



MINUTES OF THE ZONING & PLANNING BOARD OF APPEALS

MONDAY, NOVEMBER 16, 2020, 5:30 PM
Virtual Meeting. Public may join via Zoom.

A. ZOOM MEETING INFORMATION.

I. This item contains documents which provide call in information and instructions for the Zoom Meeting.

B. ROLL CALL.

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

Alternate: Tom Hoy

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

Alternate Present: Tom Hoy

Does anyone need to abstain from voting? Was anyone out to any of the properties? Did you speak to anyone regarding this variance request?

Chair Don Carlson asked if anyone needed abstain from voting, if anyone was out to any of the properties and if anyone spoke to anyone regarding the variances on tonight's agenda. All stated no, with the exception of Tom Hoy and Tommy Everman. Tom Hoy stated that he went out to all three properties. Tommy Everman stated he will be recusing himself from Agenda Item #1, 143 N. Broadway.

C. APPROVAL OF THE AGENDA.

I. Approval of the agenda for the November 16, 2020, meeting of the Zoning & Planning Board of Appeals.

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

D. APPROVAL OF MINUTES.

I. Approval of the minutes from the October 19, 2020, meeting of the Zoning & Planning Board of Appeals.

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

E. REGULAR BUSINESS.

Chair Don Carlson asked for a motion to open the floor for the duration of the meeting.

Moved by Noel Halvorsen, seconded by Tommy Everman to open the floor for discussion for the duration of the meeting. Motion carried.

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

1. (Appeal 20-33) Kayla Viste, on behalf of Sand and Sun, LLC, property owner, proposes to install a refuse enclosure in an existing parking lot located in a Downtown One (DI) District at 143 N. Broadway (aka 144 N. Chestnut Street). The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1813, setback from street for trash collection (Ald. B. Johnson, District 9).

Moved by Noel Halvorsen, seconded by Thomas Hoy to temporarily grant the requested variance for a period of three (3) years. Motion carried.

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

2. (Appeal 20-34) John Josephs, property owner, proposes to construct a detached accessory structure in a Low Density Residential (RI) District at 1519 N. Irwin Avenue. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code, Section 13-615 (c) Table 6-4, maximum size of 2nd accessory structure, Section 13-1715(a), number of residential

drives and Section 13-615 (b)(2), size of accessory structure to principal use (Ald. K. Lefebvre, District 6).

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

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

3. (Appeal 20-35) William and Elizabeth Corsten, property owners, propose to construct a second driveway in a Varied Density Residential (R3) District at 581 N. Danz Avenue. The applicants request to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1715(a), number of residential drives (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

Chair Don Carlson then asked for a motion to close the floor for discussion.

Moved by Noel Halvorsen, seconded by Tommy Everman to close the floor for discussion. Motion carried.

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

F. INFORMATIONAL.

1. Update on Appeal 20-031, 901 Main Street.

Paul Neumeyer presented an update to Board Members regarding the 901 Main Street Variance application.

2. Discussion on procedural items related to the Board of Appeals.

Discussion regarding procedural items for the Board of Appeals.

3. Next Meeting Date: December 21, 2020.

G. ADJOURNMENT.

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

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

VERBATIM MINUTES

- Appeals to order. We'll first start out with the roll call. I see myself, Tom, Tommy, Jim, and Greg. We have a quorum. We are missing Noel and I see Mr. Hoy. So we are set with five people at this point. Regarding the variance requests before us tonight, was anyone out to see any of the properties being discussed?

- No.

- I went to all three.

- Okay. It looks like Tommy. Go ahead Tommy.

- Well, I've seen one and I am one I'm gonna have to recuse myself 'cause it's out back of my property and directly involves my business. So yes, I've seen that one and I will have to not be involved in that one.

- All right. Hello Noel? Okay, does anyone expect besides Tommy on the Kavana case to abstain tonight?

- No.

- No.

- Okay. Did you speak with anyone regarding the requests before us tonight?

- No.

- No.

- No.

- All right, good. You're still on mute Noel. All right. We have had the agenda handed out. Is there any discussion to be made on that? If not, we can entertain a motion.

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

- Second.

- All in favor?

- [Members] Aye.

- Opposed five zero. All right we have an agenda. Regarding the minutes from the last meeting, is there any discussion regarding those minutes or if not, we can proceed with a motion.

- Motion to approve the minutes.

