion to approve.
- Second.
- Okay, we have a motion made and seconded to approve the variance requested for the property on South Roosevelt Street. All in favor?
- [Together] Aye.
- Four zero, you have it.
- [Brian] Thank you. I do have a question. So the variance, does the variance expire if I don't build this season.
- In a year.
- [Brian] Okay, is it possible--
- It's good for one year, but if you get a building permit in that one year, it'll extend that period of time.
- [Brian] Great, okay. It's where I think the builders might be all booked up this summer, so.
- Right.
- Yeah.
- Okay, thank you.
- Thank you.
- Thanks Jim.
- Thanks.
- Sounds great, I mean, just so you know.
- Yeah, that is too . Okay, sir, you must be Mau & Associates here to talk to us about Titledown.
- [Jon] Yes, the Titledown Depot. It's headed down Driver Way, so right now down Drivers, is a state of, about to be constructed, to where it watches the fully improved Donald Drive Way going through here. Right now, if you go into this area, you will go ahead and see a driveway entrance that leads into the Titledown Brewery that's used for parking for typical customers and as a service entryway. That existing driveway has a 35 foot wide curb cut, goes up to 55 at the top of the curb. These are the six inch driveways. There's no real sidewalk noted there, it's all just a lot of blacktop, no definition. The Rail Yard itself has now had the plat recorded, and constructors will be in here soon, on the road itself. With that though, we're still requesting to

go ahead and allow for a driveway opening that is above the standard. The reason for this is Donald Driver will still be essentially the same vicinity, where it's below the transform line, that's at the aerial, and all that comes connects a future catalog connection to the north. Due to the angle of the building itself, there's no allowance to go ahead and have a larger vehicle go ahead and do a typical 90 degree radius turn, with their large curbs. This takes seeing over half of the driveway itself, to where if you see on the lower image, you will see it is a dashed line, but it's not double dashed. From the driveway edge it goes to the, let's just say, if we're saying north right now, south east, essentially, to the north, we're getting our north south mix up right here, but to that island, and then we'll go out back into the north to a future drive entrance along Donald Driver way to allow for our trucks, they just need to have an extra space right there to get into the property because there's no good way to get into it based off of where the road lines up with the building itself.

- Mm hm, right.

- Paul, real quick for me, on the previous slide, where are we at?

- You're kind of twisted a little bit. So this is west, this would be north, here's Titledown right here.

- The East Titledown is right--

- Titledown building right here.

- Which driveway are we talking about?

- [Paul] This one right here.

- You're coming over the bridge, and you turn right in towards, into Titledown, and you're coming along here, so this is roughly where that driveway is now.

- Got it, okay, perfect.

- That's kind of a funky area to, with all the sidewalk, over, coming into the driveway.

- So is the new construction causing, hey you guys gotta get--

- Right, it's actually reducing the overall width, but still it exceeds our minimum requirement.

- Got it, okay.

- You never know when you can stop driving and--

- Where you're parking and where you're driving or whatever.

- [Jon] And all of us need to know, this is what the road is.

- So much for the casual parking out there. This is good.

- But everything is getting nicer, more organized, more defined.

- [Jon] Oh yeah, definition, we now know where, this is Titledown, this is the sidewalk, let's go ahead and walk through the Rail Yard and up to the rest of the buildings.

- Yeah, not just kind of like it's, define your own parking space or something like that.

- Yeah.
- [Jon] Drive through as fast as you want to go through here, unless you want to go ahead and lose your suspension, yeah.
- I'm good with this, I'll motion to approve.
- Second.
- Okay, we have a motion made and seconded to approve the variance requested for the development at Titledown Brewing.
- I think just for the sake of the record, that it's a wonky parcel, it's a wonky layout, it's a wonky building site, and that's the hardship that's driving this.
- Yes, correct.
- So noted.
- Wonky being a technical term, and we've got years of training to back it up.
- We've had a couple of 'em here tonight.
- What was the other one, copped?
- Cobbed up.
- Cobbed up, that's what it was.
- Anyway, we have a motion made and seconded, all in favor?
- [Together] Aye.
- You're good.
- Thanks.
- Five zero. Dan Lequia and Debra Whiting.
- That was the first one, that got moved up.
- Oh that's the one that we took out of order. And them too.
- You guys drew the short straw, so you're the last ones.
- So you are the long suffering Nicole--
- [Nicole] Yes, I am the property owner, and this is my father.
- All right.
- [Nicole] He's gonna be able to explain it better than I will.

