

b) *The Zoning Regulations State:*

The proposed construction of a side and rear deck would protrude into the 10-foot separation requirement approximately 3.2 feet, leaving 6.8 feet between the deck and the garage. Code of Ordinances Section 100.4.06.b states that the accessory building must have a 10-foot separation from the main building or provides the same side-yard required as the main building. The garage does not meet the required 5-foot side-yard as it is only 1-foot from the property line.

c) *Interested Property Owners:*

Jim Borglum, neighbor, will be performing the work and is in favor of the variance. No further written or verbal comments were submitted.

d) *Discussion:*

Lee Fagre, brother of Ann Springer, began the discussion by reviewing the proposed deck construction. Mr. Fagre described the previous removal of the old rear deck and the poor quality that the deck was in. The old side deck that still exists will be removed completely and is also in very poor shape. The new rear and side deck will be connected to one another and are proposed to go in the same location as the old decks. The side deck allows for entry into the side of the house.

Secretary Passmore explained that the variance for the deck is not because the deck itself is in non-conformance, but because the deck will create a non-conformance with respect to the accessory building. Also, review is warranted because the old decks will be entirely removed and replaced with one new structure.

Chairperson Block expressed the difficulty in placing a garage in conformance due to the odd shape of the lot. Vice-Chairperson Lampe further noted that in this particular subdivision with the odd shape of all the lots, situations like these are somewhat common. The Board confirmed the size and placement of the new proposed deck.

e) *Motion by the Board:*

Motion By: Pat Brown

Seconded By: Pete Lampe

Move that a variance to allow the side and rear deck to extend into the accessory building separation requirement by 3.2 feet at 104 Iowa Street be approved.

Yes: 4

No: 0

Absent: 1

2. Case #20010602, Steve Hansen, 104 4th Avenue NW

a) *The Applicant's Requested Zoning Variance:*

Steve Hansen, Applicant, 104 4th Avenue NW is requesting a variance to the zoning regulation governing minimum side and rear yard setbacks.

b) *The Zoning Regulations State:*

The proposed construction of an attached garage and house addition would protrude into the side-yard setback requirement approximately 2.5 feet, leaving a 2.5-foot setback and protrude into the rear-yard setback requirement approximately 10.2 feet, leaving a 3-foot setback. Code of Ordinances Sections 100.21.02.1 and 100.21.02.2 state that for lots of record, the side-yard setback must be 5 feet and the rear-yard setback must be 20% of the lot depth, which is 13.2 feet.

c) *Interested Property Owners:*

No written or verbal comments were submitted.

d) *Discussion:*

Steve Hansen began the discussion by reviewing the proposed garage and house addition plans. Mr. Hansen pointed out that the proposed addition would not sit any closer to the side lot line than the current unattached garage does presently. He further described his desire to square the house up which in turn will encroach to the rear lot line.

Member Brown clarified what structures will be removed and where the addition will sit on the lot. Vice-Chairperson Lampe confirmed with Mr. Hansen that the new attached garage will be 25' x 38'. Mr. Hansen expressed his desire to build this size of an attached garage due to his storage problems.

Secretary Passmore described the variance and stated the required side-yard is 5 feet while the required rear-yard is 13.2 feet for the lot of record. The property is a corner lot with a 66-foot lot depth. Vice-Chairperson Lampe asked Mr. Hansen the purpose in the additional 9-feet to be added to the house in the rear-yard that would create a 3-foot rear-yard setback. Mr. Hansen responded that he intends to build a main floor bathroom in this area. He also stated that currently there is no bathroom on the main floor.

Mr. Hansen stated that his fence along the lot line would need to be removed in order to complete the construction. Member Brown asked about the previous request that Mr. Hansen brought before the Board approximately nine years ago. He responded that the previous request was very similar but that he was unable to begin the construction and therefore the granted variance expired after a year's time.

Vice-Chairperson Lampe expressed concern regarding the 3-foot rear-yard, specifically in regards to safety or fire. He then asked Mr. Hansen if any other options were looked at to shorten the addition size and increase the rear-yard setback. Mr. Hansen responded that he had not looked at any other options and was not sure any other option existed. Member Foy expressed similar concerns as Vice-Chairperson Lampe in regards to continuing or increasing the non-conformance of structures on the lot.

Vice-Chairperson Lampe asked the Secretary for comment. Secretary Passmore acknowledged the difficulty in this variance request due to the very small setbacks that will be created. Vice-Chairperson Lampe stated that the proposed variance would significantly increase the footprint of the existing non-conformance. Member Brown asked if the west side of the house was currently in non-conformance. Secretary Passmore responded that the west or rear-yard is non-conforming and that any compromise that might be reached to extend the garage off of the current back of the house would still require a variance.

Member Brown stated that the Board has in the past not looked favorably upon expansion projects for the purpose to store more personal items and that the proposed 25' x 38' addition seems quite big in comparison to the surrounding neighborhood. Mr. Hansen responded that the neighborhood is very old with not a lot of expansion taking place.

