

CITY BOARD OF ADJUSTMENT

MINUTES July 6, 2022

Name	Title	01/05/2022	02/02/2022	03/02/2022	04/06/2022	05/04/2022	06/01/2022	07/06/2022	08/03/2022	09/07/2022	10/05/2022	11/02/2022	12/07/2022	
David Mitchell	Member	1	-	1	E	E	E	1						
Dave Hagstrom	Member	1	-	1	1	1	1	1						
George Warmer	Member	-	-	1	1	1	E	1						
Jeff Bollman	Vice Chair	P	-	1	1	E	1	1						
Oscar Heinrich	Chair	1	-	1	1	1	1	1						
Chris Hayes	Member	-	-	-	1	1	1	E						
Josh Sayer	Member	-	-	-	1	1	1	1						
TOTAL NUMBER OF APPLICATIONS 2022		01/05/2022	02/02/2022	03/02/2022	04/06/2022	05/04/2022	06/01/2022	07/06/2022	08/03/2022	09/07/2022	10/05/2022	11/02/2022	12/07/2022	TOTAL
Variance		2	-	3	1	*2	1	*3						9

- 1 Returning variance

Chair Heinrich called the meeting to order at 6:00 p.m.

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

Attending: Barbara Rasmussen, Joe Bonini, Mark Rosebush, KC Johnson, Dr. Jeff Golini

Public Comment

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

Approval of Meeting Minutes

Meeting minutes for May 4, 2022. Approved.

Public Hearings

Return Item - City Variance 1346 – 1310 30th St. W –Increase building height to 46 feet and reduce required off-street parking penalty for assigned spaces - A variance from the Cardwell Ranch East 80 Planned Development, Article VI.C.3 requiring a 40-foot maximum height for multi-family structures to allow 46 feet and from Section 27-1302.B.7 requiring provision of 20% more off-street parking spaces when some of the off-street parking spaces are assigned on Lot 15A, Block 2 Cardwell Ranch Subdivision 1st Filing, a 6.88-acre parcel of land. The purpose of the variance is to allow an increase in maximum height for Cardwell Ranch Apartment Homes to develop a roof design that complies with the aesthetic intent of the Cardwell Ranch Design Standards and to allow the proposed 406 off-street parking spaces to be allowed for the proposed 249 dwelling units. The proposed parking ratio (spaces/unit) is 1.63 and the required parking ratio with the 20% penalty is 1.92 or 478 spaces.

Recommendation:

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for the variance for height based on the determinations for review provided within this report. The Board of Adjustment opened the public hearing on this request on June 1, 2022, and delayed action on the request to the July 6, 2022 hearing date at the request of the applicant. The updated request is to allow the applicant to withdraw the request for parking variance. Staff is recommending the BOA approve the request to withdraw the parking variance portion of the request and consider the variance for height per the staff recommendation.

Recommended Conditions;

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with the Zoning Code. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of the Zoning Code. Staff is recommending the following conditions for the *Height* variance request:

1. The approval is for a height variance from Cardwell Ranch PD (Design Guidelines) under Article VI.C.3 requiring a 40-foot maximum height for multifamily structures to allow 46 feet, on Lot 15A, Block 2, Cardwell Ranch Subdivision 1st Filing, a 6.88-acre parcel of land. The purpose of the variance is to allow an increase in maximum height of 46 feet to develop a roof design that complies with the aesthetic intent of the Cardwell Ranch Design. No other variance is intended or implied with this approval.
2. The height variance is limited to Lot 15A, Block 2, Cardwell Ranch Subdivision, 1st Filing, located at 1310 30th St. W.
3. A landscaping buffer will be provided on the south property line adjacent to the school property to the south, but pedestrian connectivity is encouraged for residents to access the school and school grounds.
4. The applicant shall meet all other city code requirements as well as Cardwell Ranch Planned Development requirements with the exception of this height variance.
5. The applicant will submit a building permit within 3 years of Board approval and complete construction within 5 years of the first building permit approval. Failure to meet these deadlines will void the variance.

6. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, leaseholders, heirs and assigns.

The request to withdraw the Parking variance was approved 4-0. George Warmer and David Mitchell abstaining due to conflict of interest.

No applicants were present. Brad Brown called on the customer inquiry line. He stated the applicant now wished to ask for a height variance of 49 feet. Mr. Brown was informed the Board could not consider this request without the proper protocol of public notice and staff investigation and reporting.

Discussion

Board member Bollman requested elevations as they have not seen any yet.

Motion

Board Member Hagstrom made a motion and Board Member Sayer seconded the motion to delay the **City Variance 1346 to next meeting.**

MEMBER	YES	NO	ABSTAINED	NOT PRESENT
David Mitchell			x	
Dave Hagstrom	x			
George Warmer			x	
Jeff Bollman	x			
Oscar Heinrich	x			
Chris Hayes				x
Josh Sayer	x			

The motion to delay City Variance 1346 passed with a 4-0 vote.

Public Hearings

City Variance 1347 – 4143 Banbury Place – Build-To Zone - A variance from Sec. 27-305 (Table 27-300.4) from the required Front and Street Side Build-To zones to allow the front door and living area of a new residence to be more than 50 feet from the front property line in an N2 zone, on Lot 17A of Block 1, Legends West Subdivision, a 7,150 sf parcel of land generally located at 4143 Banbury Place. The purpose of the variance is to allow a new residence to comply with the clear vision area at an uncontrolled permanent T intersection of Banbury Place and Legends Way.

