

BOARD OF ZONING APPEALS
February 28, 2022
MEETING

ROLL CALL

The meeting was called to order at 7:00 p.m. and the assemblage was invited to stand and recite the Pledge of Allegiance.

Members Present:

Chairman Nick Nochevich, Vice Chairman Jeremy Taylor, John Marshall, Dick Sauerma, Daniel Rohaley

Members Absent: None

Staff Present:

Commission Attorney Joe Irak, Secretary Anthony Schlueter, Media Manager Mary Freda, Recording Secretary Jenni Pause

Board of Zoning Appeals Officer Elections took place

John Marshall nominated Nick Nochevich as President. Daniel Rohaley seconded the nomination for Nochevich. With no other nominations, Rohaley motioned to close the nominations, Marshall seconded the motion, and the nominations were closed. A roll call vote was taken, by a vote of 5 Yeas, 0 Nays, 0 Abstentions, Nochevich was elected as the President.

John Marshall nominated Jeremy Taylor as Vice Chairman, Sauerma seconded the nomination. With no other nominations, Marshall motioned to close nominations, Sauerma seconded the motion, and the nominations were closed. A roll call vote was taken, by a vote of 5 Yeas, 0 Nays, 0 Abstentions, Jeremy Taylor was elected as the Vice Chairman.

Rohaley nominated Anthony Schlueter as Executive Secretary, Marshall seconded the nomination. Marshall motioned to close nominations, Rohaley seconded the motion, and the nominations were closed. A roll call vote was taken, by a vote of 5 Yeas, 0 Nays, 0 Abstentions, Anthony Schlueter was elected as the Executive Secretary.

APPROVAL OF MINUTES

Chairman Nick Nochevich asked if there are any corrections, deletions, or modifications to the November 22, 2021 meeting minutes. Sauerma noted a change that need to be made on page 2, 3rd paragraph. Sauerma motioned to approve minutes subject to the change. Rohaley seconded the motion. With 5 Ayes, 0 Nays, and 0 Abstentions, the minutes were approved.

Executive Secretary Anthony Schlueter stated there is a request for Petition #22-03 to be heard first due to a scheduling conflict. With no objections, the change was made and Petition #22-03 was moved to be the first petition heard.

OLD BUSINESS

None

NEW BUSINESS

22-01 Don Miller, Petitioner/Owner

Request: Variance from Development Standards

Purpose: Garage Size & Height

Location: 144 South Ridge Street

John Wirtz came before the Board as a representative of the petitioner. Wirtz stated the petitioner is looking to tear down 2 existing sheds and construct a 24 x 50 garage. Wirtz stated the proposed garage will exceed the size and height allowed by ordinance.

Schlueter reported on the location and surrounding properties. Schlueter reported on the proposed garage which will be 24 x 50, 1200 sq ft and 16'8" in height. Schlueter stated as long as the property owner plans to use the garage for his own personal storage, he recommends approval.

Taylor asked what the city allows for height and square footage. Schlueter reported 900 sq ft is the max size and 16' is the max height. Taylor asked the petitioner to verify that there are no proposed setback encroachments. Schlueter reported there will be no encroachments. Taylor asked Schlueter if there were any remonstrations. Schlueter stated there were not.

Marshall stated he drove past the property and thinks this is a good idea. Marshall stated he would be in favor of this petition.

Sauerman asked how deep the lot is. Miller stated the lot is 194' deep. Sauerman asked for verification of the max size allowed. Schlueter stated 900 sq ft and a max height of 16'. Sauerman asked if they will be drywalling the garage. Miller stated the garage will only be used for storage of his vehicles, boat & trailer. Miller stated his house was built in 1894 and has no storage. Sauerman asked if the garage will be climate controlled. Miller stated it will not, it will just be insulated and weather tight.

Rohaley asked if the garage will have plumbing. Miller stated it will not, it will simply have one spigot. Rohaley asked if the garage will be used for business. Miller stated it will not.

Nochevich opened the public portion of the meeting.

Matt Franklin, 141 S Union St., came before the Board and voiced his concern with Ann St. being used as access for the garage. Franklin stated he does not want the access to someone else's garage running across the side of his property.

