

BOARD OF ZONING APPEALS
MEETING MINUTES
April 10, 2018

Kris Schwickrath: Good evening, everyone. The April 10, 2018 meeting of the Board of Zoning Appeals is now called to order and we'll begin with a roll call please.

Adam Rude: Mr. Lisher – here, Mr. Clark – here, Ms. Schwickrath – here, Mr. James – here, Mr. Cassidy – here.

Schwickrath: We did not meet last month. There was no new business so we have two sets of minutes to approve from February. I'll entertain a motion for approval of the minutes from February 13, 2018 as written.

Terry James: Motion to approve as presented.

Schwickrath: All in favor, signify by saying, "Aye".

In Unison: Aye.

Schwickrath: Opposed, same sign.

Rude: Inaudible comment.

Schwickrath: I missed the second.

Jim Lisher: Second.

Schwickrath: Okay Mr. Lisher, thank you.

Rude: Inaudible comment.

Schwickrath: I went too fast. Okay sorry about that and thank you, Adam. Okay and we had a special meeting on February 27, 2018; a motion to approve the minutes please.

Lisher: Move to approve.

Schwickrath: And a second?

James: Second.

Schwickrath: Thank you. All in favor, signify by saying, "Aye".

In Unison: Aye.

Schwickrath: Opposed same sign.

No reply.

Schwickrath: Thank you. The minutes are approved. By the way, I just want you to know since I missed that February 13th meeting, I did in fact read them and thank you everyone forthat was a busy meeting, wasn't it? Thanks, Chris.

Lisher: Chris did a good job.

Schwickrath: Yes. So tonight we have one item under New Business and I seemed to have misplaced my agenda. There it is. Okay and so Adam, if you wish to speak first about the petition.

Rude: We have one item on New Business this month. It is BZA 2018-07 Michael Jaussaud, sorry about that. This is a development standards variance for a proposed carport location. The address of the property is 2138 Cherokee Drive. The current zoning classification is R1, single family residential but the comprehensive use land use has single family, medium density residential and this is a requested variance from UDO 5.03 C4 which is our accessory structures and use.

Schwickrath: Thank you, Adam.

Rude: Yes.

Schwickrath: Mr. Jaussaud, if you would please, or I'm assuming you're going to speak about this. Sorry about that. I should not assume. If you would please state your name for the record and tell us about your project.

Michael Jaussaud: Okay I'd like to put a carport between my garage and the street, but it will extend from the garage to the sidewalk 'cause I don't wanna go beyond the sidewalk. I'd like to put a carport there in order to protect my vehicles from the sun and heat and weather. If I lived out in the country, I would probably get a very simple carport, but being that I'm in town, I don't want it to look shabby and as it turns out, it happens to be the most expensive one that All Steel Carports has. I've got a somewhat of a picture. It's not a picture, it's a drawing. It will have a green, because our roof is green, it'll have a green front (?) and one panel down on each side screen. The front will also have our street address put on it in a placard.

Schwickrath: You said it's the bottom, the one that's on the bottom right?

Jaussaud: Bottom right.

Schwickrath: Okay.

Jaussaud: Bottom right.

Schwickrath: Alright.

Lisher: Not the top one, but the bottom one?

Jaussaud: Bottom right.

Schwickrath: The bottom, correct.

Jaussaud: I didn't know that there was, I didn't know that the code here that the code for in town says that you cannot put a carport in the front of your garage so when I came up to make sure everything was okay, I discovered it at that time. I don't have access, I can't go down the side of my house 'cause my house is or my lot is narrow and I don't have access from the back of the house to put a carport.

Schwickrath: Thank you. So what we'll do now is we'll take questions from the board.

Jaussaud: Sure.

Schwickrath: We have a pre-meeting and we discussed several things that we would like to ask you and try to work out because you're exactly right. It's a very strange or different type of lot and so we'll

Jaussaud: Yeah.

Schwickrath: We have some questions. Mr. Cassidy, we'll start with you.

Doug Cassidy: That shows 18 x 18 feet long. Why do we need to go to 21'? It worries me you're going right up to the butt(?) side of the sidewalk. That showed 18 x 21 and you're asking for 21' long. Why do we need to go....I'm worried about it being right up on the sidewalk.

Jaussaud: It'll be short of the sidewalk. But it won't go, it doesn't go to the sidewalk, but it's just short of the sidewalk.

Cassidy: Okay. So it should be by, is this what you, 21 x 22? Is that what you're (?)?

Jaussaud: Yes.