Recommendation:

Planning staff is recommending conditional approval based on the findings of the variance criteria to increase the front build-to area to allow the front door and living area of a new residence to be more than 50 feet from the front property line in an N2 zone.

Recommended Conditions;

1. The build-to zone variance is limited to Lot 17A, Block 1, Legends West Subdivision, generally located at 4143 Banbury Place.
2. The variance is from Section 27-305 (Table 27-300.4) requiring a build-to zone range of 10 feet to 20 feet from the front property line to allow the door of the living area of the new residence to be more than 50 feet from the front property line in an N2 district. No other variance is intended or implied.
3. The structure will be built in substantial conformance to the drawings submitted with this variance request.
4. Construction activity will not occur prior to 7 am or after 8 pm daily.
5. The applicant/developer shall apply for a building permit within 6 months of Board approval and complete the development within 1 year of Board approval.
6. Failure to begin or complete the project according to the time periods within this approval will void the variance.
7. The applicant shall meet all other city code requirements for the proposed single family home, with the exception of this variance.
8. These conditions of variance approval 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.

Public Hearing opened at 6:27PM

Applicant: Miles Egan, 2690 Southridge Drive, 59102

Joe Bonini is the superintendant on Career Center projects. The builder is actually School District 2. The HBA sponsors the build. It is a safe work project. This will be a single level ranch-style home facing Banbury.

Joe Bonini, 8047 Longmeadow Drive

The variance, if approved will allow for a greater side and back yard.

Public Hearing closed at 6:30PM

Discussion

Chair Heinrich asked if School District 2 owns the property could they juse LUCZ? Staff replied yes, however School District 2 does not own it.

Motion

Board Member Mitchell made a motion and Board Member Warmer seconded the motion to approve the **City Variance 1347 with staff recommendations, conditions and findings of fact.**

MEMBER	YES	NO	ABSTAINED	NOT PRESENT
David Mitchell	x			
Dave Hagstrom	x			
George Warmer	x			
Jeff Bollman	x			
Oscar Heinrich	x			
Chris Hayes				x
Josh Sayer	x			

The motion to approve City Variance 1347 passed with a 6-0 vote.

City Variance 1348 – 2376 Main Street – Kiosk for Temporary Use of 160 square feet – A variance from Section 27-1009(A)(3)(b)(4)(i) requiring a Group 3 temporary use structure to be a maximum floor area of 120 square feet to allow a kiosk of 160 sf on Lot 4, Block 1 of North Pointe Square Subdivision and Lot 5, Block 1 of Bergquist Subdivision, a 9.29 acre parcel of land generally located at 2376 Main Street. The purpose of the variance is to allow an existing 160 sf kiosk to remain on the site.

Recommendation:

Planning staff has reviewed this application & is recommending **conditional approval** of Variance 1348 based on the proposed findings of the review criteria.

Recommended Conditions;

1. The approval is for a variance from Zoning Code 27.1009(A)(3)(b)(4)(i), as amended increasing the maximum allowed size of the structure from 120 square feet to 160 square feet (**33% increase**). No other variance is intended or implied with this approval.
2. The variance is limited the existing kiosk only, currently located on the parcels described in this application, and becomes void if the structure is moved (either within the same parcel or to another parcel within the City Limits) or the footprint is altered in any way.
3. The variance shall be null and void if at any time in the future, the temporary use permits for any of these kiosks remain expired for more than 30 days or if the structure is not in operation for more than 180 days.
4. These conditions of variance approval shall **run with the land** described in this authorization and shall apply to all current and subsequent owners, operators, managers, leaseholders, heirs and assigns, so long as the structures are not moved from their current location.
5. The applicant shall meet all other city code requirements, including annual renewal of the temporary use permits, except for this variance.

Public Hearing opened at 6:44PM

Applicant:

KC Johnson, 2376 Main St, owner of Steady Grinding

He stated they need space for winter wear donation to the community. He has no interest in moving the kiosk.

Questions for applicant:

Board member Bollman has concerns regarding the conditions.

In Favor:

Jeff Golini states he allowed the kiosk and is owner of American Pharmaceutical.

Opposed:

Mark Rosebush, 2376 Main Street

He has no problem with the size of the kiosk. He has a neighboring parcel, not developed and is concerned with the kiosks permanance. Because the variance allows it to stay where it is which may be a problem for his parcel in the future.

Public Hearing closed at 6:59PM

Discussion

Motion

Board Member Mitchell made a motion and Board Member Bollman seconded the motion to approve the **City Variance 1348 with staff recommendations, conditions and findings of fact.**

MEMBER	YES	NO	ABSTAINED	NOT PRESENT
David Mitchell	x			
Dave Hagstrom	x			
George Warmer	x			
Jeff Bollman	x			
Oscar Heinrich	x			
Chris Hayes				x
Josh Sayer	x			

The motion to approve City Variance 1348 passed with a 6-0 vote.

Other Business:

ADJOURNMENT: The meeting adjourned at 7:02 PM.

ATTEST: APPROVED OCTOBER 5, 2022

Robbin Bartley, Administrative Assistant.