

## MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD AUGUST 21, 2024

Present: Alderman Brickner, Richard Adamczewski Richards Lentz, Richard Grubanowitch and Dennis Besler

Excused: John Kolb

Also Present: City Administrator Johnsrud and Deputy City Clerk/Treasurer Gagnon

Chairman Brickner called the meeting to order at 6:00 PM.

### Minutes:

Moved by Richard Grubanowitch, seconded by Richard Adamczewski to place on file the minutes of the Zoning Board of Appeals meeting held August 15, 2022. Motion carried.

### 4415 South Iowa Avenue:

Deputy City Clerk/Treasurer Gagnon read the Notice of Public Hearing as posted.

- **Presentation by City Administrator Johnsrud:** A courtesy notice was sent to the property owner July 9, 2021 when it came to City attention that the front yard setback was paved and it created a double wide driveway without a street privilege permit. At that time, the owners indicated that their plan and intent was to build a new, 2-car garage in the front of their house. There was enough room to allow a structure of that size in the front of the house, allowing the paved area to become compliant with the code. The building permit application for a garage was never received. This became apparent recently during a title search prior to sale of the property. Additionally, it was discovered that there were improvements done to the home without permits. The property owner has now sold the home, and requested to have a variance for allowing paved area to remain.
- **Board Member Questions:** Alderman Brickner inquired as to why this was allowed. Administrator Johnsrud explained that anytime there is an approach leading to the City right-of-way, a street privilege permit must be obtained. There was no street privilege permit applied for, and that is why a courtesy letter was sent in July 2021. The City did not require removal at that time, due to the possibility of the addition of a new garage. Preliminary plans were provided to the Building Inspector, but no permits for construction were pulled.
- **Presentation by Applicant:** Charles Gabert, former 4415 S. Iowa homeowner, related that he has sold the property, but that he is looking to remedy this situation for the new homeowner. He reiterated that he did submit plans for the new garage. Mr. Gabert explained that he believes that the additional pavement/driveway is a good thing for the new homeowners and others in the neighborhood. He also extended apologies for his negligence in the situation, and also has made good on rectifying the permitting of past work being done without permit. Final inspection on that work is imminent.
- **Board Member Questions:** Member Adamczewski asked the applicant if had closed on the property, and Mr. Gabert said that yes, they have. They are no longer the homeowners of 4415 S. Iowa, but he felt applying for the variance was the right thing to do. Member Lentz asked if Mr. Gabert knew the depth of the concrete at the approach. Mr. Gabert said that the curb and the approach was untouched, so the concrete is to the depth of the curb and he did not touch the approach. The depth of the driveway concrete is 4". Member Grubanowitch asked the City Attorney if they could make a

judgement on this if the applicant is no longer the legal homeowner. Attorney Alexy stated he was inclined to recommend that the board note and look past that to the legality of the issues involved as the new homeowners would be tasked to present the same request. Member Grubanowitch asked Mr. Graber if the new homeowners were aware they were before the board, and Mr. Graber stated they did. He also confirmed with Mr. Graber if he received the July 9, 2021 letter and inquired why it took 3 years to pursue with the City. Mr. Graber said that he did receive the letter and supply plans to the City, but their family was outgrowing the home and they decided to move. Member Grubanowitch also had concerns about item number 4 in the application (describe how the variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity), and that the answer was of hearing complaints from other neighbors on how they wish they could also have a double wide driveway. His concern is that whole blocks would want to do the same thing in the future if they grant a variance. Member Adamczewski asked if they could grant based on garage build contingency, and Attorney Alexy said no, because they could not require a new homeowner to do that. Attorney Alexy continued that the part of the driveway that needs to be removed is the entire width from the house to the street, and that the ordinance regulates that parking in the front yard can't be greater than two vehicle width, or the driveway's narrowest point in the side yard, whichever is less.

Administrator Johnsrud clarified if not approved for the variance, they would need to cut back the driveway to the width of the driveway that goes back to the side of the house. The driveway can be the same width as the side of the house. A carriage walk would be permitted, which would extend from the front door to the side driveway.

• **Input from the Public:**

Alderman Feirer asked who the contractor was, and Mr. Gabert stated he was the contractor. Alderman Feirer was wondering if he was the contractor, how did he not pull proper permits for the process. Mr. Gabert explained that he was new to contracting, and that this was a learning process for him.

• **Board Member Questions:** None

• **Arguments of the Parties:** Mr. Gabert explained that he feels that this driveway is a good thing for the new homeowners and he believes it's a good thing for future homeowners and for the neighborhood.

• **Decision of the Zoning Board of Appeals:**

Moved by Member Grubanowitch, seconded by Member Adamczewski to deny the application for zoning on 4415 South Iowa Avenue due to failure to demonstrate the condition being unique to the property and it being a self-created hardship. Roll call vote requested: Richard Lentz, aye; Alderman Brickner, aye; Richard Adamczewski, aye; Richard Grubanowitch, aye; Dennis Besler, aye. Motion carried.

Adjourn:

Moved by Member Adamczewski, seconded by Member Lentz to adjourn. Motion carried.

Time: 6:45 PM