Cassidy: Okay. So it'll actually be 3' short of the sidewalk, correct?

Jaussaud: About, yes.

Cassidy: Okay. Alright. On the back page of that, it shows a unit. Is it gonna be all open or are you gonna be put.....what worries us is you come in from 44 and you see a carport there that's really not....and it might be a (?) but putting side panels on one side or are you gonna leave it completely open?

Jaussaud: No the panel only comes down it only comes down a foot. The carport will be 9' tall and the side panel comes down 2'. When I measured it out, it looks to me like I'll be able to plainly see the street from underneath where the carport is.

Cassidy: Okay. That's all I have then.

Schwickrath: Thank you. Mr. James?

James: I know that several other people have a more interesting questions to ask than me, but the one I'm gonna ask is the why is this necessary? You have a garage there and

Jaussaud: I have a one car garage.

James: One car garage and obviously more than one vehicle, correct?

Jaussaud: Right.

James: So and your desire is protection from the elements I'm assuming?

Jaussaud: Yeah. Okay?

James: And have you considered such a thing as an extension onto your garage?

Jaussaud: No.

James: No?

Jaussaud: No, I didn't consider that. I don't think it's necessary to have it completely enclosed which would be a building an extension of the garage. A carport will have more airflow and I'll have more visibility. If I put a structure extending from the garage which would be like a longer garage, no, that would limit my visibility. I can see everything out the front of my house and I will be able to see everything out of the front of the house where the carport is.

James: I know that several years there was an effort put forth to try to eliminate carports within the city because of the aesthetic.

Jaussaud: I understand that.

James: So that's why we're having a difficult time assessing this and coming to a decision because we wanna....

Jaussaud: Uh huh.

James:while we wanna try to help you out, we also have to look at what the city is trying to do as far as make sure that things are properly done and look aesthetically complete. So that's kind of where we are and I'm sure you'll hear that from some of the other members here as we go through the questioning, but ...(inaudible)...understand that's what we have to look at, not just you know, we can't just come in and say well we definitely don't wanna it or we definitely do want it.

Jaussaud: Right.

James: We have to have some type of reasonable reason to come up with this from both sides so that's what I'm trying to assess right now.

Jaussaud: Yeah.

James: What you're telling me and then what we're looking at it from the city's point of view. So I hope you understand that as we go through the

Jaussaud: And I understand that and I appreciate the board looking out because I....you know if I lived out in the country, I could've gotten one of those carports that kind of bends around and it wouldn't make any difference. I used to live in the country. I know it doesn't need to look, I mean it shouldn't be looking shabby. If I were to extend the construction of the garage out toward the drive, it would limit my visibility from the front door and from the porch. It would block some of my view and I for security reasons, I prefer to be able to see.

Schwickrath: I think that's a good point.

James: I certainly understand that, certainly. And I thank you for your answers. Those are good answers, so I'll move on.

Schwickrath: Okay.

Jaussaud: Okay thank you, Mr. James.

Schwickrath: Thank you, Mr. James.

James: Thank you.

Schwickrath: Mr. Clark?

Chris Clark: I have one question. Is this carport to be attached to the front of the garage or is it gonna be....

Jaussaud: No.

Clark: And how much space is gonna be between it and the garage?

Jaussaud: Only a few inches.

Clark: Okay. Alright, thank you.

Schwickrath: Thank you. Mr. Lisher?

Lisher: Thank you. Kinda based upon the history of the city and for your information, we're not talking administrations. It's been a couple of administrations ago, so not the current mayor necessarily, so don't blame that. On the carports, particularly as it relates to the front of homes. Rear of homes are a little different if there's alleys and so forth, okay?

Jaussaud: Uh uh.

Lisher: Now when you bought this house, when you bought it did you have one vehicle?

Jaussaud: Pardon?

Lisher: When you bought your house, this house, did you have one vehicle or more than one vehicle?

Jaussaud: I had two vehicles at that time.

Lisher: So what has happened between then and now that creates the need for a carport now that you didn't have when you were thinking about buying a house?

Jaussaud: The exposure to the weather. I just it's taken a toll on one of my vehicles. I now have four vehicles.

Lisher: Because your neighbors, this house, your house and your neighbor's are all, well I shouldn't say all, almost all are one car garage homes. Very narrow....

Jaussaud: One or two anyway.

Lisher:not much distance between one home and another....

Jaussaud: Right.

Lisher:so it makes it difficult to add on sideways, right? But that's something you knew when you bought this, right?