- I'll second it.
- Okay we have motion by Tommy seconded by Greg. All in favor?
- [Members] Aye.
- Opposed? All right we have the minutes from the last meeting approved At this point we should have a motion to open the floor for discussion.
- Motion moved.
- Second.
- I second.
- All in favor?
- [Members] Aye.
- Okay at this point, I'd like to explain what I think we need to let our alternate know what his role is. There hasn't been an alternate for quite a while and I will cite the precedent set by the previous chairman of this board that establishes the alternate as essentially one the people up at the table in front of the room. So Mr. Hoy will be able to ask questions and give comments. You will only be able to vote on certain issues. This was what Mr. Rosenthal established when I was an alternate humpty up years ago. Any further discussion questions? All right I think we're ready to proceed. We have the floor open. We've gone through all of the stuff. So I think without further ado, we can talk to the Kavana people. Maybe before we hear from Mike and Kayla, we can hear from Paul to set the stage.
- Okay thank you Mr. Chair. This request is along Broadway. Actually the request came in as 143 North Broadway, which was this property located here. In actuality of the request is at 144 North Chestnut. This is a parking lot that's separate from here, but is utilized for parking and for refuse. The request is to place a couple of dumpsters within the setback, along the Chestnut Avenue . And this is a copy of the site plan that was provided by the applicant. Kind of switched direction here a little bit. This is the alley and this is Chestnut Street over here. And this is the location of the proposed bins, refuse bins. And I believe this has been somewhat of an enforcement issue for some time and I think the applicant is trying to remedy the situation utilizing the variance. Chapter 13 18 13 requires that there be a setback of all refuse or dumpsters of 20 feet from the . So we can see that even as of their proposed or they're ... here should be set back about roughly two parking spaces probably back in this area here. So that's the reason for the request is a dimensional issue of 20 feet.
- So could you describe the variances that they need to accomplish what they would like to accomplish?
- I believe and the applicant can probably address this, I think they wanna probably go down to zero or close to zero, probably for convenience of where those dumpsters are placed for pickup.
- Okay. All right, without further ado we can hear from the applicants.
- Said I'm Mike, this is Kayla. We're the We're I guess technically representing Sand and Sun who is the owners of the property. So yeah, basically with the bins there our major thing is with the setback rule and with the fencing is everyone knows parking is tight everywhere in that downtown or in the Broadway District. Our big worry is by setting those back, we're gonna have a couple issues. One obviously, we lose more parking that's already extremely valuable or not valuable, but it's scarce. And we all know that when people pull up and don't

have a place to park they just drive away and they go somewhere else. So that's part of it. The second part is if we do back it up, people are still gonna park in front of it, which is obviously gonna become an issue with when the company comes to remove the garbage. I guess what we would say is signs and enforcement don't work. We already have issues with people parking in there all the time. So even there's signs already up there about, you know there is towing and fining and stuff. And then obviously snow removal because it's on the side where we're at And because the cul-de-sac's really actually less of a, like a traditional cul-de-sac and it's actually like three driveways, more or less. Our worry too is with snow removal with the city. And then when they have the policy go through that area too. And they usually use that, I think it's probably Paul might know this better than me about four or five foot wide piece of grass in between our lot and the public lot to stack snow. So obviously that becomes an issue as well as the snow gets deeper and deeper without . I'm not really 100% sure if I've answered the appropriate question at this point but

- Okay, the way I understand it you may wanna have a variance for the setback as Paul described, but you also want a variance from having to put a screening around it, is that correct?

- Yeah and that's correct. And I guess I think the big part with the screening is more of the aesthetic of the area. It would be the big issue with that part. To be honest with you, I'm sure whoever, I didn't catch who else went out there to check that area, from that exact position where you stand there we counted, we could see three other trash bins, including one that was behind the Old Fort Square that you can see without screening. I guess the precedent seems to be set that the screening doesn't seem to be an aesthetic issue back there.

- All right.

- May I ask a quick question?

- You're representing, you're actually sitting out in the audience. So you may indeed ask a question

- Okay that's what I was gonna say is that this is a shared business with us. So I wanna make sure that because I've refused myself but this is something that is involving my business. I can still speak to different issues towards the board, correct?

- As a point of order.

- Yes, you may.

- I think another piece of note that is important to add into this is that the trash company, there are different sizes bins. So there's a certain size bin that is on wheels. And then if you graduate anything above that, what happens is the wheels get off. And so the truck has to be able to access those bins as it drives into it which leaves those size bins for the amount of waste that gather. And Kavana we decided we had four bins out before and we decided to put five, correct? Yep and so mine and theirs. And so we decided to condense to get less bins there and try and get rid of some of that area. But because we had to graduate to the bigger size, the truck can only enter from one way. The one that was when it was originally was five bins was in the service alley and you had to pull them out into the alley for the the truck to be able to come and pick them up. And that's where Mike was talking about with the snow removal and all of that stuff. So what we've done is we've condensed and we've gone from five trash bins down to two but there's a specific place that we have to put them in order for the truck to be able to get them. Even if we moved them back in the truck would still in that cul-de-sac not be able to swing around and access those bins without having to go on top of another. It's a cul-de-sac that ends. So that's the only angle in which the truck can come and get them is where we have them placed. So I think those are some other pieces of importance in terms of the actual, hi buddy, the actual truck, the garbage trucks beyond some of it's stuff that we can actually control.

- I'm glad you interjected Tommy because I did wanna ask you a question but I wasn't sure how I could ask you if you were sitting in the audience. But since you have called that question, I'll do it anyway. You've kind of

answered a question that I had and that is that you're, that it's not just the Kavana business that's filling up that, those dumpsters, is that correct?

- Yeah correct. We have a shared parking lot behind our building. We rent and, or lease a garage on that parking lot. And that access point for that garage, it's hard without the map but it's on the same side of the place where the current where we have the dumpsters, we're asking to put them. So you can't push the dumpsters too far back 'cause then we can't. So where it says 20 feet. Right there is the entrance to that garage. So gotta rent that for storage for chairs, tables, all this stuff we need for our events. And so, yep. So you can see the entrance to the garage right there where that tree is. Yep thank you Paul. So we share this lot and we had five units all on this one parking lot and in the service alley. So we came together and said, five makes no sense. We can share, we can go up on a size, we can reduce. Than moving five pickups a week each and now we've been able to get it down to two with the larger bins. So we've reduced traffic, we've got larger bins. We're getting rid of big, multiple bins there to try and make a better overall experience for everybody.

- Are there any other businesses that are partaking in this, in a joint venture of waste bins?