- Very good.

- [Nicole's father] Essentially she had a precast concrete porch on the side of their house, which is the main entrance that she uses. It's original, I don't know when the house was built, whatever--

- [Nicole] 1942.

- [Nicole's father] Okay, and along with that precast porch, there was a separate step. That step was cracked and rocky, and along with this, there was an old, rusty wrought iron railing, you know, again, original. She wanted to make it safer, more aesthetic, and the whole ball of wax. So myself, in my infinite lack of knowledge, apparently, I prefabricated a porch in my garage. Basically brought it down here. Set it over the existing concrete slab, or to the concrete porch, the original porch. I tore the steps apart, and so that's gone. And then the original steps went out towards the property line, perpendicular to the house, and I designed it so the steps will now be parallel to the porch. And basically I came down one weekend and set it in place and everything, and started working on it, and I was coming down the next weekend to finish, I live up in Michigan, and so during that week, we got a letter that we need a building permit. My thoughts were it's a store bought, precast porch there now, if I bring one down, and you know, I was wrong there. Anyway, which then I called Paul to talk with him. And that's kind of where we are, and we went to apply for a building permit, and we ran into the side setback of six feet. From the house to the property line, as noted on the bottom there, it's just under seven and a half feet. So there's no way we could even replace the one that was there, apparently, that would be considered new construction then. So that's kind of where we are. And the existing porch is actually going to be narrower than the previous step, it'll be farther away from the property line. We're also going to tie it in to an existing fence, you can see on the top, she has dogs, and her back yard is fenced in, so there's a little over nine feet of roughly no fence, just to tie it into the old one.

- Okay.

- So how close are you to the property line, in your final?

- [Nicole's father] It'll be, like what is it, 29 inches I think?

- Yeah, and you were 26 before.

- [Nicole's father] We actually gained three inches.

- Okay, so it was 26, and it's going to go 29, and so it's supposed to be--

- [Nicole's father] No, the, I must be wrong in my math, but it was three inches wider than what's there now. It was 63 inches from the house, and my porch is 60 inches.

- Right, so you had beyond the porch to the side yard, you had 26 inches, and now you're gonna have 29 inches, because that's a little bit.

- [Nicole's father] Yes, I'll have more gap.

- Yeah.

- So this doesn't fall in the 25 square feet problem. It falls into a side yard setback, that's all there is to it.

- And it was already non-conforming.

- And it's already non-conforming, so he's made it less non-conforming.

- The original porch came with the house, it's always been there.
- [Nicole] Yeah, as far as I know. It's just a concrete step that was there. And then there was a little wooden step that went up to the door, and it wasn't even attached to anything, it just rocked. And now with this, this comes up to the bottom of the door, so you can just walk out right away, there's no--
- There's 27,000 of those little wooden steps on top of concrete unit steps to get into doors in this city.
- [Nicole's father] It looks like, on top, the precast porch, there was like nine inches, nine and a half inches or something, to the door, so.
- Maybe not when it was first put there, but with time.
- [Nicole's father] That very well could be. Although it's all sitting on a slab. And my new porch is sitting also on that existing slab, just four corner posts, and--
- You pre-cast it in your garage.
- [Nicole's father] I did.
- And how high is the step from the existing ground there, is it 14 inches high now, or is it a little higher?
- [Nicole's father] No, from ground level to the top is like--
- 22 inches.
- 22 inches.
- Yeah, he's got the diagram here.
- Oh, okay.
- You're solving a problem elegantly, and--
- And it's hard to figure out a way, a reason this--
- Yeah, I don't know of another way to make it work and be compliant.
- You gotta get in the house.
- Yep.
- And it's better than it was.
- Yeah, I move approval.
- I'll second.
- Okay, we have a motion made and seconded to approve the variance requested for Nicole's property on Mather Street. All in favor?
- [Together] Aye.

