

**CITY BOARD OF ADJUSTMENT**

MINUTES May 6, 2020

Name	Title	01/01/2020	02/05/2020	03/04/2020	04/01/2020	05/06/2020	06/03/2020	07/01/2020	08/05/2020	09/02/2020	10/07/2020	11/05/2020	12/02/2020	
David Mitchell	Member	-	-	A	-	1								
Dave Hagstrom	Member	-	-	1	-	1								
Paul Hagen	Member	-	-	1	-	1								
Jeff Bollman	Member	-	-	E	-	1								
Oscar Heinrich	Member	-	-	E	-	1								
Martin Connell	Member	-	-	1	-	1								
Mark Noennig	Chair	-	-	1	-	1								
<b>TOTAL NUMBER OF APPLICATIONS 2020</b>		<b>01/01/2020</b>	<b>02/05/2020</b>	<b>03/04/2020</b>	<b>04/01/2020</b>	<b>05/06/2020</b>	<b>06/03/2020</b>	<b>07/01/2020</b>	<b>08/05/2020</b>	<b>09/02/2020</b>	<b>10/07/2020</b>	<b>11/05/2020</b>	<b>12/02/2020</b>	<b>TOTAL</b>
<b>Variance</b>		-	-	2	-	5								<b>7</b>

Chair Noennig called the meeting to order at 6:00 p.m. The City Board of Adjustment met virtually thru Lifesize: <https://call.lifesizecloud.com/1855490>

Nicole Cromwell introduced the City Board of Adjustment members and Planning Department staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I; and Robbin Bartley, Administrative Assistant.

**Attending:**

**Public Comment**

Chair Noennig opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There was none.

## **Approval of Meeting Minutes**

Meeting minutes for March 4, 2020.

## **Motion**

Board Member Heinrich moved and Board Member Hagstrom seconded the motion to approve the March 4, 2019 minutes. The motion carried with a unanimous voice vote.

## **Disclosure of any Conflict of Interest, Ex Parte Communications and Site Visits**

A form has been implemented for disclosures. If any Member circled yes to a Conflict of Interest or Ex Parte Communication, it will be explained here. There was none.

## **Public Hearings**

Nicole Cromwell reviewed the procedures for public hearings and stated the Board will open a public hearing and allow public comment this evening. She reviewed the hearing and presentation processes for the meeting and acting on each variance.

**City Variance 1307 – 2133 Fairview Place – Front Yard setback** - A variance from Section 27-308, requiring a 20-foot front setback to allow a 10-foot setback in a Residential-9600 (R-96) zone, on Lot 11A, Block 7, Country Club Heights Sub., a 22,491 square foot parcel of land. The purpose of the variance is to allow a dwelling to be constructed closer to the front property line. Tax ID: A05676

## **RECOMMENDATION**

Planning staff has reviewed this application & is recommending conditional approval of Variance #1307. Based on the Determinations for granting a variance.

1. For a front setback of 10 feet. No other variance is intended or implied with this approval.
2. Limited to Lot 11A, Block 7, Country Club Heights Subdivision, at 2133 Fairview Place.
3. Site shall be developed in conformance to the site plan presented
4. Approval for a building permit within 1 year of approval. Construction completed within 3 years
5. No construction activity before 7 am or after 8 pm.
6. Failure to begin or complete actions required shall void the variance.
7. All construction will require compliance with all other restrictions that apply at the time of construction.
8. Conditions shall run with the land.

## **Discussion**

Chair Noennig called for questions and discussion from the members of the Board

## **Questions for staff:**

Question 1, Does it not appear the house could be built back further and not require a variance?

Answer: Yes it could, more excavation would be required into the hillside creating other problems.

Question 2. Shouldn't the variance be granted because of a need and not for convenience?

Answer: Variances are granted based on the criteria for variances. The topography of the land is a hardship. The development of the land is not addressed thru a variance, this would be addressed at the time of permitting,

Oscar Heinrich: What is the required setback per zoning. THE 10FT IS THE CORRECT REQUIREMENT.

### **Public Hearing**

Chairman Noennig opened the public hearing at 6:16 PM and asked if there was anyone wishing to speak in favor or against City Variance #1307.

### **Applicant:** Aaron Langford,

It is safer for the area. Aaron feels the neighbors do not want the land developed and are not really in opposition of the setback variance.

