

**MINUTES
BLOOMINGTON ZONING BOARD OF APPEALS
REGULAR MEETING - 4:00 P.M.
WEDNESDAY, JULY 17, 2019
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE STREET
BLOOMINGTON, ILLINOIS**

Members present: Mr. Terry Ballantini, Mr. Tyler Noonan, Mr. Michael Rivera Jr, Mr. Richard Vitengruber. and Chairperson Victoria Harris

Members absent: none

Also present: Mr. George Boyle, Assistant Corporation Counsel
Ms. Casey Weeks, Assistant City Planner
Ms. Katie Simpson, City Planner

Mr. Boyle called the meeting to order at 4:05 p.m. Mr. Boyle announced that the Board would elect a chairperson after roll is called. Ms. Simpson called the roll; with five members present, the Zoning Board of Appeals established a quorum.

ELECTION OF A CHAIRPERSON: Mr. Boyle called for nominations for a Chairperson. Mr. Veitengruber nominated Ms. Harris as Chairperson. Mr. Rivera seconded the nomination. No other candidates were nominated. The Board unanimously voted, by voice vote, to elect Ms. Harris as Chairperson.

PUBLIC COMMENT: None.

MINUTES: The Zoning Board of Appeals reviewed the April 17, 2019 regular meeting minutes. Mr. Ballantini motioned to approve the minutes as corrected. Seconded by Mr. Rivera. The motion to accept the minutes as amended, was unanimously approved, 5-0 by voice vote.

REGULAR AGENDA:

SP-02-19 Consideration, review and action of a petition submitted by Tesla Motors, Inc. for a special use permit to allow vehicle sales and service in the B-1, General Commercial District at 420 Olympia Dr. (Ward 8)

Chairperson Harris introduced agenda item SP-02-19. Chairperson Harris explained the order of proceedings for the public hearing. Ms. Simpson presented the staff report. She explained staff is recommending in favor of the petition. She provided photos of the property, an aerial photo of the subdivision and a zoning map. Ms. Simpson explained the property's zoning and described the surrounding zoning and uses. She stated that this area is a mix of retail, office and trade and construction services. Ms. Simpson explained that following the adoption of the zoning ordinance in March, the use "vehicle sales and services" is permitted, on a case-by-case basis, with a special use permit in the zoning district. She explained that there are areas in town zoned B-1 and adjacent to residential where vehicle sales and service may negatively affect the adjacent residential properties. She explained that in this case, the commercial property is surrounded by other commercial properties. Ms. Simpson explained that the proposed product sold is electric and the product is marketed to a distinct clientele. The amount of space needed and the impacts resulting from the proposed use are less than a gasoline repair facility

and a traditional vehicle sales facility. Ms. Simpson described the existing parking regulations and requirements for this property. She described the exemptions for parking and recommended the application consider making one space as a vehicle share space and one space as a carpool space. Ms. Simpson stated that detention has been provided for this site. Ms. Simpson explained that the petition aligns with the Comprehensive Plan's goals for reducing air pollutants, promoting sustainable transportation, encouraging economic growth and infill redevelopment. Ms. Simpson described the standards for a special use permit and that staff determined the petition to meet the standards. She explained that after publishing the packet, staff received a question from an adjacent property owner about the expiration and transfer of a special use permit. Ms. Simpson explained the guidelines for the permit and that the permit could expire if the property were vacant for a period of time or be revoked or falls into disrepair and is unmaintained.

Laura Pritchard, 901 N. Rush St. Chicago IL 60610, and Seth Aichinger, 5915 Huston Rd, W. Lafayette IN, were sworn in and spoke on behalf of the petition. Ms. Pritchard explained that Tesla is applying for a special use permit at this location. She stated this would be the first location outside of the Chicago-metro area in Illinois and that the organization is very excited to be located in the community. Ms. Pritchard stated she is the Regional Sales Manager for Illinois. Mr. Aichinger stated that he is Mobile Service Manager for the Midwest. Mr. Ballantini asked if the facility will be locally owned. Ms. Pritchard answered that Tesla is renting facilities and all locations are company owned. Mr. Ballantini asked about the care and the maintenance of lithium batteries, specifically regarding fire suppression. Mr. Aichinger stated that facility will have the fire suppression and equipment required by code. He stated that they typically have fire extinguishers on site and contact the fire department in the case of large fires. He stated that batteries are less explosive than gasoline. Chairperson Harris asked about the number of charging stations. Mr. Aichinger and Ms. Pritchard explained that there is no intention to have outdoor and public charging stations, all chargers would be stored inside. Mr. Ballantini asked about parking. Ms. Pritchard stated she noted staff recommendations on parking. Chairperson Harris asked if there was an estimated opening date. Ms. Pritchard described next steps needed prior to opening but did not have a specific date. Ms. Pritchard clarified that the State of Illinois also requires a dealer's license.