- Right now, it is just the two of us. Though this goes back to what Paul alluded to earlier. So the reason why that this, I think has technically been in violation for a while. At the very end of last year, actually around this same time last year, we were actually working with Kevin Bonk and Brian Johnson to come up with a solution that involved the city and some of their property back there in hopes that all of the businesses who have dumpsters and stuff back there could potentially have one local spot that again would reduce the amount of visible dumpsters, even further not to mention, just make pickup and collection better. But obviously since Kevin has moved on from the city, that's why I think everything was kind of sitting where it was. We were just actually, the owners of the property, we were contacted one day and told that they were fined or they had issues with enforcement with it. And we were all kind of taken off-guard because it had left off that Kevin and was moving along with the, I think it's the economic board. Is that what it is Tommy?

- Yeah. I think for those that know, Kevin Bonk works in, moved on to a different city, but he was the economic director, is that right Paul?

- Yeah

- He was our planning director, yeah.

- Planning director, yeah. So we were working with him and as he said we had called Brian, we called and said, hey look, is there a better long-term solution that looks better? We all walked in that whole area, Brian and Kevin and us to try and find a different solution. We found a location that would work with the entrance and there was kind of thoughts and ideas of building an actual, you know more permanent structure that had all of that stuff. It kind of fell by the wayside. Obviously the city gets busy with different things but it was kind of in a holding pattern. And when Kevin left, I think it went back into violation. Ultimately I would say on behalf of Mike and Kayla as well is I think there is a genuine goal by us to have a more permanent, more aesthetic solution. There's no way we're gonna be able to put it together within a month, you know? And so that is something that is ongoing that we're trying to work on. I think the variance requests for us is can we get this done then get the threat of a violation or a penalty or a fine off the table so we can engage in some of those longer-term conversations to potentially come up with a long-term solution.

- And to that add to obviously with everything that's gone on between COVID and Kevin leaving we're back at square one again. So it's not like we can just jump right back where we were 'cause I think the key player in those talks of, to where we were is has gone. And so I think that puts us like I said, back to square one.

- Okay I have a couple of questions for Paul.

- Me too.

- Was this a complaint Paul, or how did this get brought before us?
- I believe it was. I don't have a full history of it but I believe typically we respond to complaints. So yeah I think it's been outgoing for Ron going for some time.
- You know the applicants discussed that a previous city employee was working with them. Is there any activity on the city's part to continue that discussion?
- I don't know that we've been approached again. It's unfortunate that Kevin left. A lot of things kind of got put to the side. So, I mean, it still could be a possibility but I'd have to discuss that with our staff. I think there were other opportunities like with Old Fort Square, they kind of corralled their dumpsters. But I think in this case it involves the city. I'd have to check with our interim director and see what her thoughts would be.
- Okay. Noel you had some questions?
- Yeah just on the fact that the petitioners or Tommy, I can't remember who it was who said it but we're talking about the prospect of working on a long-term solution that might be different than this. And it just made me wonder if we've got any ability or if there's any guidance from staff on, can we make a temporary approval of a variance? I mean is it possible to say look, this is a five-year thing or a three-year thing and then it's gonna get reviewed again? Is that something that's doable?
- Yes.
- I think that's a possibility, yes.
- We've done it.
- As the folks are saying, remove the risk of fine and penalty right now and give them a window to to re-engage with the city. And I certainly know that there's multiple initiatives in and around Chestnut and Hubbard and all the work in there by the Broadway folks and others trying to address some of the challenges that are presented by the parking and traffic situations all throughout there. So maybe we just grant something that gives the planning team and the property owners along there a reasonable horizon to work something out.
- Okay I think that's reasonable and we'll let you mull on how you wanna present your motion in a bit, but I wanna make sure that Mr. Hoy and Mr. Hutchison and Mr. Babcock have a chance to ask some questions.
- I got a question regarding visiting the site question. From time to time I'll use Google Earth and I'll go and look at this sites. Is that technically visiting the site?
- I wouldn't think so.
- Okay. Well, I did it for this this, well, actually all three tonight. I Googled because the interesting geometries of each one of the three applicants and I noticed right away on this one in the alleyway, there's small garbage bins all along the alleyway. And when I landed and looked, I could see exactly what they were saying. I could see everything that they were gonna say just from standing there and three seconds, okay? So I guess the one question I had is are the parking spaces open to the public in that parking lot?
- It is a private parking lot. Though what we will say is enforcement is literally impossible and it is typically more public parking than it is actually private. Though technically it's.
- Okay.

- And we have that we do. We have signs up that say we'll tow private parking for these businesses and stuff

- Okay.

- And that's, we've had vehicles abandoned in there recently that we had to pay to have removed them.

- Okay. Technically, that's a real hardship. I mean, really that's, you're facing right there in this. I'll say I have no issue with this applicant at all.

- Tom or Greg?

- Yeah so the parking lot, this is a question for, a couple of questions for the applicant. The parking lot is it normally filled is the question. And that's first question. Do you have spaces that are normally open? Number two if you were to move it was is waste management unable to at all access to dumpsters?

- For the first question, I will give you two answers for it. If we were to not talk about COVID, it is typically full from when we open until well, after we close. Obviously there are certain days that that could be different. You know if you're talking about a Wednesday night, there's not a lot. Oh, I take that back. There's the farmer's market, but Tuesday nights and some of those odd times but for the most part, when we're open it's packed upfront on Broadway and then back. And to answer the second question, it really would depend. So if we push them back, as Tommy was saying the trucks could get to it, they have to maneuver differently and they could be impeded like so say for instance, across the street from our parking lot, there's those apartments back there. They quite often have, I think it's I forget the company, but they quite often have trucks that are parked out there for like medical type things and transport things. If those were to coincide, there would be issues with the dump truck sweeping around to get to it. And then obviously the second issue becomes, like we talked about, we have huge issues with enforcements and parking. I worry that what happens when two people. So again, those apartments we have tons of people that just they'd park there and they'd go across to the apartments. They use it as their overnight parking. What happens when the dump truck shows up early in the morning to pick up, and there's two cars sitting in front of them 'cause there's space there and they, so that would be our two things.

