



WESTMINSTER

CITY OF WESTMINSTER
PLANNING COMMISSION
Meeting Minutes
August 9, 2022

1. ROLL CALL

The regular meeting was called to order at 7:00 pm by Vice-Chair Joe McConnell Present were Commissioners Rick Mayo, David Carpenter, Lawrence Dunn, David Tomecek, and Tracy Colling. Excused from attendance was Chair Jim Boschert, Commissioners Elisa Torrez and Chennou Xiong. Also present: Staff members, John McConnell, Interim Planning Manager, David German, Senior Planner, Patrick Caldwell, Senior Planner, Greg Graham, Deputy City Attorney and Jennifer Baden, Associate Planner. With the roll called, Vice-Chair McConnell stated that the alternate would be voting.

CONSIDERATION OF MINUTES

Meeting Minutes from June 14, 2022.

Commissioner Carpenter made a motion to accept the minutes from the June 14, 2022 Planning Commission meeting. Commissioner Tomecek seconded the motion. The minutes were unanimously accepted (6-0).

2. CONSIDERATION OF NEW BUSINESS AND PUBLIC HEARINGS

3a) Public Hearing and Action on a requested variance for an accessory building size increase for 7261 Lamar Court in the Farms Subdivision, a Planned Unit Development.

Due to technical difficulties, the Planning Commission took a short recess from 7:10 pm and the meeting was called back to order at 7:18 pm.

David German, Senior Planner, entered into the record the agenda memorandum, attachments, and public notice affidavit of publication from the *Westminster Window* on July 28, 2022. Mr. German narrated a PowerPoint presentation for the proposal to:

- a. Hold a public hearing.
- b. Recommend that the Planning Commission deny the variance application for an accessory building size increase for 7261 Lamar Court in the Farms Subdivision, a Planned Unit Development.

The applicant Kenneth Kokoszka, was present and narrated a PowerPoint presentation.

Vice-Chair McConnell opened the floor for discussion and questions from the Commissioners to the Staff and to the applicant

Commissioner Carpenter asked the applicant to expand on the physical circumstances of the existing garage. Mr. Kokoszka responded that he cannot expand his existing garage vertically or lengthwise. He also stated that the proposed garage is not encroaching into any setbacks and will not impact neighbors.

Commissioner Tomecek asked the applicant about expanding the existing garage to the west. Mr. Kokoszka responded that the family room and the remainder of the house exists in this area so it is not possible to expand to the west.

Commissioner Tomecek asked staff how the 5 percent of the lot provision in the Code came into existence. Mr. German responded that this particular Code section predates his time with

the City and did not have this information. Mr. German also pointed out, however, that the accessory building portion of the code was redone in the 2011-2012 timeframe, and that the 5 percent allowance was reconsidered by City Council at that time. Mr. Kokoszka also wanted to add to the record that there is no HOA.

Vice-Chair McConnell asked the applicant to confirm that if the variance was granted, that the existing shed would be removed. Mr. Kokoszka confirmed the old shed will be removed if the variance is approved.

Vice-Chair McConnell opened the public hearing at 7:42 pm.

Testimony heard was not in support of approval of the variance. Concerns were voiced that the other examples used in the applicant's presentation were not in proximity to the applicant's residence, that the size request of 1000 square feet was excessive, and that the building would be used to house a business.

Vice-Chair McConnell closed the public hearing at 7:48 pm.

Vice-Chair McConnell asked for staff and applicant rebuttal.

Mr. Kokoszka rebutted that two of the properties referenced in his presentation are visible from his property, he clarified that the variance is for 274 square foot not 1000 square foot and that the building will not be used as a business.

Vice-Chair McConnell asked the applicant to explain how denial of the variance request would cause him a hardship. Mr. Kokoszka responded that the intent of the larger structure would allow him "working room" that he currently does not have within the existing garage.

Mr. German clarified for the audience that the property is allowed a 726 square foot accessory building, the application is for a variance of 274 additional square feet, and that, if granted, the applicant would be allowed a total of 1000 square feet for his accessory structure.

Commissioner Carpenter motioned that the Planning Commission approve the 274 square foot accessory building size increase variance to allow for a 1000 square foot accessory building at 7261 Lamar Court in the Farms Subdivision based on the following Code analysis in Section 2-2-8(b):

- (1) Hardship both with the lift space that the applicant can't expand his current garage as well as the sound from 72nd and everything else.
- (2) The unique physical circumstances are within reason to grant a variance; it's a corner cul-de-sac so therefore the lot lines are irregular, it is a unique lot it is not a rectangular lot and continues on.
- (3) Unusual circumstances with a double frontage lot because it backs up on 72nd.
- (4) For the physical circumstances, again the hardship is the fact that the applicant can't fit in his garage.
- (5) Special conditions are the applicant didn't cause this, he didn't plat the subdivision, he didn't write the city code, nothing done by the applicant there.
- (6) Commissioner Carpenter disagree the increased building size would alter the essential character of the neighborhood, there are other buildings of similar size and that's not going to change the essential character. He also stated that the applicant is not going to tear down the house and be building apartments.

Commissioner Tomecek seconded the motion. He stated that he agrees with much of what Commissioner Carpenter stated and add that the hardship is in fact relative to the lot lines and the ability to build anything more on there. Commissioner Tomecek also stated that the Planning Commission needs to be careful on what it considers a hardship to be.