Omar Lehr, 17 Summerset Court in Bloomington IL, was sworn in. He stated he is a member of the commercial condominium association north of the subject property. He explained the association is not concerned about Tesla locating next to them, they feel the company will be a good neighbor, but wanted reassurance that a special use permit may also be required for another car dealership should Tesla move out. Mr. Ballantini asked why the association appeared to prefer Tesla over another tenant. Mr. Lehr responded that the association would feel the same if it were a Cadillac dealership. They feel Tesla is a responsible company who will not keep their lot filled with junk cars to be fixed and resold. He also stated that there is a fire extinguisher in front of their building and the fire department is located two blocks away by the airport.

No one spoke in opposition to the petition. Ms. Simpson stated that the Building Official reviewed the plans and will also review the plans for fire suppression and sprinkler systems before issuing a certificate of occupancy for the use. She added that the Zoning Board could choose to recommend the petition with conditions if they wished.

Chairperson Harris closed the public hearing and asked for a motion to accept the staff findings. Mr. Veitengruber motioned to accept the findings as presented by staff in the staff report. Mr. Rivera seconded the motion. The Board accepted the staff findings by a vote of 5-0, with the following votes cast on roll call: Mr. Veitengruber—yes; Mr. Rivera—yes; Mr. Ballantini—yes; Mr. Noonan—yes; Chairperson Harris—yes.

Mr. Rivera motioned to approve the petition. Mr. Ballantini seconded the motion. The petition was approved by a vote of 5-0, with the following votes cast on roll call: Mr. Rivera—yes; Mr. Ballantini—yes; Mr. Noonan—yes; Mr. Veitengruber—yes; Chairperson Harris—yes.

Z-05-19 Consideration, review and action of a petition submitted by Marc Olsen for approval of a variance request. The petitioner is requesting; 1) a 2' reduction in the required rear yard setback; and 2) reconstruction of a non-conforming structure, to replace a damaged screen room at 902 W. Monroe St. (Ward 7)

Ms. Simpson provided the staff report. She explained staff is recommending against the request because the application does not meet the standards for a variance. The petitioner was requesting to replace an existing nonconforming structure. She provided photos of the property and surrounding property, an aerial view of the property and a zoning map. Ms. Simpson explained the original nonconformity was the result of connecting the garage to the home by the breezeway and the sunroom. The structure also encroaches into the 25-foot required rear yard setback. Ms. Simpson discussed staff's analysis of the standards for a variance. Although some standards were found to be met, staff recommended against the petition since the petition did not meet all the standards.

Chairperson Harris asked if other homes have this type of structure in the neighborhood. Ms. Simpson stated that other homes have sunrooms but do not seem to have the nonconforming connection. Ms. Simpson stated staff could not find examples of other variances granted to neighboring properties or to the subject property. Mr. Rivera clarified that if the building had not been completely torn down, the nonconformity would have been allowed to be maintained by the petitioner. Ms. Simpson affirmed.

Chairperson Harris swore in the petitioner, Marc Olsen 902 W. Monroe St. Mr. Olsen testified that his sister purchased the home ten years ago, with the sunroom and the breezeway intact. He believes they were added in the seventies. He stated he completed replacing the roof of the house in April, and at that time, the sunroom roof collapsed. The sunroom roof damaged the frame. He filed an insurance claim and insurance will pay for a new sunroom. He stated that he would like to replace what was there. Chairperson Harris asked if there was an alternative location where the sunroom could go. The applicant's contractor, Mr. Richard Erickson, Mohammed, IL, spoke on the application. Chairperson Harris swore him in. Mr. Erickson stated he submitted for a building permit and he discussed alternatives. He feels this is not a complete removal of the sunroom since the slab and foundation are still in the same location. He intends to stay in the same footprint. Chairperson Harris asked for clarification about the destruction of the structure. Ms. Simpson explained that the ordinance considers damages exceeding 50% of the fair market value of the structure to mean that the structure is destroyed.