- Okay thank you for your answers.

- Thank you.

- I concur with that too.

- Tom Hoy do you have any questions?

- Well, I did go to the site physically. And one of the maybe the ideas here, if this was complaint driven is there is a really large apartment building that I think you just referenced as far as people from those apartments going there and parking. On the flip side of that I could see where they could possibly be annoyed with the truck coming in, okay? With respect to screening, I drove down farther South on Broadway and I think the first address is it's around 124. There's a green Bay open lot there next to the public market and 126 is a cake place. And then next to that is the sardine can. And there didn't seem to be any screening around those two dumpsters. So I'm wondering, as far as the origination of what's gonna keep the person who complained happier? I really liked the idea of them collaborating with the city. And I know that Kevin Bonk was really a higher charging employee and would drive for good solutions. So I can kind of see the apartment people's idea as far as maybe wanting some privacy but at the same time, I see the need maybe to negotiate a parking area where you know, a set aside area for refuse. So that that's kind of my spin. How long would you think that you would need to negotiate this pathway to a common dumpster site?

- Yep I think there's a it's a, it's like a knot and you pull on one and all these different things. Since I've owned our business there's the back alley behind our business. All of the electrical poles that are going up in that back alley for three or four years now they're supposed to be coordination between the city and WPS. That's gonna bring all of that underground, okay? So the reason why I bring all of this up, the timing that you're asking about it, there's so many factors that go in. So by those poles going underground, anything that the city builds that might be permanent, you don't want them to build that permanent and then have them come rip that up 'cause they're gonna rip the whole alley up to bury all of those electrical wires. So you're looking at coordination there. When the electrical posts go underground or the wiring go underground, they need to put strategically through the alley electrical, I'm not sure if it's generators or some sort of power source things and right by the current garage that I'm leasing right on the other side is where we were talking about potentially building that corral for those businesses back there. WPS might need that area to put those generators. And so there's a negotiation happening there. So it all hinges on really that back alley decision with those posts going underground. 'Cause you don't wanna double work and build something and all of a sudden have to rip it right back out. So a larger window would be the ask. We would love to get it done yesterday. We think we're doing the right thing for the district as businesses sharing getting rid of those different things. But we're really kind of stuck with a really temporary issue. And then there's other people that are really controlling a lot of our destiny. So the ask would be as long as you're willing to grace us with that, I think I could speak for Mike and Kayla. I think we're very open to having a time constraint on it because this is not a solution we want permanently either. So longer grace would be to ask because it's out of our control right now with a lot of the different things that are happening.

- Do you think there could be any collaboration between your businesses and say a fine instrument workshop that's right in your neck of the woods?

- Yeah a lot of those businesses have individual canisters that are like normal house because they have living spaces up above and they just use their dumpsters for that of trash. If you drive behind more North of our business, a lot of their trash is actually single, business normal, you know, at your house type of stuff. But that is the goal. If you look at Fort Howard as Mike mentioned there are a solution where it is three walls to a gated thing and that whole area shares those dumpsters. We would love that on our side. And I think every business down there is on the same page. It's very cookie cutter in terms of everybody's got different dumpsters and having a more shared, more designed look back there would be great for all businesses because there is so much back parking and back entrance for businesses. So yeah, 100% to your question. We would love to collaborate with anybody to use those dumpsters

- Before we go on at this point let me ask if there is anyone else participating in this Zoom meeting who wishes to speak for or against the variance that's before us? Yes sir. You're on mute I think.

- Yes David Bartikofsky. About 12 years ago, 12, 13, 14 years ago, I was on the parking committee there for on Broadway. And we came up with a solution which I thought it was a viable solution. We wanted to make all privatized parking in the Broadway District public and in exchange for that through the bid money we were go, we talked about removing snow, maintaining the parking lots for those individual people. We also looked at the railroad easement behind for possible recycling center for the whole district and things of that nature. So we looked at this about 12 years ago and it kinda just fell by the wayside. I don't know if it's something that should be looked at again, but that way it kind of took care of the problems we always had down there about parking and trash collection and recycling and such. So just wanted to throw that in there.

- All right thank you sir. You know I think Noah had a good suggestion in light of Mr. Vaughn moving on and especially in light of COVID and especially in light of the attempts that the businesses in the area have already attempted, I think the proper thing is as Noel suggested is to grant a temporary variance to let things proceed and yet give us a chance to revisit this if everything falls through later on. And I'll look at Noel and see if he has any thoughts.

- Yeah thank you, Mr. Chairman. I'm inclined if the duration that I'm gonna propose make sense to the rest of the members here to say let's not make it so short that we're talking about this again and nobody's had a chance to mobilize but let's grant this variance as a temporary variance for four years. I think that would give everybody time to look at this and even open the box on maybe a broader solution than just dumpsters as Mr. Bartikofsky was just talking about. You know, maybe there's broader solutions that the district and then some of the owners can explore. And then we're not talking about it next year or something like that. But still there's a ticking clock on it still, that's within a reasonable horizon before this has to get addressed one way or the other.