Tracy Franklin, 141 S. Union St., came before the Board and asked if there is access to Ann St. Schlueter reported there is a right of way there, but he does not Miller is going to use that right of way as access to his garage. Miller confirmed the access will be on Ridge St., he just needs to use the Ann St. right of way to construct the garage. Miller stated he went to the Franklins and informed them of his intentions. Miller stated there is grass across the right of way and there might be minimal damage, but he would be willing to fix any damage to the right of way.

Schlueter asked Miller to verify that he does not intend to utilize the right of way for access to his garage door just access for the construction of the garage. Miller confirmed.

Tracy Franklin stated she does not have an issue with Miller building the garage it is the use of Ann St. she has a problem with. Franklin stated Ann St. is not a street it is an alley. Franklin stated she is concerned with the existing grass, landscaping, and tree. Franklin stated they do not feel comfortable with the big concrete trucks coming through there.

Rohaley stated not all of Ann St was vacated, there is still 16' of right of way that can be used. Rohaley asked Miller if after the construction he ever intends to use Ann St again. Miller stated he does not. Rohaley asked Miller if he would be against the neighbors' having Ann St was completely vacated after the construction of the garage. Miller stated he would be fine with that. Miller stated the neighbors have things on city property as well. Rohaley stated it would be up to the city whether the right of way would be vacated.

Franklin stated she landscaped the side to make the house look nice and is concerned with the drain in the side yard they had installed Franklin stated Miller uses Ann St. she wants to be able to oversee that he fixes anything damaged.

Mary Freda read a comment from the owner at 145 S Union St, Edward Rolnicki stated he does not want Miller to use his driveway. Rolnicki voiced his concern with the existing tree and power lines. Rolnicki stated he has no issues with the garage he just wants miller to use access through his own driveway.

With no other public coming forward, Nochevich closed the public portion of the meeting.

Nochevich asked if Ann St. is the city's or personal property. Schlueter reported he believes Ann St is a 16' public right of way owned by the city, that is not being utilized.

Marshall stated he would believe if Miller wants to use the right of way to build his garage he should be allowed to do so. Schlueter asked Attorney Irak what he thought. Irak stated if that is in fact the city's right of way he would agree that Miller could use it to construct his garage.

Sauerman asked Miller if the fence that abuts up to Ann St where it ends was his. Miller stated it is. Sauerman stated he is very familiar with this property. Sauerman stated he agrees with Rohaley's solution that Miller be allowed to use Ann St. and then the neighbors can petition to have it vacated. Sauerman stated Ann St is a public right of way and he does not know how anyone could stop someone from using it.

Nochevich stated they could make it a condition of any approval that if anything gets damaged Miller will fix it. Irak agreed.

Marshall stated he feels Miller has every right to use the easement and the city should dictate what repairs would need to be made after the construction because anytime a homeowner makes an improvement on an easement they take the risk of it being dug up or damaged and it is the owners job to put it back. Marshall stated that is the risk you take when you make improvements on easements. Marshall stated Miller has every right to use the public easement.

Nochevich entertained a motion. Taylor motioned to approve Petition #22-01 with Staff comments. Rohaley stated he would like the motion to be amended to include that Ann St be put back to the condition it was prior to the commencement of the construction of the garage. Sauerman noted he will be fixing just the city property. Rohaley seconded the motion. Marshall asked who would supervise the repairs. Taylor stated the city

would supervise the repairs. Rohaley added the repairs would be at the city's discretion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #22-01 was approved.

22-02 Certa Pro Painters, Petitioner/Geisen Inc & LK Properties, LLC, Owner

Request: Variance of Use

Purpose: Contractor Office

Location: 811 Franciscan Drive

John Jordan, Certa Pro Painters, 1161 Breuckman Dr., came before the Board and provided an overview of the petition. Jordan stated the existing building will be used for their professional offices. Jordan reported on the Finding of Facts.

Schlueter reported on the proposed use, number of employees, parking, and operating hours. Schlueter reported the proposed use would generate very little to no customer traffic and would be less traffic than the current use. Schlueter reported one letter of remonstrations was received. Schlueter recommended a favorable recommendation to the City Council.

Rohaley asked if it would be mostly staff members coming to the site. Jordan confirmed. Rohaley asked Jordan if they intend to have any board or anything outside showing colors or anything. Jordan stated they do not. Rohaley asked Jordan to verify that everything will be contained inside the building. Jordan confirmed.