Chairperson Harris closed the public hearing. Chairperson Harris stated that she believes the depreciation to the value of the home is causing distress to the application. Mr. Ballintini stated that he believes the actions of the applicant were not created by the applicant. Chairperson Harris asked if the structure appeared to be different than other homes. Ms. Simpson confirmed it was not and added that staff did not believe it would negatively impact the neighborhood. Mr. Rivera asked for clarification on the staff analysis regarding reasonable use of the property. Ms. Simpson clarified that the statement means that the property remains viable as a single-family home property and that denying the variance does not impede the homeowner's ability to use and develop their land. Mr. Boyle asked the petitioner to address the physical characteristics of the property, whether the special conditions were granted by the applicant, and whether the variance will give the applicant special privilege. Mr. Erickson explained that the homeowner did not understand the nonconforming structure when he purchased the property. He does not know how else that this could be built differently than it was forty years ago. He stated it would be cost prohibitive to relocate the structure to a different side of the home. Mr. Rivera stated that we are meeting because the structure was removed. Ms. Harris asserted that nature created the need for the variance.

The Board voted on each factor individually to establish a finding. Mr. Boyle explained the all factors must be found to be met in order to grant a variance. The following votes were cast by roll call:

(1) The property has physical characteristics that make strict adherence to the code difficult. Mr. Ballantini—present; Mr. Rivera—yes; Mr. Noonan—yes; Mr. Veitengruber—yes; Chairperson Harris—yes.

(2). The variance is the minimum action necessary. Mr. Ballantini—yes; Mr. Rivera—yes; Mr. Noonan—yes; Mr. Veitengruber—yes; Chairperson Harris—yes.

(3) The circumstances were not created by the applicant. Mr. Ballantini—yes; Mr. Rivera—yes; Mr. Noonan—yes; Mr. Veitengruber—yes; Chairperson Harris—yes.

(4). The applicant will not receive special privilege. Mr. Ballantini—yes; Mr. Rivera—yes; Mr. Noonan—yes; Mr. Veitengruber—yes; Chairperson Harris—yes.

(5) The variation will not be detrimental to the character of the neighborhood. Mr. Ballantini—yes; Mr. Rivera—yes; Mr. Noonan—yes; Mr. Veitengruber—yes; Chairperson Harris—yes

Mr. Ballantini motioned to approve the variance. Seconded by Mr. Rivera. The Board approved the variance by a vote of 5-0, with the following votes cast on roll call: Mr. Ballantini—yes Mr. Rivera—yes; Mr. Noonan—yes; Mr. Veitengruber—yes; Chairperson Harris—yes. (1:11)

Z-06-19 Consideration, review and action of a petition submitted by Steve Garbe for approval of a variance request. The petitioner is requesting a 2' increase in fence height in front yard, from the required 4-foot fence height to 6', to install a new fence at 2001 Lake Bluff Rd. (Ward 1)

Ms. Simpson provided the staff report. She explained staff is recommending against the request because the variance application does not meet the standards for a variance. The petitioner was requesting a six-foot fence in the required front yard, a two-foot increase. She provided photos of the property and surrounding property, an aerial view of the property and a zoning map. Ms. Simpson explained that the lot has two front yards since it is a corner lot. She stated that the fence has already been installed and that the contractor failed to apply for a building permit. Ms. Simpson explained the city's rationale for disallowing a six-foot fence in the front yard. She stated that other corner lots have four-foot fences with the exception of 102 Rockyford Rd which was granted a variance for a six-foot fence in 1981. She provided the staff analysis for a variance and explained that staff found some standards to be met, but not all standards were met.

