

MINUTES
COLUMBIA CITY BOARD OF ZONING APPEALS
REGULAR MEETING
TUESDAY, MAY 7, 2019
7:00 P.M.

WHITLEY COUNTY GOVERNMENT CENTER

***Note: Due to equipment failure, no recording of this meeting is available.**

MEMBERS PRESENT

Dennis Warnick, Chairman
Dwayne Knott, Vice Chairman
Cathy Gardner
Jon Kissinger
Anthony Romano

STAFF

Nathan Bilger
Amanda Thompson

ATTORNEY

MEMBERS ABSENT

None

Dawn Boyd

VISITORS

Eight visitors signed the guest list at the May 7, 2019, Columbia City Board of Zoning Appeals meeting. A guest list is included with the minutes of this meeting.

CALL TO ORDER

Mr. Warnick called the meeting to order at 7:00 P.M.

ROLL CALL

Ms. Thompson read the roll call with members present and absent listed above.

CONSIDERATION AND ADOPTION OF THE MARCH 5, 2019, REGULAR MEETING MINUTES

Mr. Knott made a motion to approve the March 5, 2019, meeting minutes as presented, and Mr. Kissinger gave the second. Four members voted in favor of the motion while Mr. Romano abstained.

ADMINISTRATION OF THE OATH TO WITNESSES

Eight guests were sworn in by Ms. Boyd during the meeting.

OLD BUSINESS

1. 19-C-VAR-3

During the March 5th meeting, Cheryl Whetstone-Kruckenber and Brant Huntley requested a Variance of the maximum allowable height of a fence at 216 E. Van Buren Street, Columbia City. The Board had voted to continue the petition to the May meeting. Mr. Bilger summarized an amended Staff Report and described that the applicants were requesting approval for an 8' privacy fence. He told the Board that the proposed fence was already partially constructed because the residents did not realize they needed a building permit; the 8' fence replaces a 6' fence in the same location. Mr. Bilger reminded the Board that as a replacement, a 6' fence would be automatically permitted, but the additional height caused the need for a Variance approval. He stated that, for various reasons, Staff has no concerns with the fence's setbacks, and the Board of Works is not concerned about the section encroaching in the right-of-way. Citing the Staff Report's review criteria, Mr. Bilger said he was unaware of any practical difficulty. He suggested the Board could consider whether or not being a corner lot might be a hardship but also cautioned that an approval of the request could set a precedent and affect general welfare if no site-specific adversity could be identified.

Mr. Bilger displayed aerial views of the property. He pointed out the location of the windows on the south side of the house, which are directly across from the windows of the neighbor's house. He noted that copies of Ms. Gardner's photos from the previous meeting were included in the meeting packets along with photos submitted by the Huntleys. Several of the Huntleys' images were in regards to another 8' fence located in the City. Mr. Bilger said because that fence does not enclose or define a property line, it is not considered to be a fence; this is a department policy. He said, in that case, the construction referenced is a noise barrier, and there are no standards for noise barriers. He suggested the Board may want to consider how the existence of the 8' noise barrier affects this fence request. Mr. Bilger also cited that there are no height restrictions for commercial fences, so taller fences do exist in the jurisdiction. At the March meeting, Mr. Warnick believed there had been an 8' fence approved in Westgate. Mr. Bilger said the department was unable to locate the fence or any permits or approvals related to it.

There being no further questions for Mr. Bilger, Mr. Warnick invited the petitioner to speak. Brant and Tonya Huntley were present. Mr. Huntley requested approval for the 8' fence. Mr. Romano, who was absent at the March meeting, asked what concerns the Huntleys had regarding the house to the south. Mr. Huntley replied that it was a rental property and until just recently had been owned by a group who helped people with addiction issues and etc. He said the residents would often stare into his yard and house because they could see over the 6' fence. Ms. Huntley added that the porch on the house to the west also has a direct view into their home. She referenced one of the provided photos. She said they often require police assistance on their property because of their neighbors or people associated with them.

Mr. Warnick invited members of the public to speak. Kim Gavin, eastern neighbor of the Huntleys, introduced herself to the Board and voiced that she too had experienced problems with other residents in the neighborhood. Mr. Kissinger asked if she also wanted an 8' fence

for her property. Ms. Gavin stated that her location received less negative attention than the Huntleys, and so, she did not feel a fence on her property would be necessary.

Mr. Warnick asked Mr. Huntley when the replacement of the fence had begun, and Mr. Huntley said he started the project last year. Mr. Knott asked the Huntleys and Staff if any complaints had been received. Both stated none. There was no one else present who wished to speak with regard to the petition, so the public portion of the meeting was closed for Board discussion.

