

**MINUTES OF THE REGULAR MEETING OF  
THE ZONING BOARD OF ADJUSTMENT**

**AMES, IOWA**

**OCTOBER 9, 2019**

The Ames Zoning Board of Adjustment met, pursuant to law, in regular session at 6:00 p.m. on October 9, 2019, in the Council Chambers of City Hall with the following members present: Ronald Schappaugh, Kyle Perkins, and Rob Bowers. Not present was Aladdin Al Katheri and Amelia Schoeneman. Assistant City Attorney Jane Chang and City Planners Benjamin Campbell and Julie Gould were also present.

**APPROVAL OF MINUTES:** Moved by Perkins, seconded by Schappaugh, to approve the Minutes of the meeting of September 11, 2019.

Vote on Motion: 3-0. Motion declared carried unanimously.

**CASE NO. 19-08**

**SPECIAL HOME OCCUPATION PERMIT – YASSIR OBEID, CLEAN INDEED CARPET, 4004 ARKANSAS DRIVE**

**Public Hearing on application, continued from the September 11, 2019 meeting, to allow carpet cleaning, water damage mitigation, and odor removal as a Special Home Occupation at 4004 Arkansas Drive:**

Moved by Perkins, seconded by Schappaugh, to re-table CASE NO. 19-08 to the next meeting of the Zoning Board of Adjustment, which will be on October 23, 2019.

Roll Call Vote: 3-0. Motion declared carried unanimously.

**CASE NO. 19-09**

**VARIANCE – LISA HEIN AND PHIL SPORRER, MEADOWLARK BASS, LLC, 1113 MAXWELL AVENUE**

**Public Hearing on application for a variance to allow parking in the front yard in order for the home to comply with parking requirements related to standards of the City’s Rental Code:**

City Planner Julie Gould stated that the owners of 1113 Maxwell Avenue applied for a variance to allow parking in the front yard in order for the home to comply with parking requirements related to standards of the City’s Rental Code. She said the owners are trying to obtain a Letter of Compliance to operate the property as a single-family rental. Part of the criteria to be a registered rental is to comply with parking requirements. Single-family homes require two off street parking stalls and new parking must meet paving and location requirements of the Zoning Ordinance. Ms. Gould included the parking section of the Code as an attachment to the staff report.

Ms. Gould said at the beginning of the Rental Inspection process only one parking stall existed on a paved area located directly in front of the house. This area was approximately 190 sq. ft. Once the property owner was informed of the two parking stall requirement, they extended the driveway up to the house, which extended the driveway an additional twenty feet. This extension leads to a portion of the house where there is a recessed façade, meaning the parking area is between the building and the street in the front yard. The paving was added to the site without concurrence from the City that it would meet Code standards. The owners are requesting the variance to allow parking in the front yard in order to use the recently paved area as required parking. If approved, there would be no changes to the parking layout. The applicant is requesting approval of the variance based on explanations for each variance standards. If the variance is not approved, the applicant would need to pave additional areas of the property to meet parking standards and obtain a Letter of Compliance for the Rental Code.

Planner Gould stated that in order to approve a variance there are three main criterions that must be met. Since not all of them are met, staff recommends denying the variance.

Board Member Schappaugh asked for clarification on the definition of a front yard. Planner Gould said that the definition is essentially anything in front of the house including all facades. Therefore, the recessed area on the house is still considered front yard. Mr. Schappaugh also questioned if a person can pave to the property line. Planner Gould replied that there is no setback for driveway paving.

Applicants Lisa Hein and Phil Sporrer, Meadowlark Bass, LLC, 727 Northwestern Avenue, Ames, IA, 50010, were sworn in and testified under oath. Ms. Hein stated that she and her husband have been in the process of updating the property to meet rental code. She stated that they bought the home a few years ago for their daughter, and when she moved out, they decided to make it an official rental home. The applicants did some work to the interior including updating the stairs to the basement. When they spoke with Building Inspector Dan Thomas, he informed them there was an issue with the parking. Ms. Hein stated that the Code said they needed to pave to the point that leads to the backyard. At the counter with Planning Staff, they looked at a map and asked if paving to the recessed façade area would be sufficient. Ms. Hein said she misunderstood that the extra 10 feet of paving was technically still front yard. When Mr. Thomas came back for final inspection, he informed the applicants that the parking still was not acceptable. Ms. Hein said she and her husband talked with Planner Gould and spent a lot of time trying to differentiate between front yard and side yard. She feels that a 470 square foot house with roughly 750 square feet of paving seems excessive.

Dennis Heaberlin, 1123 Maxwell Avenue, Ames, IA, 50010 was sworn in and testified under oath. Mr. Heaberlin stated that the notice he received from the City just said the applicant wanted to park in their front yard. He agreed with Planner Gould's recommendation and is opposed to the renters parking in the front yard.

Planner Gould noted an error in the staff report that she forgot to point out in her presentation. She said staff made an error in stating that Maxwell Avenue is a snow route with no parking on the street. It is a no-tow snow route.

Mr. Schappaugh asked what the difference is between rental and owner occupied homes with regard to parking. Ms. Gould said that there is no difference, but there is no inspection or property maintenance code for single-family homes. She said that if a home owner came in and asked what they needed to do to comply, staff would give the same answer. She stated that rentals are subject to inspection; therefore, they must comply with the Code.

Board Member Perkins noted that to approve the variance, it would have to meet code somehow in opposition to what the staff has recommended. He said that both A and C-3 were met. Mr. Bowers stated that B-1, B-2, C, and D were not met, but B-3 was met. Mr. Bowers said they have to show that they find something in the report as fact different than what staff has found.

Mr. Perkins said he finds it difficult to believe that the property would not yield a reasonable return if it were paved to Code. Mr. Schappaugh stated it was not the property owner's fault that the curb was not cut to where the driveway could go past the house in a straight shot. Mr. Perkins said the Board is supposed to look for something else the applicant can do that will still grant a reasonable return.

Moved by Perkins, seconded by Bowers, to deny ORDER NO. 19-09, thereby denying the application for a variance to allow parking in the front yard due to lack of evidence supporting the Findings of Fact.

**DISCUSSION:** Mr. Perkins stated that he found it hard to believe that adding the driveway would not yield a reasonable return. Mr. Bowers said he agreed with staff that the criterion had not been met. He stated that he didn't believe that discussion had to ensue until evidence was met if there is a lack of evidence.

Roll Call Vote: 3-0. Motion declared carried.

Mr. Schappaugh asked staff if the applicants will be issued a cease and desist because it is rented and the renters will have to move. Planner Gould stated that staff would work with the applicants as they had been doing. She said no citations had been issued thus far.

**ADJOURNMENT:** Moved by Bowers, seconded by Perkins, to adjourn the meeting at 6:30 p.m.

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Jacque Higgins, Recording Secretary

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Rob Bowers, Vice Chair