

## BOARD OF ZONING APPEALS

### MINUTES

March 20, 2018

Members Present:     Lynne Thomas Roth                     Glynn Marsh  
                              John Bruns   Mayor O’Callaghan

#### City Staff Members

Present:                 John Applegate  
                              Denise Winemiller

Mrs. Thomas-Roth called the Board of Zoning Appeals meeting to order. Attendance was taken and all of the board members were present.

1.     Mrs. Thomas-Roth asked if there were any corrections or additions to the minutes from the February 6, 2018 meeting. There were no comments or corrections so Mr. Bruns moved that the minutes be accepted as prepared. Mayor O’Callaghan seconded the motion. All board members voted in favor of the motion. The minutes were adopted.

2.     18-01 - Application for a variance requested by Amy Kincer and Lindsay Shepherd for 904 Old Springfield Road, to build closer to the property line than the 100 feet setback to be further from the natural spring that runs through the property.

This matter was tabled from the last Board of Zoning Appeals meeting.

Mr. Applegate said he had heard that the property owners involved had met and talked and he asked what they had been able to come up with. Ms. Kincer said they had met with the Newsed’s and had discussed things and had differing viewpoints between 60 feet and 70 feet back from the road. She said they did not quite come to an agreement. Mr. Applegate asked where they were from the road

right of way which is sixty feet but the measurements discussed were based from the edge of the pavement.

Ms. Kincer talked about providing additional documentation and that since the last meeting, the owners of lot 7 had purchased lot 6. She also had a signed, notarized letter from the property owner of the lot next to her that he would not be needing or asking for a variance in where he was putting the house.

She also had pictures showing how the house would look at 50 feet back, shot from various locations, trying to show the view from lot 7, at the end of the subdivision.

Mr. Neff also explained pictures he had taken, explaining that even in the winter, with no vegetation, when you looked from the vantage point of lot 7, one could barely make out where Ms. Kinser and her car were on Lot 1. Mr. Neff had done this several times, at different distances back from the road to illustrate that the back of a new home would not be close enough to cause an aesthetic problem to the homeowners on Lot 7.

Ms. Kinser also pointed out that the Newsed's property was built back almost 200 feet so no matter where a house was located on a lot, they would be looking at the back of all the houses to be built.

There was a lengthy discussion on "right of way" line, versus "pavement". Mr. Applegate wanted the right of way line established for the property. Despite discussions about pole lines and what the maps of the area showed, Mr. Applegate said this was a county road and sometimes the road curves in and out within the right of way area. Mr. Applegate said they had noticed that when they were installing the sewer line. He said the measurement that they were using, as 60 or 70 feet from the edge of the payment was not sufficient. They need to have the right of way line staked and then measure back from that.

There was some resistance from the property owners on spending more money and time but Mr. Applegate said it would have to be established for certain before the building permit was issued.

Mr. Applegate suggested if they were within ten feet, perhaps they should meet in the middle and adjust five feet.

Ms. Kincer said she had talked to Mr. Oberer and was considering doing litigation and having the covenants removed. She said that the property on the other end was a quarter of a mile away and that where they built their house would not be that visible.

Mr. Applegate suggested before doing that, she should get the right of way location checked, and find the pins in the front yard. He said possibly the location might help her situation.

Mr. Neff said if that is what the city needed, he would try to get that accomplished.

Mayor O'Callaghan said there was no point in granting a variance tonight because they didn't have the correct measurements established.

They came to an agreement on meeting at the next regular meeting for the Board of Zoning Appeals on Tuesday, April 3, at 7:30 p.m.

Mr. Bruns moved that the variance request for 18-01 be tabled and they would meet again on Tuesday, April 3, 2018. Mrs. Thomas-Roth seconded the motion. All concurred and the motion was passed.

### 3. Open Agenda

There was nothing for the open agenda.

4. Mr. Bruns moved that the meeting be adjourned. Mayor O'Callaghan seconded the motion. All concurred and the board of zoning appeals meeting was adjourned.