Mr. Veitengruber asked how far back the petitioner would need to move the fence in order to not encroach in the setback. Ms. Simpson answered twenty-five feet. Mr. Veitengruber confirmed there is a pool in the rear yard. He asked if there the city requires a pool to be fenced-in. Ms. Sampson confirmed and stated that she is unaware of a height requirement for the fence. Mr. Boyle clarified that a contractor is responsible for applying for a permit before installing a fence.

The petitioner, Mr. Steve Garbe, 2001 Lake Bluff Rd, was sworn in. He explained that he hired a contractor to install a fence. He chose vinyl to improve the neighborhood and value of their home. He and his wife requested a six-foot fence because the property slopes and kids can easily hop over a four-foot fence. He expressed safety concerns regarding a four-foot fence. He stated that the neighborhood likes the fence. He stated the fence is in the back yard, he has concerns about moving the fence further back towards the pool. Mr. Ballantini asked if the petitioner was susceptible to amending the fence to comply with the ordinance. Mr. Garbe stated that he would prefer to keep the fence as it was installed. Mr. Ballantini confirmed there was only one other home with a variance. Ms. Simpson affirmed. Ms. Harris asked if the other variance involved a pool. Ms. Simpson said she is not sure. Mr. Boyle asked how long the four-foot fence was at the property. Mr. Garbe stated the fence was there when he purchased the home, probably 15 or 20 years. Mr. Boyle asked how long the pool had been at the property. Mr. Garbe stated that the pool was installed about five years ago. Mr. Ballantini asked about the permit. Mr. Garbe stated he assumed his contractor requested a permit. Mr. Veitengruber commented that contractors not pulling permits has been a big issued for this city.

Ms. Barb Wells, 2009 Fallen Oak Rd., was sworn in and spoke against the petition. She expressed concerns about establishing a precedent in the neighborhood. She stated other corner lots with pools have four-foot fences. She is concerned this will enable those lots to install six-foot fences and the neighborhood will have a problem with visibility. She has lived in the neighborhood for twenty-two years.

Ms. Cynthia Behrens, 2015 Fallen Oak Rd., was sworn in. She provided testimony in opposition to the petition. Her biggest concern is safety and the visibility of children on the sidewalk. She stated she is concerned that the rules were not followed. She stated the petitioner was in the process of construction when the city inspector issued a stop-work order. She identified other homes in the neighborhood with pools and four-foot fences. She has concerns about a proliferation of six-foot fences. Ms. Behrens submitted pictures of there homes with pools and four-foot fences and landscaping. The nine pages of photos were marked "Opposition Group Exhibit 1" and each page was labeled "A-I." Ms. Behrens testified that the fence obstructs views.

Mr. Garbe stated that the fence was about 95% complete when he noticed the stop-work order. Mr. Ballantini asked if the work continued after Mr. Garbe learned of the stop-work order. He confirmed that the contractor installed the final panel. He stated this is the first he heard of resident opposition to his fence.

Chairperson Harris closed the public hearing. Mr. Ballantini motioned to accept the findings as presented by staff in the staff report. Mr. Rivera seconded the motion. The Board accepted the staff findings by a vote of 5-0, with the following votes cast on roll call: Mr. Ballantini—yes; Mr. Rivera—yes; Mr. Veitengruber—yes; Mr. Noonan—yes; Chairperson Harris—yes.

Mr. Ballantini motioned to approve the petition. Mr. Rivera seconded the motion. The petition was denied by a vote of 0-5, with the following votes cast on roll call: Mr. Ballantini—no; Mr. Rivera—no; Mr. Noonan—no; Mr. Veitengruber—no; Chairperson Harris—no.

OTHER BUSINESS: None

NEW BUSINESS:

Mr. Tyler Noonan introduced himself to the Board and provided a summary of his background.

Mr. Robert Schultz was recognized for his service on the Bloomington Zoning Board of Appeals.

Ms. Casey Weeks, Assistant City Planner, introduced herself to the Board and provided a summary of her background.

ADJOURNMENT

Mr. Rivera motioned to adjourn. Seconded by Mr. Ballantini. The motion was approved by voice vote. The meeting adjourned at 5:57 PM.

Respectfully Submitted,
Katie Simpson
City Planner