Commissioner Colling asked the applicant to confirm that the siding will match the primary structure. Mr. Kokoszka confirmed the siding will match.

Vice-Chair McConnell stated the conditions of approval for the record:

- 1) The accessory building must be built entirely in conformance with all applicable building codes and with all requirements of W.M.C. Section §11-4-6(N), excepting the allowance for the larger size;
- 2) Only one accessory building may exist on the property. Once the new garage is constructed, any other existing accessory buildings must be properly removed within thirty days of final inspection of the garage;
- 3) The accessory building may be up to 1,000 square feet in size, and may not be expanded beyond this limit with either enclosed or unenclosed space, such as adding a carport for example;
- 4) The accessory building may not be used to house any business or home occupation, as defined and regulated in the Westminster Municipal Code Sections §11-2-1 and §11-4-10.

Commissioner Carpenter and Commissioner Tomecek accepted the conditions of approval as stated.

The motion passed unanimously (6-0).

3b) Public Hearing and Action on a five feet two and fifteen sixteenth inch residential rear setback variance for 11010 Meade Court in the Legacy Ridge Filing Nine Official Development Plan, a Planned Unit Development.

Patrick Caldwell, Senior Planner, entered into the record the agenda memorandum, attachments, and public notice affidavit of publication from the *Westminster Window* on July 28, 2022. Mr. Caldwell narrated a PowerPoint presentation for the proposal to:

- a. Hold a public hearing.
- b. Recommend that the Planning Commission deny the variance application for a five feet two and fifteen sixteenth inch residential rear setback variance for 11010 Meade Court in the Legacy Ridge Filing Nine Official Development Plan, a Planned Unit Development.

The applicant was represented by Erik Carlson, with Foster, Graham, Milstein & Calisher, LLP, the applicant was present and narrated a PowerPoint presentation.

Vice-Chair McConnell opened the floor for discussion and questions from the Commissioners to the Staff.

Commissioner Dunn asked the applicant to explain the elevation variance on the lot. Mr. Carlson stated that the lot slopes from the SE corner to the NW corner. On top of the elevated deck as it currently sits, there is a walk-out basement. This is the low point that walks out from the main living of the house.

Commissioner Tomecek asked the applicant who owns and maintains the private open space. Mr. Carlson stated that the Hilltop HOA is the owner of the open space property and the HOA has given their permission for the applicant to use that space for additional frontage distance.

Commissioner Tomecek inquired about how many neighbors have children, dogs that use that open space as a public park. Mr. Carlson responded with "limited".

Commissioner Carpenter inquired about the neighbor located at 11027 Meade Ct that is not in support and asked if the variance was to be granted, would it provide a hardship to the

neighbor. Mr. Caldwell pointed to the slide that gives the view of addresses with the location of the home in question.

Vice-Chair McConnell asked for confirmation that the same company that maintains the private open space is the same company that maintains the lots of the applicants. The applicant did confirm that is the case.

Vice-Chair McConnell asked for confirmation that the other residents that have already increased the deck sizes on their homes didn't require a variance due to the setback being much more substantial than the applicants. This statement was also confirmed by the applicant.

Commissioner Mayo inquired about the setback from the street, or encroachment assuming the open space is part of the applicants' yard. Mr. Carlson provided a guess of 12 or 13 feet from the street on the western side would be the shortest amount of space, just given proximity but actual dimensions were not available.

Commissioner Colling inquired about the square footage of the existing deck. Mr. Carlson stated that the existing deck is 229 square feet, the proposed is 554 square feet which represents approximately 60% increase.

Vice-Chair McConnell opened the public hearing at 8:39 pm.

Testimony heard was in favor of the deck from a direct neighbor. Chuck Javernich of 11050 Meade Court lives across the street and the front of his house faces the back of the Schaufele residence. He stated that he is not impacted by the proposed deck and is supportive of the larger deck.

Vice-Chair McConnell closed the public hearing at 8:41pm.

Vice-Chair McConnell asked for staff and applicant rebuttal.

Commissioner Dunn motioned that the Planning Commission approve the request for the variance from the minimum 15 ft. rear setback requirement for residential dwellings in the Legacy Ridge Filing 9 Official Development Plan. Commissioner Dunn stated that he disagreed with staff and that he believes that the criteria were met for each one of the criteria that are required for variance approval. Deputy City Attorney Greg Graham suggested that the motion state that the Planning Commission agrees with the findings in the applicant's application that supports the Variance request. Commissioner Dunn agreed that this should be stated in the motion.

Commissioner Carpenter seconded the motion.

Commissioner Colling stated she felt the application met all of the criteria.

Commissioner Dunn stated he felt that criteria 2, 3 and 4 met the criteria of unique circumstances.

Vice-Chair McConnell stated he agreed with Commissioner Dunn.

Commissioner Mayo stated he feels that there are definitely unique circumstances that were not in the applicant's control that warrant the variance application being approved.

The motion passed unanimously (6-0).

4. ADJOURNMENT

The meeting was adjourned at 8:48 p.m.

THE WESTMINSTER PLANNING COMMISSION



Joe McConnell, Vice-Chairperson

A full recording of the meeting has been posted on The City of Westminster website.
www.cityofwestminster.us/pc