Jaussaud: That was the best house that I could buy at the time with the money that I had and I liked the location. I've got good neighbors.

Lisher: Are you familiar with the house across Miller Street in this area?

Jaussaud: Across? Yes.

Lisher: And the carport that's there?

Jaussaud: No, there's no carport.

Lisher: Yeah there's a carport on the other side. She nods her head. She agrees. I think what you're envisioning is something that looks similar to that. I'm guessing.

(?): Inaudible comment.

Schwickrath: Would you like to come forward and just....

(?): Inaudible comment.

Schwickrath: Wait, whoa, whoa. Hold on, hold on. Our meetings are actually transcribed....

Jaussaud: Oh on Smithland Road? Not there in Indiana Heights?

Lisher: No, no.

Jaussaud: Yeah. I know that and that's not an attractive carport.

Lisher: Well that's about 9' tall, isn't it?

Jaussaud: No, no. I think it's 7'.

Lisher: Okay. And does it go 21' out or do you think it's less?

Jaussaud: I believe it probably does because that's kind of a standard measure.

Lisher: What would you think of if all your neighbors built carports similar to yours?

Jaussaud: I wouldn't object to that. I'm going to have, as far as carports go, mine is going to be an attractive carport.

Lisher: In your catalog, you have some that are have a they look, for lack of a better phrase, at least 3 side if not 4 side buildings and I'm talking about the ones on the top, not the lower.

Jaussaud: Yeah those are buildings, metal buildings.

Lisher: Yeah.

Jaussaud: I'm not wanting another building.

Lisher: They call 'em garages.

Jaussaud: Pardon?

Lisher: They call 'em garages.

Jaussaud: Yeah.

Lisher: Have you thought about that?

Schwickrath: Well he's already said that as far as visibility goes....

Lisher: Gotcha, okay.

Jaussaud: No that would block my view.

Schwickrath:(inaudible)....the kind you have in mind.

Jaussaud: Yeah.

Schwickrath: Okay.

Lisher: I have no other questions then.

Schwickrath: Okay. No thank you. I the one question came up for us or possibility, understanding everything that's been said. No need to rehash. Is it putting up some type of

screening either we suggested or we were thinking, excuse me, trees, but maybe a wooden fencing because of where you're situated and that's such a major intersection. I mean it's really a gateway to the city. So in order to screen it a little bit, that was an idea that we had. What do you think of that as a possibility?

Jaussaud: Of putting a tree?

Schwickrath: It would either be a screen of trees on the western side of the....

Jaussaud: We used to have trees on the western side and when the utilities power company came down, they cut the street, they widened the street and took the trees out that we had and if we were to put more in, it would be right on top of the utilities. I don't think that'd be smart.

Schwickrath: What do you think then of a wooden paneled fence on the western side of your of the driveway, the pad for the driveway?

Jaussaud: Out toward the street is that what you're thinking?

Schwickrath: Which street? I'm thinking what is that, Smithland Road?

Jaussaud: Uh huh.

Schwickrath: On that side.

Jaussaud: Uh huh.

Schwickrath: Yes.

Jaussaud: I wouldn't have any objection to that. I could agree to do that.

Schwickrath: Adam, what do you think?

Rude: I think that's an adequate way to screen it if the concerns are

Schwickrath: Utilities and trees.

Rude: Well that and the visibility on your way in to(inaudible)....

Schwickrath: Any thoughts about that?

James: I think that's reasonable. I think that's a reasonable way to pursue this.

Jaussaud: Yeah I don't have a problem with that.

James: We would probably need to be fairly specific in

Schwickrath: The language.

James:the language with that.

Rude: At that point....(inaudible)....granting variance both from the location of(inaudible)....

Clark: With a 9' building and a 1' extension down from it. If the fencing were the shield or the screening would be what, 3'? Three foot's allowed in the yard?

Rude: Yeah if this board grants a variance from that standard as well. The maximum height is 3' in a front yard.

Schwickrath: And that will not serve our purpose.

Rude: Yeah, so....

Schwickrath: No. So it would have.....so we're discussing here, based on our other ordinances, what's possible. So it would have to be an 8' screen or fence.

Jaussaud: How long?

Schwickrath: 8'.

Inaudible comment.

Schwickrath: Can we grant that tonight?

Rude: Uh....

Schwickrath: I don't think so.

Lisher: Well 'cause it has some setback requirements too.

Schwickrath: Right 'cause there are requirements for that as well. So

Rude: Well we can table it for....(inaudible)....

Schwickrath: I think we have to. Am I correct, Mr. James?