- All right

- Does that sound reasonable you guys to say four years?

- I'll look at yeah, the applicants and I'll look at Mr. Hoy and Mr. Hutchison and Mr. Babcock to see if they're amenable.

- I see some nodding. Tommy be nodding right now, you accused yourself. Oh yeah.

- I'm nodding on behalf of the applicants.

- 'Cause they're like no.

- I mean the audience nodding.

- Okay all right.

- I think it was an awful long time. I don't think it would probably be acceptable to the person who put forth the complaint. No, I could see two, I don't know about four.

- Greg what do you think? Should we split the difference at three?

- That's what a lawyer would do.

- My gosh do we have any?

- For the sake of advancing this discussion to a conclusion I would move that we grant a temporary variance as requested by the petitioners, but for a period of three years.

- I'll second the motion.

- All right. I have the feeling we're in violent agreement. Therefore I'll call the question all in favor, say aye.

- [Members] Aye.

- All opposed? All right, you got it. Three years, get to work.

- Thank you everybody, thank you.

- All right. And by the way, in our informational part there's a question I wanna ask Paul later on about another temporary variance we granted many years ago. But we'll worry about that when we get there. I think we're at the point of moving on to the next parcel, the Josephs property on Irwin Avenue. You wanna tee us up, Paul?

- Sure, thank you Mr. Chair. Okay so this property is located at 1519 North Irwin Avenue on the West side of the street. It's a single-family home that has an existing detached garage. Low density residential area. They helped add a second structure a second detached structure to the property. This property is also located in the flood plain. They're not asking for any exemption from the flood plain but any new structures will have to be flood protected. Again, this is Irwin Avenue. This is a site plan provided by the applicant. The alley here is existing principal dwelling. This is the proposed garage here. I believe it was an existing driveway and an existing garage. So the variances here, there's three separate variances. The first one is the size of this structure. This is considered the second accessory structure. That's over 150 square feet, so that's one variance. Actually the second driveway now under our current ordinance is not permitted. You can only have one driveway cut her person for single-family use. And the third variance would include the combination of the existing garage, the proposed garage those two accessory uses together are larger than the footprint of the principal dwelling. So there are three separate variances you'd have to consider here. Again, just an image of the existing home, the existing driveway here and the detached garage, and some here as well. These are included within your packet tonight.

- Okay good. Thank you Paul. Can we hear from the applicant? Mr. Josephs is here, but I don't see him speaking.

- I can go ahead and unmute him and see if that'll

- Can you hear me?

- Now we can yes, thank you.

- Yes he kind of said everything I wanted to say about putting the garage there and all that. The garage would be moved there from PRPs homes I guess out there and on alleyway or whatever they're all there. And there would move it there a different garage that what was it, a tall by 24 garage over there? And that, and the driveway is already there. So all we'd have to do is add a little bigger slab on that in there. And you could have that drive. And my granddaughter lives in the house now and she would like a garage a host than the one that we have there now because it's so far away. So that's about all I have to say and that's about all I got to say about it. My son was supposed to be here to do some speaking but he had to work late, so he couldn't make it so.

- I have some questions for you, Mr. Josephs. How long have you owned this property?

- I just took this property over last year and we didn't, we had no electricity put in there. We had all this other stuff. And so this would be part of I guess getting it in better shape than what Yeah, I had it over about a year now.

- Do you have any awareness of what the plan was of the original owner or why we have such a distantly detached garage?

- No I don't. I think past the owner probably bought it that way. I don't have no idea why he built it way over there but

- Okay that's that's fine. I was just gonna comment that I looked on the city's mapping and the situation that is at that property now has been that way for 30 years. In other words, there's for 30 years, it's looked just like it is now with no nothing at the end of that center driveway and that a garage on the far end has been there for that long too. It's an odd situation. Do you have any comments on it Paul? How we got here?

- I don't, I didn't do a lot of research on it necessarily. I think the aerial photos from years ago probably speak to that. I really don't have any new information to pass along.

- Okay. I'm gonna ask Mr. Hoy what he saw on his physical inspection.

- Well, it's sometimes hard to visualize how far 69 feet is from a photo, but when you get on the other side of the street and look across, it's pretty far. The other things that I think are maybe important to note is Street is a mix of business and residential, okay? There was an auto parts place, I think Dale Electric is. There's not appliances is not too far from there. And there are all sorts of electrical services going into that garage. It made me wonder like okay well, is this person thinking, 'cause there's enough room in that garage to have two stalls and actually a work area. So I was kinda thinking like, okay, well where's he going with this? Is this gonna be a business, or is he gonna possibly rent out the garage for parking trying to, try and figure out where, you know what's the best news that it's gonna be. The fact that it's on a commercial street kinda lends me to think it's I would be okay with granting the variance. Because even though it's a residential place it's really, you know, the garage is on one end of the line and the house is on the other lot. So I kind of sympathize with the homeowner. I don't see any harm or fault as far as allowing them to move forward.

- Okay, Tommy, Greg?

- I think you answered my question. Looking at it aerially, it's hard to get a sense of it. It almost looked like it was two lots that were put together because of the distance between the two different things this different buildings. And there was two driveways. So I thought oh, maybe they had two parcels that were put together. If it doesn't sound like that's the case. So I think that question has been answered. Is that correct Paul? That's not the case, correct?

- I went on the Google flyover thing. I looked across to the street and they have identical amount of driveways. It's more industrial like Tom said. And so there isn't a disconnect really from the neighborhood to the, across the street. So I was kinda having the same thing that Tom thought when I looked at it from that perspective.