Sauerman asked if the vehicles will be parked overnight at the site. Jordan stated at this time there would only be 2 vans with the possibility of 4 vans at most in the future parked overnight. Jordan stated the rest of the vehicles would go home with employees at night.

Rohaley stated he has used Certa Pro previously and they are always very professional and always do a great job.

Sauerman asked Jordan if they have any kind of lift van. Jordan stated they do not have any lift equipment. Sauerman stated it will definitely be less traffic than the current use.

Nochevich asked Jordan to verify that there will be 8 staff members with a max of 18 people at any time. Jordan confirmed. Nochevich stated this use will definitely reduce traffic.

Marshall stated he has no issues with making this an office, he just has concerns with the size of the property. Marshall stated he would hate to see them try to come before them in the future to put up a storage building or trying to subdivide the property.

Taylor stated his only concern was with the size of the property. Taylor asked if there are any future plans for the additional property. Jordan stated they have no personal goals at this time.

Nochevich opened the public portion of the meeting.

Eric Rosellini, 810 Franciscan Dr., came before the Board and voiced his concern with what the future use of the property will be. Rosellini stated he has no issue with the property being used for the professional offices. Rosellini asked Jordan if they are going to continue to allow the children to use the baseball field. Jordan stated he will have to find out about the liability from his insurance.

Taylor asked Schlueter to verify that there are voting a variance of use. Schlueter confirmed. Taylor asked Schlueter to verify that they are not rezoning the property. Schlueter confirmed they are not. Taylor asked Schlueter if the property is one lot. Schlueter confirmed. Taylor asked if anything in the future was to be subdivided or added it would need to be approved through the Board. Schlueter confirmed. Rosselini asked if he would get a notice if they ever tried to do anything with the property. Schlueter confirmed.

With no other public coming forward, Nochevich closed the public portion of the meeting.

Nochevich entertained a motion. Rohaley motioned to send a favorable recommendation to the City Council for Petition #22-02. Taylor seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #22-02 received a favorable recommendation to the City Council.

22-03 Tim Heidbreder, Petitioner/Kapden, LLC, Owner

Request: Variance from Development Standards

Purpose: Setback Encroachment

Location: 333 East Summit Street

Doug Homeier, of McMann came before the Board as a representative of the petitioner and provided an overview of the petition. Homeier stated they are proposing to expand the existing parking lot to meet the parking requirements for the proposed building to be constructed on the site.

Schlueter reported on the location, zoning, and surrounding properties. Schlueter reported the petitioner is requesting a setback encroachment for the parking lot and trash containment area. Schlueter reported on the proposed use of the property as well as the proposed building. Schlueter reported the front setback would be encroached by 10' and the trash containment area by 6'. Schlueter reported due to this hardship created by the city improvement of Summit St., he recommends approval of the petition.

Rohaley asked if there will be a fence. Schlueter reported there is an existing fence that will be extended all the way to the west to cover the building. Rohaley asked Schlueter to verify that the trash containment will be screened as well. Schlueter confirmed. Schlueter stated the neighbors to the south will not see the parking lot, trash containment or building. Homeier detailed where the extension of the fence will be located and confirmed the neighbors will not see the parking lot, trash containment or building.

Marshall asked what the proposed encroachment on Summit St is. Schlueter reported approximately 10'. Marshall asked if that would put it 5' from the road. Homeier stated it will be 5' from the right of way not the road. Marshall asked how large the proposed building is. Homeier stated it is 7600 sq ft. Marshall asked how many parking spots they need for that. Homeier stated 31 spots and they have proposed 31. Marshall asked if there is a proposed monument sign out by the road. Marshall asked if that sign will be in the right of way. Homeier stated it will not be in the right of way.

Nochevich opened the public portion of the meeting.

With no public coming forward, Nochevich closed the public portion of the meeting.

Nochevich entertained a motion. Taylor motioned to approve Petition #22-03 subject to Staff. Sauerman seconded the motion. Nochevich asked for a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #22-03 was approved.

MISCELLANEOUS AND PUBLIC COMMENT

No Public.

No Misc.

ADJOURNMENT

At 7:05 pm, Nochevich entertained a motion to adjourn. Marshall motioned to adjourn; motion was seconded by Nochevich.

ATTESTMENT OF MEETING MINUTES.

The above minutes were approved and adopted by majority on the _____ day of _____ 2022.

Nick Nochevich, Chairman

Anthony Schlueter, Executive Secretary