### **Opposed**

#### **Lonnie White, 2146 Fairview Place**

Lives across the street from the proposed variance. I am very familiar with the area, rock and water run off etc. I was informed by Karen Husman there is no requirement for soil testing and the like in the variance process. He contends there needs to be 15 foot setbacks and 5 foot of grass to mitigate run off to adjoining properties. Given the risk of damage and liability to the City, the issues should be addressed prior to granting the variance. If the City grants a variance, he argues it should be conditioned on the mitigation of water. Neighboring properties should not have to worry about some man caused water issues and should not worry if the permitting process will take care of the issues. He objects to the granting of the variance. He contends the requested variance is for convenience and not hardship.

#### **Aaron Zimmer, 2140 Fairview Place**

I am opposed to the variance. I have been showed how the home could be placed on the property without the variance. We are not opposed to development, but would like to keep the integrity of the property.

### **Rebuttal**

The nature of the lot does not allow for 5 percent slope.

Mark Noennig asked Aaron Langford to address the water run off issue.

Josh and I built a very small footprint, because of the natural obstacles. The small footprint will allow more green space. The boulders are the natural water retention and should not be removed. Will the footprint fit between the boulders? No.

The nature of the topography of the lot is very steep. Moving the house back destabilizes the hillside. When we drafted the house, we wanted something that would fit between the existing obstacles.

Jeff Bollman: Have you considered the storm drainage?  
The existing boulders will make a natural collection of water.

At 6:39PM, Chairman Noennig closed the Public Hearing and called for a motion.

**Motion**

Board Member Hagstrom made a motion to and Board Member Heinrich seconded the motion to conditionally approve City Variance #1307 with the seven conditions of approval and Findings of Fact.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

The motion to conditionally approve **City Variance #1307 passed** with a unanimous roll call vote.

**City Variance 1308 – 3112, 3116 & 3120 Solar Blvd. – Lot size** – A variance from Section 27-308, requiring a minimum 8,000 square feet for a dwelling in a Residential 8,000 (R-80) zone, on Lots 1 and 2, Block 3, Terra West Subdivision, 3<sup>rd</sup> filing, in Villas on the Park Condominiums, a combined 20,012 square foot parcel of land. The purpose of the variance is to allow the existing three homes on Lots 1 and 2 to conform to zoning in order to dissolve the condominium and create three lots of not less than 6,650 square feet each. Tax IDs: A28722, A28722A, A28721, and A28721M (Lots 1 & 2 only).

**RECOMMENDATION**

Planning staff has reviewed this application & is recommending conditional approval of Variance #1308. Based on the Determinations for granting a variance.

1. To allow existing three homes & create 3 lots of not less than 6,650 square feet each.
2. Limited Lots 1 and 2, Block 3, Terra West Subdivision, 3<sup>rd</sup> filing, in Villas on the Park Condominiums, generally located at 3112, 3116, & 3120 Solar Blvd.
3. The applicants will submit app. for minor subd review within 6 months of variance approval.
4. The applicant shall meet all other city code requirements with the exception of this variance.
5. These conditions of variance approval shall run with the land described.

**Discussion**

Chair Noennig called for questions and discussion from the members of the Board.

**Questions for staff:**

Oscar Heinrich: Any comments from the neighbors? NO

Jeff Bollman: The whole condo association will be dissolved? YES

Mark Noennig: The dash lines are the proposed lot lines? YES  
 Why are they doing this? IN ORDER TO SELL THEM AND GET FINANCING, SEPARATE LOTS ARE NECESSARY.

**Public Hearing**

Chairman Noennig opened the public hearing at 6:49 PM and asked if there was anyone wishing to speak in favor or against City Variance #1308.

**Karen Kohm, 3112 Solar Blvd**

There is no shared HOA, no shared common area. Because of the current zoning, we would have difficulty getting financing. That is the driving force for seeking a variance.

**Lynette Burrows, 13170 SW Forest Glen Court, 97008**

I am also part of the trust. I am in complet support of this. The reasons stated are true.

**Marlene Grim, 3116 Solar Blvd**

I am in favor, no HOA was ever formed. No property lines will change.

**Opposed**

NONE

At 6:56 pm, Chairman Noennig closed the Public Hearing and called for a motion.

**Motion**

Board Member Heinrich made a motion to and Board Member Mitchell seconded the motion to conditionally approve City Variance #1308 with the seven conditions of approval and Findings of Fact.