- Greg or Noel?

- I have a question for the applicant. On that smaller garage, it looks like the driveway, is the driveway leading to, is there a parking in the garage or is it more like a storage shed? It doesn't really look like it gets leading anywhere.

- You mean the drawing next to the house, the driveway next to the house or that

- Yeah.

- There ain't a garage there yet but we're gonna have one move there from the homes. There'll be moved there. They said they'll even bring it there. My son drives cement truck and he said, we relayed at new slab over the top of the old existence lab there back in that area right there so it would that garage.

- There looks like there's a structure there already. Am I missing something

- That's the Jason properties garage.

- Yeah that's the

- Oh, okay.

- And that's back 11th, that'd be back 11 feet from this new garage that we're gonna put there.

- It's the same color so it kind of is confusing.

- Yeah it Okay so you're putting in another structure there in the middle?
- So it won't take us long to do it. It just to pour that slab and have 'em all way right there and set it down on that slab and and then
- Okay.
- They could use it and they'd be happy.
- Okay.
- Do you have any questions Noel?
- I'm just straight view in Google Maps and I noticed like right across the alley from this guy's house is a unenclosed dumpster. No, it's weird. Yeah that two car garage on the corner almost looks, I wouldn't be surprised if there was a division in these parcels at some point in their history, or if that two car garage wasn't actually a commercial operation at some point in its history given the other types of uses in the neighborhood and the heavy commercial across the street and other things but at the same time, I'm, you know, it's just because it we've got some stuff that's commercial or heavy in the neighborhood here. I don't know if that argues for doing more of the same. And one of the things that I really struggle with is this house and the adjacent property too where Greg was just asking about that other garage, it's already there. All these properties that have alley access but none of them are using the alley for their parking or for the access to their garage is they're all cutting additional street cuts you know, for garages. And that's just not a great design. That being said because of kind of the existing wackiness of this parcel and some of the surrounding uses I wouldn't maybe argue against or vote against a proposal to grant a variance but I'm not gonna make that motion.
- When I mapping, I went back several years and those buildings were there before there was an alleyway. So it's an odd situation all right? The alleyway actually came in later on.
- I see.
- All right, Noel's raised some good points, but he says he's not going to propose or make a motion on this. So I'm okay with this. I think that in light of the, I think wackiness is a technical term that we can say. It seems like those, that it's, that everything has been this way for so long that putting a garage at the end of the driveway that has been empty for so many years instead of a necessarily bad one so. But I'll look at Tommy or Jim or Greg gone not making a motion.
- I don't know if anyone else has any comments before we start a motion, but I'm fine with it. Yeah I'm satisfied.
- Go ahead Jim, sorry.
- Oh I was gonna move but go ahead.
- No that's just my comment it's very similar. It's just on the record. It's a weird kind of situation and you're pulling out curb stuff to then it adding the piece there I think is gonna actually add to an overall aesthetic that makes it look better. It's a weird situation. I'd be curious what would be the actual solution? Would be just to get rid of that driveway is that the idea? 'Cause that's part of the variances right Paul? Is that they can't have two entrances so The not only that driveway but also remove the cuts and put curb back up, and then you have the one and this giant space in between. So the only solution is to build the house bigger to get it closer to the garage. You know to make that look good. It's just, it's a wonky is a good word.

- Or do an addition to the house but the problem is that it's in a flood plain, so that would present the issues with any sort of expansion. So really a detached is a better solution.

- Yeah. So I'm okay with this. I think it, that the uniqueness of the property and what's already there already adds some complexity. So I think it's a better solution than what we currently have.

- Before we go one step further, I just want to ask if there's anyone else on this Zoom meeting who wishes to speak for or against the variants being proposed here? If not, I think we've all indicated our acquiescence in various levels of approval so.

- Mr. Chairman?

- Yes.

- Do you want a note for the, just for the record that the other person was in support of this?

- Oh, yes, I should. I sent you guys an email today, but let's for the record note that the other person, Cathy LaFave had gotten in touch with me and said that she was in favor of what's being proposed here specifically citing that the applicant has need for a garage in that area so. Did we get to the point of a motion and a second if not, we're, I think we're there guys.

- I'll make a motion to approve the variance as requested by, variances as requested by the applicant.

- I second.

- Okay we have a motion made by Greg seconded by Mr. Hutchison, further discussion all in favor?

- [Members] Aye.

- Opposed?

- Nay.

- One nay, four positive that we have your, Mr. Josephs you have your variance.

- I thank you.

- Well sir I'd like to just remind the applicant to stop and talk to our inspectors about getting a permit.

- Okay.

- Again as I mentioned, this property's in a flood plain so it might not be as simple as putting a slab down and moving the garage there. You're gonna probably need to possibly elevate that. So he should talk to our staff about some of those challenges.

- Yeah. If it's gonna be too much, I'm not gonna raise it four feet up in the air or nothing like that, because that'd be a no. That would be a ugly-looking mess but you know building a what did I call 'em? Like homes or you building up in the air. So if I'll talk to you guys and see what you come up with if it's within my reason, then I would like to have it done but I'm not gonna raise it way up in the air. Okay?

- It's by contact our inspectors please.

- Yeah.

- Thank you.

- Will do thank you.

- Thank you.

- Okay well, I'll get to the last applicant now the people on the corner of Danz and Van Deuren. You wanna go out and talk us through this one Paul?