Chairperson Block stated that because of the size of the lot, the fact that the fence will be removed and that there is a sufficient side-yard on the lot next door, that he would be in favor of the variance. Vice-Chairperson Lampe commented that either property owner could put a fence back in. Member Foy stated that he could support a variance request that was asking for encroachment to one side or the other, but struggles with a hardship issue that extends into both yard setbacks. Mr. Hansen responded that it would improve his property and make things much easier for he and his wife.

Member Brown asked Mr. Hansen if he had another plan or idea that could lessen the state of non-compliance that he is requesting. Mr. Hansen responded that he did not desire any reduction in the size of his proposed addition due to the fact that he does not have a lot of room to work with on the lot. Member Brown asked again if there was any other way to accomplish his plan. Mr. Hansen described some of the rooms in his house and responded that any reduction in size to the overall addition would not create satisfactory sized rooms.

e) *Motion by the Board:*

Motion By: Chris Foy

Seconded By: Pat Brown

Move that a variance to allow the attached garage and house addition to extend into the side-yard setback 2.5 feet and the rear-yard setback 10.2 feet at 104 4th Avenue NW be approved.

Yes: 0

No: 3

Absent: 1

Chairperson Block abstained.

The following members gave reasons for their "No" vote.

Member Lampe: The project involves a major increase in the footprint of an existing non-conformance and too great an encroachment towards the lot lines.

Member Brown: Agreed with the previous statement.

Member Foy: Agreed with the previous statement but would have been inclined to grant a variance of a lesser request if applicant would have desired. This was too great a variance request without enough hardship to justify granting the entire variance.

3. Case #20010603, Robert C. Gremmels and Beth A. Olson, 428 1st Street SE

a) *The Applicant's Requested Zoning Variance:*

Robert C. Gremmels and Beth A. Olson, Applicants, 428 1st Street SE are requesting a variance to the zoning regulation governing minimum side-yard setbacks.

b) *The Zoning Regulations State:*

The proposed construction of a three-season room would protrude into the side-yard setback requirement approximately 1-foot 2-inches, leaving a 3-foot 10-inch setback. Furthermore, changing the non-conforming deck into a three-season room will increase non-conformance of the original structure. See Code of Ordinances Sections 100.21.02.1, 100.21.07.5 and 100.4.03.

c) *Interested Property Owners:*

Ken and Pam Riggs, neighbors located at 500 1st St. SE, submitted a letter stating they had no objections and/or concerns with regard to the requested variance. The Riggs residence is located to the side where the proposed construction would take place. No further written or verbal comments were submitted.

d) *Discussion:*

Robert C. Gremmels began the discussion by reviewing the proposed plans for the three-season room addition. He stated that a roof would be placed over the deck and the new walls would be screened in to enclose the room. The nearest house to the deck is more than 100 feet away. Mr. Gremmels stated that these improvements need to be made to use the three-season room.

Vice-Chairperson Lampe asked about the construction aspect of the project in regards to building requirements. The contractor will need to deal with these issues with the building department, as certain items still need clarification. Secretary Passmore agreed that there are some building issues to work out, but that the Board's responsibility is to act upon the zoning variance request.

Member Brown clarified that the request is for a few inches of non-compliance for only a short length of the addition. Secretary Passmore confirmed that the lot line is at an unusual angle that creates a non-conformance with only the front corner of the addition. Mr. Gremmels gave some history behind how the diagonal lot line was created. Secretary Passmore also stated that this is a lot of record that requires a five-foot side-yard setback.

Member Brown asked if the building requirements could not be met, then what happens to the project. Secretary Passmore responded that if the building requirements were not met, a permit would not be issued. Member Foy asked about the overhang. Vice-Chairperson Lampe explained that the overhang is not counted as part of the setback as long as it is equal or less than two-feet.

e) *Motion by the Board:*

Motion By: Pete Lampe

Seconded By: Pat Brown

Move that a variance to allow the proposed three-season room to extend into the side-yard setback 1-foot 2-inches on the existing deck and increase the non-conformance of the original structure at 428 1st Street SE be approved.

Yes: 4

No: 0

Absent: 1

F. Old Business:

1. Member Brown asked about the correct way to handle motions when they are likely to be voted against and in so far as to either second a motion or let the motion die for lack of a second. The Board discussed and agreed that it was their responsibility to deliver an answer for each request regardless of whether it is favorable or not to the applicant. The Board also agreed to keep the motions in the positive and either vote "yes" or "no", and if "no" to give reasons for denial.
2. Secretary Passmore clarified the proper procedure for appeals from discussion that took place at the previous meeting. Any aggrieved person may appeal the Board's decision to the City Council and the City Council upon review shall remand the case back to the Board.

G. New Business:

H. Adjournment:

Motion By: Pete Lampe

Seconded By: Chris Foy

That the Board of Adjustment meeting be adjourned.

Yes: 4

No: 0

Absent: 1

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