- Five zero. You guys are good.
- [Nicole] Thank you very much.
- [Nicole's father] All right, thank you very much.
- You did it in your garage.
- I did.
- You get two votes on that one. It's not Survivor. Can I make a motion for--
- We've got a big garage.
- [Nicole's father] In Michigan, besides.
- And you hauled it from Michigan.
- I did.
- Yeah.
- We have to do the election?
- [Nicole's father] Like I said, it was prefabbed up there, all put together up there, took it apart in a couple of pieces, but, yeah.
- Good job.
- Thank you.
- Thank you very much.
- So we have a deal on the table that I have a motion to do a bathroom break for 30 seconds, or we wrap up in two minutes or less.
- This shouldn't take long, the rest of the meeting.
- We just have to vote.
- We've got an information, discussion revisions to process and application to the Board of Appeals. We have materials for that, yeah, so.
- Oh okay, then go, yeah.
- I'll run, I won't take long, you get started.
- Okay.
- Oh, there's more on the agenda, I didn't see that.
- Okay, so there's, yeah, sorry, I didn't pay attention. It keeps bumping up.

- Yeah.
- I'm not gonna pause it Jessie, I'm gonna just let it roll.
- Yeah, that's fine.
- Okay, discussion revisions to process and application to the Board of Appeals, all right, I'm there.
- There were no attachments, but I have a hand out if you want. I can do that if you want.
- Okay.
- Let's do that.
- The ZBA.
- [Paul] Yeah, well, that's what I'm trying to call us, I guess.
- I like it.
- So at the end of last meeting the Board wanted staff to look a little closer at the application, try to create more of a checklist. I revised the application a little bit, with Jessie's help. I put a cover letter together, basically it's from point A to point Z on the appeal process. So you would get this initially when you came into the office, you'd read through it--
- Or off the website.
- Off the website. And it's basically short essay, you're going to have to provide more details, especially about the alternatives that you should have or did consider as part of the request. I did not include some of the direct language that was previously shown to the Board, which is right from the ordinance, which is right here. I felt this language was more for the Board to kind of navigate and decide, not so much for the applicant, but the applicant has to provide information to the Board to provide that information. So I think this is for the Board to consider, not for the applicant. That's why it's not included. You wanted a checklist, but I didn't include that as a checklist. So if you want to review this, and kind of go through it yourself as if you're an applicant to see are these, or as a Board Member, are these the questions that you feel that you want. Or if there are other questions, let me know, and I can reformat or add to it I guess.
- Yeah, lets--
- You don't have to decide this, it's just informational right now. We can discuss it going forward.
- We can talk about it more at the next meeting, so if you put an agenda item on the next meeting we make.
- Yeah, and what I think I'll do is I'll email it to everybody, so you'll have a digital copy, if you want to look at it, and.
- Thanks.
- Yeah, thank you, for putting that together.
- Yep, perfect, thank you.
- Cool, this looks like a good draft, so.