- Sure. Thank you, Mr. Chair. This is a property at 581 North Dan Van Deuren and Danz Avenue here just South of University Avenue. Single-family home, zone low density resident or I think it's very high density residential actually. They have an existing driveway onto Danz. They'd like to improve a driveway off of Van Deuren Street. This is a sketch from the application and from the applicants. And this is a street view, kind of showing that for some reason, they do have an existing curb cut here. They'd like to improve a driveway back behind their home back behind the setback line with some pavers which is possible. The challenge here is that you're again only allowed one driveway cut per single-family parcel That's the change that we made late last fall and an update to our parking code standards. Typically prior to that, we would allow one driveway cut per street frontage. So prior to last year, or this year, this would have been permissible. So they're kind of caught in this position where they needed to get this variance because of the second driveway.

- Okay thanks Paul. Are the applicants on?

- Yup.

- Yup we're here.

- Okay if you could lead us through the case for the variants that you wish to present to us.

- That curb cut's been here since before we even moved here. We've lived here for what, 25 years? And that's always been here. And we live on Danz like you said, and with two teenagers in the house and let's face it these days you have more than two cars, but with being on Danz, it's also very busy trying to pull out, especially around what, between three and 6:00 PM. You can't, takes 10 minutes to get out of our driveway, but with parking being what it is and everything, we just don't have room. So a second driveway, we kind of need we just so that we can only fit. When they redid the road in what, '97, '96, they shortened our driveway a lot. So we can't park two and behind each other. We can only park one car in the front driveway. So we don't have adequate parking and upfront. So that's why we're asking for another one. And we were unaware of the fact that because from what we read in the ordinance originally before it was changed, was that you could have two. And then when we got this letter that we you know, you read that thing that we got from. It was totally different and why we had to file this variance. That's what started all this.

- So is it, here's a curb cut and driveway apron that does not lead to illegal driveway on Van Deuren Street. So they want us to close the curb cut through an abandoned driveway. That was ordinance was 9.28 parentheses two parentheses B. And that was dated June 16th of '20.

- We talked to several people. So we are very confused on a lot of it I guess you could say.

- Can I ask you if you have been using this as a driveway for some time or?

- Yes.

- Okay. Paul if they are to use this as a driveway then are the pavers necessary to satisfy some small portion of it being considered a valid driveway?

- Correct. So I think the original issue is the opening of the curve. I'm not sure how or why it's there, but I think maybe a complaint was filed and I think the inspector said it should be closed because it appeared to be abandoned. It doesn't appear to leave to a parking spot. Illegal parking spot for us would be a spot that's behind the setback that is paved.

- Okay. Questions, Tommy, Jim, Greg, Noel, Tom?

- Well I had a question on there's two rows, are those the pavers under each wheel that are in the drawing?

- Yes.

- Okay I was confused if there was two driveways or just.

- No ain't no drawing

- No, that's fine. Now that I know they are pavers, I know exactly what you were showing.

- Yeah when I talked to Scott, he said, you see, you'd be surprised by some of the drawings I've seen. So he said, do it again.

- No, that's fine.

- I don't understand that either Jim. That was gonna be my question.

- Okay.

- And that's best permissible under the code. You don't always have to pay the full driveway. It's like the old fashioned type of driveway where you had two pavers and you had a grass middle. So that's certainly acceptable on under the ordinances. It's just that the apron would have to be improved. They'd have to get an approved site plan again showing an approved driveway.

- Noel, Tom or Tommy?

- I got a question for Paul. So trying to put together had, guys please, Jack please, sorry. Mum's working tonight so I'm doing double duty. The ordinates had not changed with the second driveway there, they wouldn't be in violation, is that correct? If there was the pavers down, let's say.

- I think they still would be in violation as it would have been deemed an abandoned driveway or abandoned driveway cuts. So we like to see those closed up if they're not utilized. If you wanna utilize, then you'd have to improve that to meet our standards. Unfortunately, in this case we've changed the ordinance to only limit one driveway cut per person.

- Okay so it's kind of, if let's say it had been paved correctly or had the pavers down, and the ordinance had not changed, they would be fine? That's what I'm trying to understand.

- Yes.

- Copy that.

- I see evidence that that driveway certainly being used. And if you look at the Google Map, I see a red car parked back there. There's a trailer with some vehicle on it. There's something under a green tarp that looks somewhat vehicle like as well. So we were just talking and the previous item about a driveway that didn't go to

a garage, but had been there forever and making it right somehow by putting the garage up. This seems to me to be a situation very similar. Like we've got a driveway started and it's been there forever. Maybe we just finished the driveway so that they could utilize it. I do think in terms of the traffic situation. And I remember the that adjustment or widening of Danz Avenue there and a lot of folks got a shorter drive because of it and the amount of traffic on Danz it's really pretty extraordinary at times and I get that that's a tough entrance and exit under that busy street. So by having maybe they're less experienced drivers parking off of this driveway. It's probably a safer prospect all around. And I think this is a, like I said this is something that, they got, we created the challenge by changing the rules. I don't necessarily think we made a mistake changing those rules as a community, but I appreciate that and I'm thinking about that as well and the consideration of this request, and I'm inclined to support the request, requested variance.

- Okay, is there anyone on this Zoom call who wishes to speak for or against this variance request?

- As far as being a grandfather and as old as I am, I kinda respect grandfather rights. It seems like this new ordinance stepped on grandpa pretty hard you know? I don't know that I'm still comfortable with, if we get to a point where we're gonna review board activities if there might need to be some accommodation made to, if something is an existence prior to the ordinance changed that it's, maybe they don't have to go through with this. But that's my perspective on it is that move forward in and grant the variance.