James: I think that sounds very reasonable, a good way to pursue this. We're still dealing with the issue of do we wanna set some type of precedent here like Mr. Lisher had stated earlier in the pre-meeting and that's another area I think we need to contemplate here before we

Schwickrath: Grant a continuance?

James:go further with it, yes.

Lisher: Well 'cause the ordinance would change for a purpose and that's one of the reasons to do away with the carports.

Schwickrath: However, given the unique situation of this particular lot, I think the request is not unreasonable. However, there is another way to look at it is that you have a self-imposed difficulty given the nature of the lot. So we've got a few things that we have to wrestle with here and actually decide where we land.

Jaussaud: Okay.

Schwickrath: So there needs to be more discussion here.

Lisher: I would keep an open mind. I think you would be wise to allow us to table. He doesn't know. If we take a vote tonight and you lose, then you gotta wait months and months and months before you could ever apply again. So if it's tabled, then if we just a one month delay and you can get together some diagrams (?) or whatever to try and alleviate some of the concerns you've heard tonight. That would be my recommendation.

Jaussaud: Yeah.

Schwickrath: We're good to table this?

Lisher: I'm kind of talking out loud to give him some guidance here.

Schwickrath: Yeah. That's fine, Mr. Lisher.

Rude: And I think if that's the way the board's gonna move tonight, staff can take a little bit of time to try to lay out 'cause it sounds like maybe some type of screening, a fence is gonna be the best option. We can start to lay out what that looks like not only the legal language that you guys need to use but also just trying to illustrate that(inaudible)....

Schwickrath: Does that seem reasonable, a reasonable way to proceed? So we're suggesting that we table this.

Lisher:(inaudible)....I mean you wouldn't like my vote tonight. So....

Schwickrath: Right. Okay. I think it needs a little further look.

Jaussaud: Okay.

Schwickrath: And so in order for us to address some of the concerns that we have and then to check again against our ordinances and see what's possible,

Jaussaud: Sure.

Schwickrath:I recommend that we then tabling is different from continuance. And we don't get this very often, so we're gonna check the book to be sure. Sorry, I don't read this every week.

Lisher: I don't want him to have to do new notices.

Schwickrath: No, you won't have to do a notice again.

Jaussaud: Okay. I would need some (?) guidance if I'm to put up a fence.

Schwickrath: Yes.

Jaussaud: And this is a fence for obstructing?

Schwickrath: For screening purposes, right.

Jaussaud: Okay.

Schwickrath: More from the road. From Smithland Road and from the intersection.

Jaussaud: It'd be close to the road?

Lisher: It could be.

Schwickrath: Could be. I'm not sure at this point.

Jaussaud: Okay. Okay.

Schwickrath: That's what we need to investigate.

Jaussaud: I would just. I need the guidance if....

Schwickrath: Yes.

Jaussaud: ...that's what we're gonna do.

Cassidy: Mr. Rude and Mr. Bryant are very good and they'll...

Jaussaud: Pardon?

Cassidy: Mr. Rude and Mr. Bryant, Mr. Niehoff, he's at his wedding. They'll lead you where you need to go.

Rude: Inaudible comment.

Jaussaud: Okay.

Rude: Inaudible comment.

Jaussaud: Alright.

Schwickrath: No, I'm sorry because I wanna make sure I use the right word.

Rude: While I'm looking this up,(inaudible)....

Schwickrath: Yes, okay. So right now close this to questions from the board and open this up to anyone from the public who wishes to step forward. Mrs. Case, are you interested?

No audible reply.

Schwickrath: No? Okay. Alright.

Jaussaud: I'll need that.....well you can hold on yeah you can hold onto that.

Schwickrath: That may help him, but public discussion is now closed and we will make sure we get our language right. And this will be an oral vote, won't it?

Jaussaud: Okay well thank you all for your consideration.

Schwickrath: Wait, wait. One moment please.

James: One other thing; back to the thing, the precedent thing.

Schwickrath: Yes.

James: I think we need to take a look at that. I don't wanna open up an area that we thought was closed....

Schwickrath: Yes.

James:as far as carports all throughout the town 'cause I know that we tried to eliminate that. So what where do we stand as far as opening that back up again?

Rude: Are you asking about setting a precedent for future?

James: Yes, yes for future. In other words, can this or is this so unique that other cases wouldn't compare to it?

Rude: I think, because of the lot having multiple frontages and the narrowness of the lot, that location basically located off a major thoroughfare....(inaudible)....I think it is fairly unique. Legally, BZAs never set any precedent for another case, but I don't think even(inaudible)...