Member	Yes	No	Not Present
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

The motion to conditionally approve **City Variance #1308 passed** with a unanimous roll call vote.

**City Variance 1309 – 1017 Wicks Lane – Arterial Setback to 60’** – A variance from Section 27-602 (a), requiring a minimum 80 foot setback from an arterial street in a Residential – 7000 (R-70) zone to allow 60 feet from the arterial street, on C. S. 1462 parcels 1 and 2, C.S. 1463, parcels 1 and 2, and C.S. 13, a combined 3.016 acre parcel of land. The purpose of the variance is to allow the construction of a new home at 60 feet from the arterial street. Tax IDs: D05160, D05165, D05157, D05158, D05159.

### **RECOMMENDATION**

Staff recommends conditional approval of the variance.

1. Variance is to allow a 60-foot setback to the centerline of Wicks Lane for the construction of residential dwellings on the property.
2. Limited to C. S. 1462 parcels 1 and 2, C.S. 1463, parcels 1 and 2, and C.S. 13, a combined 3.016 acre parcel of land generally located at 1017 Wicks Lane.
3. Shall be developed in substantial conformance to the drawings submitted to the Planning Division with this application.
4. No construction activity will be done before 7 a.m. or after 8 p.m.
5. Applicant will submit a Master Site Plan Review application within one year, building permit application within two years of Board approval for the structures that fall within the arterial setback, complete construction within five years.
6. Failure to begin or complete the actions will void the approved variance.
7. Construction will require compliance with all other regulations & ordinances that apply
8. Conditions run with the land described.

### **Discussion**

Chair Noennig called for questions and discussion from the members of the Board.

### **Questions for staff:**

Jeff Bollman: How do the City Engineers feel about changing the setback? CHRIS HURTZ HAS NO PROBLEMS WITH THE ARTERIAL SETBACK BEING REDUCED IN THIS AREA ON THIS PARTICULAR PROPERTY.

In the new RE:Code is the arterial setback altered?

NICOLE CROMWELL RESPONDED STATING THE COMMERCIAL AND RESIDENTIAL ARTERIAL SETBACKS WILL BE NORMALIZED AT 60 FEET TO CENTERLINE FOR STRUCTURES AND 50 OR 40 FEET TO CENTERLINE FOR PARKING.

UNDER THE NEW CODE, A VARIANCE WOULD NOT HAVE BEEN REQUIRED.

Dave Hagstrom: Why was it set at 80 feet originally? NICOLE STATED THE CITY WAS REQUIRING WIDER RIGHTS OF WAY FOR PRINCIPLE ARTERIAL STREETS.

### **Public Hearing**

Chairman Noennig opened the public hearing at 7:06 PM and asked if there was anyone wishing to speak in favor or against City Variance #1309.

**Trent Parks, 2344 Gleneagles**

There are many other residences in this area with 50 or 60 foot setbacks.

At 7:07 PM, Chairman Noennig closed the Public Hearing and called for a motion.

**Motion**

Board Member Heinrich made a motion to and Board Member Hagen seconded the motion to conditionally approve City Variance #1309 with the seven conditions of approval and Findings of Fact

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

The motion to conditionally approve **City Variance #1309 passed** with a unanimous roll call vote.

**City Variance 1310 – 2604 Emerson Place – Side Setback** – A variance from Section 27-308 requiring a minimum 5 foot setback from the side property line in a Residential – 9600 (R-96) zone to allow 3 foot side setback, on Lot 4, Block 1, Highland Park Subdivision 2<sup>nd</sup> Filing, a 12,046 square foot parcel of land. The purpose of the variance is to allow the construction of a garage addition with attic living space. Tax ID: A08981.

**RECOMMENDATION**

Planning staff has reviewed this application & is recommending conditional approval of Variance #1310. Based on the Determinations for granting a variance.

1. A variance from Section 27-308 requiring a minimum 5’ setback from the side property line in R-96 to allow 3’ No other variance is intended or implied.
2. Limited to Lot 4, Block 1, Highland Park Subdivision 2<sup>nd</sup> Filing, 2604 Emerson Place.
3. Applicant will apply for & receive approval of a building permit within 1 year, complete construction within 2 years of approval. Failure to meet the conditions will void the variance.
4. No construction activities prior to 7:00am or after 8:00 PM daily.
5. Applicant shall meet all other code requirements.
6. Conditions run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

**Discussion**

Chair Noennig called for questions and discussion from the members of the Board.

