

MEETING RECORD

NAME OF GROUP:

CITY BOARD OF ZONING APPEALS

**DATE, TIME AND
PLACE OF MEETING:**

Friday, October 29, 1:30 p.m., City Council Chambers,
First Floor, County-City Building, 555 S. 10th Street, Lincoln,
Nebraska

**MEMBERS IN
ATTENDANCE:**

Tracy Edgerton, David Johnson, Annette McRoy, Steve
Miller; Vickie McDonald absent. Tim Sieh of the Law
Department; Ron Rehtus of the Building and Safety
Department; Brian Will and Rhonda Haas of the Planning
Department.

**STATED PURPOSE
OF MEETING:**

Regular City Board of Zoning Appeals meeting.

Chair McRoy called the meeting to order and acknowledged the Open Meetings Act posted at the back of the room.

The first order of business was election of a new Chair for a 1-year term. Miller nominated Annette McRoy; seconded by Edgerton and carried 4-0: Edgerton, Johnson, Miller and McRoy voting 'yes'; McDonald absent.

Chair McRoy called for a nomination for Vice-Chair for a 1-year term. Johnson nominated Steve Miller; seconded by Edgerton and carried Edgerton, Johnson, Miller and McRoy voting 'yes'; McDonald absent.

McRoy called for a motion approving the minutes of the City Board of Zoning Appeals hearing of May 29, 2020. Motion for approval made by Edgerton, seconded by Johnson and carried 3-0: Edgerton, Johnson and Miller voting 'yes'; McRoy abstained; McDonald absent.

BOARD OF ZONING APPEALS 21002, BY JEROME & KAREN VRTISKA FOR A VARIANCE TO REDUCE THE SIDE YARD SETBACK FROM 10' TO 3' FOR AN ACCESSORY BUILDING, ON PROPERTY GENERALLY LOCATED AT 6009 RAINBOW CIRCLE

PUBLIC HEARING:

OCTOBER 29, 2021

There were no ex parte communications disclosed.

Applicant:

Jerome Vrtiska, 6900 Rainbow Circle, came forward and stated that he is asking for a variance on how far from the property line his garage can be placed. Vrtiska stated that he went to Building & Safety to get his building permit the site plan showed that the garage was 53-feet from the

front marker. The side lot was 3-feet, it was 7-feet to the house and 7- or 8-feet to the shed. After Building & Safety reviewed the site plan the department approved his building permit. Vrtiska stated that he started the construction of his garage and when he finished with the framing, he called the inspector who came out to check the portion that had been completed. The inspector listed a couple of items that he needed to fix and then told him that it did not look like he was 60-feet from the front property line. Vrtiska explained to the inspector that it was only 53-feet and the inspector informed Mr. Vrtiska that the required distance has been 60-feet for quite a while. Vrtiska stated that he was not aware of that detail. A lot of time and money has been put into the structure of the garage to get it where it is, and he did not make any errors regarding this. The guidelines were followed, and they were presented with a site plan and that site plan was approved. Vrtiska stated that he feels that he did nothing wrong, because he followed their guidelines, and it was approved. Vrtiska stated that he is just asking that he be allowed to finish the construction of his garage. This would be a large expense to him to tear this down and he is unable to move the structure back. He asked the board to approve the 53-foot front setback.

Miller asked if he has talked with the neighbors, and they are okay with the garage. Vrtiska said that he has not talked with the neighbors, but they are aware that the garage is being built and they have not mentioned any objections.

Edgerton inquired when he first contacted Building & Safety about a building permit. Vrtiska stated that it was August 11. Edgerton asked if he then contacted them again for the framing inspection. Vrtiska said yes and when he went to Building & Safety to talk with them about this the employee said that he had made a mistake.

There was no public testimony in support or opposition.

Staff Questions:

Edgerton stated that she would like to hear staff's thoughts, recommendations and what other options that there would be on this that would be equitable for this homeowner. **Brian Will, Planning Department, 555 South 10th Street**, came forward and stated that the options are limited with one of them being to grant the request that is before this board or relocating the garage. The relocating the garage with the majority of the structure already there is not an option and reducing the size is not an option, because this is just a single stall garage. Will stated that he noted in the report that both of these options would be a hardship by definition.

McRoy stated that initially this was approved by Building & Safety and that is why the applicant proceeded to move forward on its construction. McRoy inquired if this was a new employee or if there was something about the initial plans that were missed like setback requirements. **Ron Rehtus, Building & Safety Zoning Coordinator, 555 South 10th Street**, came forward and stated this employee is relatively new, and has only been with Building & Safety for a few months. McRoy asked if the department accepts that there was a mistake made. Rehtus said yes that the error should have been seen at the plan review and the employee should have requested that the site plan be revised to have the front setback to 60-feet, but he missed it. The employee had

thought that they had measured plans and that there was more than the 60-feet required, but they did not, and it was not noticed that applicant site plan had a dimension of 53-feet that should have requested that it be revised. Rehtus stated that it was missed, and the permit was issued in error.

Rehtus stated that he wanted to clarify that the variance that the applicant is asking for is a reduction in the front setback from 60 feet to 53 feet.

Will stated that there are two ways to look at this, and one is that it encroaches too far on the side yard and the other is that it encroaches too far into the front yard. Will stated that originally when the applicant came in the legal ad was written for the side yard, but with the way the staff analysis was written it characterized it as an adjustment to the front setback from 60 to 53 feet. Will stated that of the two the way that it is written in the staff report with the front setback from 60 to 53 feet would be the proper variance to use.

Rehtus inquired if when an application is made to Board of Zoning Appeals a notification went out. Will said that notifications were sent to neighbors and signs were posted. Rehtus stated that the neighbors were notified and had the opportunity to come in. Will said correct. Rehtus stated that he just wanted to make sure that the board knew that the neighbors were notified.

Applicant Rebuttal:

Vrtiska asked for the boards approval because he felt that he did everything the correct way.

APPEAL NO. 21002

ACTION BY THE CITY BOARD OF ZONING APPEALS:

October 29, 2021

Edgerton moved to grant the variance on the reduction of the setback, seconded by Johnson.

Edgerton feels like this is the only proper remedy given the circumstances. This homeowner had followed the rules and reached out and a mistake was made to no fault of the homeowner. There has been opportunity for neighbors to express concerns and that has not happened. Any other result would be unfair to the homeowner in this circumstance.

McRoy agreed with her fellow commissioner.

Motion carried 4-0: Edgerton, Johnson, Miller and McRoy voting 'yes'; McDonald absent.

There being no further business, the meeting was adjourned at 1:50 p.m.

Note: These minutes will not be formally approved by the City Board of Zoning Appeals until their next regular meeting.