- Yeah, I don't want to make it too daunting, but I want it to be complete for the Board, so you don't have to keep asking and popping these questions up.
- You don't want to feel overwhelmed, though, either.
- Right.
- It's like, I'll give up because this form's too--
- Well.
- Right.
- There maybe will be a couple of those.
- But we want, the Board needs information, right, and it has to be kind of broad. And you want to make sure you flush out the alternatives, and make sure we test the applicant to make sure they've explored those options.
- Yeah, Greg's right, but at the same time, we've seen some where they just kind of go through, and yeah, it's fine, of course, no problem. So at least this puts the question to them in a way that they haven't had to before.
- I don't think that you have to respond to me, necessarily, but if you want to make notes, we can discuss it at the next meeting, and kind of take it from there.
- Yeah, I think we'll discuss, we'll have it at the next meeting.
- There's that rule where we're not supposed to, like, let's say I do, email these guys, there was a rule in the past, that we couldn't discuss these things. But this, if I send my notes to the group, that's okay, it's not against me violating and talking to these guys outside of--
- I don't think that presents an issue. I don't think that's a walking quorum, if that's what you're--
- Yeah.
- I mean, you can communicate with other members, I think it's if there's some conversation that occurs at one time, that might--
- Because it's not about an issue, it's not about a case.
- This is about our own internal issues, our own internal processes, not--
- Okay, okay.
- You're not deciding on it.
- I just didn't know if it had to be on the record or not. I will say though--
- Can we have it so that it's like a fillable form, and that handwritten applications won't be accepted?
- We can do a fillable form, no problem, but if they do that, that's up to them.

- I will say though, in the spirit of our last month's discussion, there was one time tonight, when you got up and you started, here's the case, this is the property, this--

- Yes.

- For me, makes the process so much simpler.

- Well I was prepared to do that, but it just kind of flowed when the applicants came up. So I'm more than happy to get up and give a two minute introduction.

- Well, the Chairman didn't do you any help, so I'll try to remember to be a little more forthcoming in that way, that I'm going to let Paul do that.

- Well some are straightforward, right, I think people can explain, the others, may be more.

- That photo of the car on the driveway, it's like, we don't even need to talk anymore, right.

- Yeah, it was pretty good.

- Yeah, it was really good. He was hamming it up with the snowblower.

- Ask me if you want, for clarification, you don't have to wait for the applicant.

- The point is the initial lead in from me shouldn't be, they can come, and they can sit down, and then I can ask, Paul, can you walk us through this.

- Can you orient us to this process.

- I mean, it's up to you, if the applicant gives a good enough explanation, go with it, if they're not, then you can look to me, it's up to you how you want to handle that.

- There's so many extraneous things that come out, that I, again, I'm always the youthful guy, I mean, Noel, your knowledge is significant compare to mine, so you grasp things so much quicker, for me, I'm like, what are we talking about. I mean, there was two times where I leaned over, and said, I have no clue, what we're talking about at this point, and we're halfway down the pipe here. Then I feel like a de-railer.

- Well you're not the only one.

- Just never underestimate the power of confident bluster. Seriously.

- So I think you just jumping in. This is what we're talking about. This is the property, when you show the aerial, this is the property here, boom, boom, boom. Okay, make your case. This is the narrative going over, here are the check boxes that I've done.

- Right, I mean, it's like a court action, right, so there shouldn't actually be a lot of extra talking, should be kind of the facts of what we should be probably focusing on.

- Yeah, I loved it that one time, it was like boom.

- Yeah.

- Yeah, I think that the magic is still getting to, and I liked that you highlighted on this cover letter here, that we're creating that hardship by forcing them to follow an ordinance, and that's kind of the aspect, that we

actually think about it opposite of that sometimes, and I think that we could all do well to remember that, and maybe have you help us keep that in focus.

- True.
- So there's no formal action, I guess you can.
- Okay, thank you.
- That's true, we can talk about it more next time.
- Thank you.
- Thanks Paul, that's great.
- Jessie helped.
- Thanks Jessie.
- Motion to adjourn.
- How does this work, let's just make it happen.
- Well someone has to make a nomination.
- I nominate Don for Chairman.
- I second it.
- Okay.
- All those in favor?
- [Together] Aye.
- Okay, done, now we do vice-president, or vice-chairman.
- Who's currently our vice-chairman?
- Greg.
- Greg.
- I nominate Greg.
- I second.
- All those in favor?
- [Together] Aye.
- All right, motion to adjourn?

- Yep, so moved.
- Motion to adjourn?
- Yes, so moved.
- Second.
- Second, moved and seconded to adjourn, all in favor?
- [Together] Aye.
- All in favor say bye.