**Questions for staff:**

Oscar Heinrich: What is the current coverage and are there any comments from neighbors?  
**THE INTENTION IS TO REBUILD A LARGER GARAGE IN THE SAME SPACE AND THERE HAS BEEN NO COMMENTS FROM THE NEIGHBORS.**

Dave Hagstrom: The side set back would change? 2 FOOT 6 INCHES, IS 3 FEET. THE INTENT IS TO REINFORCE THE RETAINING WALL.

Is the new garage larger and sits forward? YES IT IS LARGER.

**Public Hearing**

Chairman Noennig opened the public hearing at 7:16 PM and asked if there was anyone wishing to speak in favor or against City Variance #1310.

**Jeff Wollschlager, 2204 Lyndale Lane, 59102**

We are replacing the current garage structure, we are increasing the depth to accommodate medium sized vehicle. The addition will be farther away from the property line. The existing retaining wall is failing and will be reconstructed. There is a gable end and all storm water will be adequately dispersed so as not to interfere with the neighboring lot.

At 7:21 PM, Chairman Noennig closed the Public Hearing and called for a motion.

**Motion**

Board Member Mitchell made a motion to and Board Member Bollman seconded the motion to conditionally approve City Variance #1310 with the seven conditions of approval and Findings of Fact

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

The motion to conditionally approve **City Variance #1310 passed** with a unanimous roll call vote.

**City Variance 1311 - 1836 Yellowstone Ave– Lot Coverage** – A variance from Section 27-308 requiring a maximum 30% lot coverage in a Residential – 7000 (R-70) zone to allow 31% on Lot 12, Block 5, Burg Subdivision 3<sup>rd</sup> Filing, an 8,400 square foot parcel of land. The purpose of the variance is to allow the construction of a detached garage of 960 square feet (108 sf over the maximum). Tax ID: A03866.

### **RECOMMENDATION**

Planning staff has reviewed this application & is recommending conditional approval of Variance #1311. Based on the Determinations for granting a variance.

1. Variance from 27-308 requiring a lot coverage of 30% to allow a maximum lot coverage of 31% No other variance is intended or implied with this approval.
2. Limited to Lot 12, Blk 5, Burg Sub., 1836 Yellowstone Ave.
3. Applicant will submit & obtain a building permit within 1 year completed within 2 years.
4. Construction or demolition activity will not occur prior to 7 am or after 8 pm.
5. Applicant shall meet all other code requirements
6. Failure to begin or complete actions void this variance.
7. Conditions shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

### **Discussion**

Chair Noennig called for questions and discussion from the members of the Board.

### **Questions for staff:**

Oscar Heinrich: Would RE:Code have any effect on this request? NICOLE REPLIED, NEW CODE REQUIREMENTS IN THIS AREA WOULD INCREASE LOT COVERAGE TO 40 PERCENT.  
Karen was asked if any neighbors had comments regarding the variance request. NO COMMENTS WERE RECEIVED.

### **Public Hearing**

Chairman Noennig opened the public hearing at 7:27 PM and asked if there was anyone wishing to speak in favor or against City Variance #1311.

### **Matt Lee, A-Team Contracting**

Karen covered it well, We are waiting on financing and would like to get started right away and not wait for RE:Code.

Oscar Heinrich: Do we need to document the requirement of the shed removal? MATT REPLIED IT IS IN THE APPLICATION, STATING IT WILL BE REMOVED.

Mark Noennig asked if this requirement needed to be in the conditions. KAREN REPLIED IT IS IN THE SITE PLAN SUBMITTED, THE SHED IS NOT INCLUDED IN THE SITE PLAN.

### **Opposed**

None

At 7:30 PM, Chairman Noennig closed the Public Hearing and called for a motion.

**Motion**

Board Member Heinrich made a motion to approve with an amendment that the shed be removed. Board Member Noennig seconded the motion to conditionally approve City Variance #1311 with the seven conditions of approval and Findings of Fact, adding the condition to remove the shed.

Member	Yes	No	Not Present
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

The motion to conditionally approve **City Variance #1311 passed** with a unanimous roll call vote.

**Other Business:**

No meeting in June.

**ADJOURNMENT: The meeting adjourned at 7:33 PM.**

**ATTEST: APPROVED BY UNANIMOUS VOTE JULY 1, 2020.**



*Robbin Bartley, Administrative Assistant.*