The Board considered the unique qualities of the lot which might allow a variance without setting a precedent. The members discussed their concerns about the height of the fence in different areas of the property, hoping to come to a compromise. After much deliberation, Ms. Gardner made a motion to approve 19-C-VAR-3 with the stipulation that the fence along the east property line be no taller than 6', the fence along the south property line and the southern portion of the fence along the west property line be no taller than 8', and the northern portion of the fence on the west property line be no taller than 8' until the point that it becomes in line with the northeast corner of the front of the neighbor's porch, where it shall begin to decrease to 6' in height. Mr. Kissinger gave the second. The motion passed with four members voting in favor, and Mr. Knott voted against.

NEW BUSINESS

2. 19-C-SE-3

D & T Meinika, LLC, requested approval of a Special Exception to permit outdoor display/storage at 597 W. Connexion Way, Columbia City. Mr. Bilger summarized the Staff Report and explained the petitioner had a new retail building nearly complete and requested to display power equipment and trailers on the south side of the structure, as well as possibly the west and/or north sides. Mr. Bilger stated the Plan Commission had approved the Development Plan for the building and had directed the petitioner to request the Special Exception if he decided to have outdoor display/storage. Mr. Bilger added that a previously approved Special Exception would be replaced by this request, with a new site plan. Mr. Bilger noted that utilizing the northern area could interfere with required parking and the west area was not a paved lot. He added that the neighboring business also has outdoor display, visible in the recent aerial images.

David Meinika was present to answer questions about the petition. He felt Mr. Bilger's explanation of his request was accurate. He said the western area is his first choice location, and, instead of gravel, he would use SDI slag with mulch edging. Mr. Meinika described storing skid loaders, possibly some attachments, tractors, tractor seeders, and in the future, trailers. He said most items would be moved indoors at night. Mr. Knott asked if the area would be fenced. Mr. Meinika said he did not plan on having a fence. Ms. Gardner and Mr. Meinika agreed the area needed to be kept orderly due to the visibility along US 30.

There was no one else present who wished to speak, and the public portion of the meeting was closed. After a brief discussion, Mr. Romano made a motion to approve 19-C-SE-3 with

the conditions listed in the Staff Report. Ms. Gardner gave the second, and the Board voted unanimously to carry the motion.

3. 19-C-SE-4

A Hope Center requested approval of a Special Exception to permit a clinic at 344 N. Main Street, Columbia City. Mr. Bilger explained there had been a medical clinic at this location previously, but no Special Exception approval could be located, and the use may be legal nonconforming. Mr. Bilger said the letter of the code requires a new Special Exception approval with a change in owner, and although this property is not changing owners, providing an approval for the new occupant would bring the use into compliance with the current Ordinance. Mr. Bilger stated no changes to the property are proposed, aside from new signage. He listed three suggested conditions of approval in the Staff Report. Mr. Knott asked if there was adequate parking for both the clinic and the home on the property. Mr. Bilger replied that there was. There being no further questions for Mr. Bilger, Mr. Warnick invited the petitioner to speak.

Jo Faulkner, Executive Director, was present. She explained that A Hope Center would be leasing the building, with no external changes aside from an internally illuminated sign. Cathy Wilson was also present on behalf of A Hope Center. She added that employee parking would be behind the building, and tenants of the home were instructed to use the street, garage, and driveway during daytime hours. Ms. Wilson also described that, temporarily, there would be a mobile unit on site for ultrasounds one day a week for approximately 4-5 hours a day. The Board had no questions, and Mr. Warnick asked if anyone else in attendance wished to speak.

Patrick O'Connell, owner of Pizza King, introduced himself to the Board and stated he attended the meeting to learn more about the proposal. He felt the clinic use was appropriate and beneficial to the community.

With no further comments, the public portion of the meeting was closed. Mr. Kissinger made a motion to approve 19-C-SE-4 with the conditions listed in the Staff Report. Ms. Gardner gave the second, and the members voted unanimously to carry the motion.

OTHER BUSINESS

There was no other business. Mr. Bilger asked if the members had received invitations to the BZA Training Session meeting he scheduled for May 22nd at 7:00 P.M. He expected the meeting would last approximately one hour.

ADJOURNMENT

There being no further discussion, Mr. Kissinger made a motion to adjourn the meeting. Ms. Gardner gave the second, and the meeting was adjourned at 8:02 P.M.

GUEST LIST

1. David Gardner ----- 265 N. Columbia Parkway, Columbia City
2. Jo Faulkner ----- 344 N. Main Street, Columbia City
3. Cathy Wilson ----- 344 N. Main Street, Columbia City
4. Dave Meinika ----- 4375 N. Airport Road, Columbia City
5. Brant Huntley ----- 216 E. Van Buren Street, Columbia City
6. Tonya Huntley ----- 216 E. Van Buren Street, Columbia City
7. Kim Gavin ----- 302 E. Van Buren Street, Columbia City
8. Patrick O'Connell ----- 356 N. Main Street, Columbia City