- I have a question Paul and maybe I missed this. When the, an ordinance changes like this. For me, I'm sitting here going, I would love to understand the You just have to so sorry.

- We're good.

- The context of why that change happens. And so whether that's applicable right now in this moment, it would be interesting. Maybe in our discussion after we vote on this to talk about, hey, if ordinances do change, does this board get, hey, this ordinance was updated or added and here's contextually why it was voted that way. This is the goal or what they're trying to accomplish in terms of a more unified code with, you know, so that we're not here undoing what the goal and intent was.

- Yeah I think that's a great topic for the informational item that's down below because you should be aware of zoning text changes because you interpret those and you'll possibly get variances to those. So you should be made aware of them, yes.

- Yeah at the same time, I think it's a completely valid reason on our part to take that into consideration that the ordinance has changed and perhaps left an applicant in a lurch. All right.

- I'm okay with this.

- I move approval as requested.

- I'll second.

- I second.

- Okay we have a motion made and seconded to grant the variance requested by the All in favor?

- [Members] Aye.

- Opposed? You got it, you have your variance.

- You know how long we have to get it done since it's like

- Well, you'll need to obtain a permit to make improvements.
- Yeah we know that.
- We'll work through that process and let Scott and Nelson know that you're working on that
- Okay.
- We cannot put a timeframe.
- Okay. All right that sounds good. All right, thank you much.
- Thank you. Perhaps at this point we need a motion to close the floor?
- Motion moved.
- Second.
- All in favor?
- [Members] Aye.
- Paused, floor is closed. Very good. Paul, do you wanna lead us through the informational?

- Yeah real quickly I just wanna give you an update on 901 Main Street 'cause you're probably expecting that to come back this month. It was tabled at the last meeting. It was a variance to reduce the width of the emergency wing and guys, you recall 901. And the property on Cedar we're very close, very narrow area. And the board recommended to table it for, I think for additional information basically. And that should have been brought back at this meeting. Concurrently, the applicant also applied for a conditional use permit and that was going to the council the next day on 10 20. The council tabled it for 90 days. So that'll put it on until January. So that's why it hasn't come back to the board for this meeting. We also received the communication from actually a plan commission member from the council who made a request for our staff to look at and review drive throughs and bypass lanes. So that's something that'll be ongoing that might involve an ordinance change down the road, maybe in early December, but we're gonna talk at staff about that. So I just wanna give you an update that that's why it didn't come back to this body and just wanna give you an update.

- On that note Paul, part of the reason why we punted was because we thought it was cart or horse and we thought the council was putting the decision on us. Whereas we thought the opposite should happen is there should be a plan and then we're deciding within that because it's for 90 days and these other pieces, is there some sort of process that will be put in place that it doesn't come before us again so that we then delay the whole process another month. So if that stuff's taken care of? Before it comes to us, if needed to become to us.

- Yeah so this happens occasionally. And we talked to staff and very transparent about it. There is a use issue and then there's kind of a dimensional issue. And we always believe the use issue should come first and that's to the plan commission. They shouldn't come to the board of appeals unless they have the use approved by the plan commission or council, or at least in progress. And that's, it was just, they were very close together. We didn't wanna waste any time so we kind of patched them together but it should not come back before this body until ultimately the plan commission at a minimums reviewed it and made some comments maybe before the council, but we hope to have the council decided that it can come back for consideration. Whatever the plan commission and council do may have conditions that might include the board of appeals. So you're kind of in that second position.

- Well, we need to make 'em make it extended then Paul because we only extended this until the next scheduled meeting. So if we don't do something, they're kind of in a bind and have to reapply. So I would suggest that we make some sort of motion to continue to table this request perhaps for another 120 days?

- Well it's really not set up as an action item on the agenda. I think it's kind of understood that it couldn't come back at this point. So I think we'll bring it back at the next available meeting, which just happened. It was not this meeting.

- All right. Well, if you're satisfied that they're not obliged to reapply and that we don't have to do any action, I can see your point that it wasn't agenda'd as an action item so.

- Right.

- Right.

- Very good. Well, that explains where they're at. Look forward to seeing how it progresses. Anything else informational?

- Procedural I just put that on there. I wasn't sure if there was additional discussion that the board wanted. I think we'll give a quarterly report at the end of January or at the January meeting just about the past three months of various activity that we had. But otherwise I just kinda left it open for board members if they wanna talk about some other topic.

- Well, the temporary variants that we granted tonight reminded me that I think one of our other temporary variances from a while back can be withdrawn and I'll look to the staff to research this. But when we granted a variance for the people on South Broadway years ago to handle the river dredging process. And that was a temporary variance that we granted them. I don't think we put a time limit on it, but I think that we said that when they're done, the variance is done. In other words it wouldn't continue for perhaps the next owners. So if you could research that, I wouldn't be surprised if that wasn't maybe five six years ago, but if there's something formal that we need to do to withdraw that, or if it's automatically gone at that point, just let us know. But it kind of does raise the question that if we raise a, if we do put up a temporary variance out in other words, it has a time limit on it. We have to make sure we have a way to enforce it to at least to review it.

- Right and I think that's kind of staff's responsibility. I can do some research and we'll find a mechanism to account for this one that you approved tonight so.

- Okay, all right. Okay the next meeting is just before Christmas. Everybody have a happy Thanksgiving as best we can in this situation. I think we're ready to adjourn.

- I move we adjourn.

- I'll second it.

- All in favor?

- [Members] Aye.

- We are adjourned. Thank you, gentlemen.