James: So we could defend ourselves if somebody else comes up and we obviously don't decide to have any future carports?

Rude: Yeah I feel pretty comfortable....(inaudible)....

Clark: So with the shape of this being on the cul-de-sac and on Smithland Road, is this 2 front yards?

Rude: Yes.

Schwickrath: Yes, it's....

Rude: It does have 2 front yards technically, Cherokee Drive and Miller Avenue.

Clark: So there's our precedent limiter.

Rude: Yeah so that's that makes it a lot (?) because it has such narrow side yards....(inaudible)...

Clark: I didn't know because of the (?) segment where the cul-de-sac meets.

Rude: Yeah there's(inaudible)....yeah there are some very unique characteristics of this lot... (inaudible)....

Schwickrath: Actually thank you for saying that, both of you because I think that that actually clarifies it for me.

Lisher:(inaudible)....not every corner lot....(inaudible)...

Rude: Yeah.

Schwickrath: That particular part of it I think is and you're exactly right is that the BZA is not really establishing a precedent. I'm sorry to make you stand there while we're working this out.

Jaussaud: That's alright.

Schwickrath: But we really need to....this hasn't come up for us in a long time because the ordinance changed (?).

Jaussaud: I understand.

Schwickrath: So

Rude: And I think Terry does still make a good point that the ordinance did change for a reason and I think we are continuing....(inaudible)...

Clark: Reassess.

Schwickrath: We need to reassess this.

Rude: Yeah reassess things to make sure(inaudible)....all the other criteria....(inaudible)....

Schwickrath: To continue it. I just realized that when you said that. Thank you. Thanks for checking that. So I move that we continue tonight's meeting to next month until staff has an appropriate amount of time to determine proper screening and any other stipulations that would help out with this particular lot?

Jaussaud: To make sure that we don't trip up on anything, Bryant, we probably want to go out and physically walk the ground.

Schwickrath: You can work that out.

Rude: Yeah.

Jaussaud: Yeah.

Schwickrath: There's a motion on the floor.

James: I'll second that.

Jaussaud: To make sure I understand,

Schwickrath: Let me just finish the vote. And so all in favor, signify by saying, "Aye" to continue.

In Unison: Aye.

Schwickrath: Okay. Opposed, same sign.

No reply.

Schwickrath: Okay we'll see you next month. I just needed to finish that part of the business. So you will work with staff on this.

Jaussaud: Good enough.

Schwickrath: Thank you.

Jaussaud: Alright.

Schwickrath: Do you need this back?

Jaussaud: Yes, please.

Schwickrath: Yes. I'll give it to Adam. Thank you. I think that'll work the best for you and for us as well. Adam, is there anything else?

Rude: No,(inaudible).....I will mention this. We have started and I think I've sent an email out. We started the Comprehensive Plan update. Pulled together a steering committee ... (inaudible)....with that process. Currently, we're in the public input portion of the planning process so we sent out digital survey to just trying to push that out through social media. We've hit about a thousand people so far. We're gonna be having some public meetings to talk with people in person and then also direct the steering committee or stakeholder meetings. We're gonna identify stakeholder groups throughout the community whether that be local businesses, alert property owners, developers, major employers, the utilities. Some of the groups that regularly meet ...(inaudible)...we're gonna be sitting down with them individually and have discussion with them. But that's kind of the(inaudible)....steering committee.

Schwickrath: So if you haven't filled out your survey, please do it.

Several people speaking at once; no one is clearly audible.

Lisher: Send the link again.

Rude: Yes I'll send the link out.....

Lisher: Inaudible comment.

Rude: Yes I'll send that link out again.

Schwickrath: Thank you.

Rude: Yes and if you guys have any mailing list or social media or anything, feel free to push that out. Anybody, even if they don't live in Shelbyville anymore, if they ever interacted with Shelbyville, we(inaudible)....feedback. Why they don't live here now or(inaudible)....There's some questions in there....(inaudible)....

Schwickrath: Is there a date that ends it? Is it another few weeks?

Rude: Inaudible reply.....At that point, we can collect all the info and start running, getting some....(inaudible)...

Schwickrath: Sure, some data. We need data.

Rude: There is a lot to look through.....(inaudible)...

Schwickrath: That's good. I'm glad we've had such a response.

Rude: Inaudible comment.

Schwickrath: Motion to adjourn?

James: We'll move to adjourn.

Cassidy: Second

Clark(?): Second.

Meeting adjourned.