



Legislation Text

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Brandon Helget Variance Request - Driveway Approach - 1021 Circle Drive

Summary:

Brandon Helget has made a request for a variance on Lot 23, Fishback Subdivision, also known as 1021 Circle Drive. The request is to establish a driveway approach from Circle Drive.

Background:

1021 Circle Drive is a double frontage lot with a primary front yard along Circle Drive to the east and a secondary front yard in the rear along Main Avenue to the west. In 2011, a previous owner requested a variance to construct a detached garage with a reduced front yard setback along Main Avenue. The variance was approved with the condition that the applicant remove the access drive off Circle Drive. The access drive was removed, however, the remaining driveway was not required to be removed and has legally remained in place. The current owner wishes to reestablish the access drive off Circle Drive to connect with the remnant driveway.

Findings of Fact:

(1) Due to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and the variance shall not violate the spirit of the ordinance and substantial justice may be achieved as a result of variance.

Finding: Sec. 94-343 states that one access drive shall be permitted onto any street which the lot or block abuts. The condition of the 2011 variance requiring the previous homeowner to remove the Circle Drive access has created an unnecessary hardship and also violates the spirit of the ordinance. Substantial justice may be achieved by reversing the prior Board of Adjustment decision to place the condition of access drive removal on the variance request. Conditions placed on variances shall also relate specifically to the impact of the variance being sought. In the case of an accessory structure setback, conditions should have related specifically to the impact of an accessory structure's location closer to the street. The requirement that the applicant remove an access drive on an opposite street frontage is arbitrary in relation to the variance for the detached garage setback.

(2) Unique circumstances apply to the property which do not apply to other properties in the same vicinity or district.

Finding: The 2011 variance has placed a unique circumstance on the property which does not apply to other properties in the same vicinity. In the Circle Drive neighborhood includes homes with double frontage along Circle Drive and Main Avenue and Circle Drive and 11th Street. 1035, 1039, and 1057 Circle Drive all have two access drives, one along Circle Drive and one along 11th Street to the north. 1035 Circle Drive has an access drive and garage along Circle Drive as well as an access drive and detached garage along 11th Street.

(3) The variance is necessary for the preservation of a property right that is substantially the same as that possessed by owners of other property in the same district.

Finding: The variance is necessary for the preservation of the property right to have an access drive along any street which the lot or block abuts.

(4) The variance requested is the minimum variance which would alleviate the hardship.

Finding: The variance is the minimum needed. The variance would only seek to reestablish the access drive approach between the sidewalk and Circle Drive.

(5) Reasonable use of the property is not permitted under the terms of this chapter.

Finding: Reasonable use is still permitted regardless of the variance, however, it is reasonable for the applicant to have the same rights for access drives as the remainder of the neighborhood.

Recommendation:

Staff recommends approval.

Attachments:

Public Hearing Notice

Aerial Map

Site Plan

Application