



City of
Salisbury
Jacob R. Day, Mayor

MINUTES

The Salisbury Board of Zoning Appeals met in regular session on April 7, 2021, via Zoom at 6:00 p.m. with attendance as follows:

BOARD MEMBERS:

Albert G. Allen, III, Chairman
Jordan Gilmore, Vice Chairman
Shawn Jester
Brian Soper

CITY STAFF:

Henry Eure, Project Manager
Beverly Tull, Recording Secretary
Ashley Bosche, City Solicitor

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Mr. Allen, Chairman, called the meeting to order at 6:01 p.m.

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Mr. Allen introduced Mrs. Ashley Bosche as a member of our new legal team.

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Mr. Allen explained that this meeting was being held via Zoom. He requested that each applicant introduce themselves and give their address for the record and that Mr. Eure would then administer the oath. Mr. Eure requested that anyone wishing to testify in the cases before the Salisbury Board of Zoning Appeals raise their right hands and he administered the oath. Mr. Allen explained the procedure for the public hearing.

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MINUTES:

Upon a motion by Mr. Soper, seconded by Mr. Gilmore, and duly carried, the Board **APPROVED** the February 4, 2021 minutes as submitted.

Department of Infrastructure & Development
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Case # SA-21-214 Shiv Patel, on behalf of NEOS Corporation – 2 ft. Fence Height Variance to Erect a 6 ft. Fence within the 50 ft. Front Yard Setback – 2130 Windsor Drive – Light Industrial District.

Mr. Shiv Patel was present. Mr. Henry Eure presented and entered the Staff Report and all accompanying documentation into the record. He summarized the report explaining that the applicants were requesting permission to erect a 6 ft. tall chain-link fence within the front yard setback along both Windsor Drive and Marvel Road. Board approval of a 2 ft. fence height variance was requested.

Mr. Patel stated that he had no comments or questions.

Mr. Soper questioned Mr. Eure if the 10 ft. landscaping buffer would impact traffic. Mr. Eure responded in the negative.

Mr. Allen questioned Mr. Eure if the need for the variance was due to a contradictory Zoning Code. Mr. Eure responded in the affirmative.

Mr. Allen questioned Mr. Patel if he had any problems with the conditions. Mr. Patel responded in the negative.

Upon a motion by Mr. Soper, seconded by Mr. Jester, and duly carried, the Board **APPROVED** the request to erect a 6 ft. tall fence within the front yard setback, subject to the following Conditions of Approval:

1. The fence shall be provided with privacy slats for screening.
2. A 10 ft. wide landscaped area (trees and shrubs) shall be provided on the exterior side of the fence along Shipley Drive as required by Section 17.220.040 of the Zoning Code. The screening/landscaping shall extend for the entire perimeter of the property. (The fence will now have a minimum setback of 10 ft. from both street frontages due to this condition.)

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Case # SA-21-237 Joey Gilkerson, on behalf of Windsor Development, LLC – 15 ft. Side Yard Setback Variance – To Erect a 4,200 sq. ft. Warehouse within the 25 ft. Side Yard Setback – 2113 Shipley Drive – Light Industrial District.

Mr. Joey Gilkerson was present. Mr. Henry Eure presented and entered the Staff Report and all accompanying documentation into the record. He summarized the report explaining that the applicant requests permission to construct a



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42 ft. x 100 ft. warehouse within the side yard setback. Board approval of a 15 ft. side yard setback was requested.

Mr. Allen questioned if the existing structure was in violation of the setbacks. Mr. Eure responded in the affirmative, explaining that the structure was built prior to the Zoning Code.

Mr. Eure stated that there are no records of any variances being granted in the past on this property.

Mr. Gilkerson stated that the existing structure had been repaired many times. In order to meet the setbacks with a new structure, it would have to be a long, skinny building. He stated that they would like to use the existing footprint, adding that with the demolition of the building the concrete pad would remain.

Upon a motion by Mr. Jester, seconded by Mr. Gilmore, and duly carried, the Board **APPROVED** the request to construct a 42 ft. x 100 ft. warehouse with a 15 ft. side yard setback from the northerly property line, subject to the following Conditions of Approval:

1. The fence and gate along Shipley Drive shall be provided with privacy slats for screening.
2. A 10 ft. wide landscaped area (trees and shrubs) shall be provided on the exterior side of the fence along Shipley Drive as required by Section 17.220.040 of the Zoning Code.

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Case # SA-21-246 Paulino Hernandez Rios – 2 ft. Fence Height Variance – To Erect Multiple Fences up to 6 ft. tall within the 25 ft. Front Yard Setback – 112 Brooklyn Avenue – R-8 Residential District.

Mr. Paulino Hernandez Rios was present. Mr. Henry Eure presented and entered the Staff Report and all accompanying documentation into the record. He summarized the report explaining that the applicant was seeking permission to erect a 5 ft. tall chain link fence and a 6 ft. tall vinyl fence within the front yard setback along both Brooklyn and Boston Avenues. Board approval of the fence height variances was requested.

Mr. Allen questioned why the City would be amenable to a 2 ft. variance on the side but not a 1ft. on the front and if it was due to past variances. Mr. Eure stated that he didn't recall there being any variances for the front yard in the past.



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Mr. Rios stated that he needs the fence for privacy and to keep his dogs in. Miss Pelar Hernandez Torres stated that they have a large dog that can jump over small fences as well as a small dog. The neighbors dogs aggravate their dogs. The fences will be installed for safety for their animals. They would also like privacy where no one can see into their yard. She further questioned if they were discussing the 6 ft. vinyl fence in the rear yard and a 4 ft. fence in the front yard. Mr. Allen confirmed that is what the Board was discussing.

Upon a motion by Mr. Soper, seconded by Mr. Gilmore, and duly carried, the Board **APPROVED** the request to erect a 6 ft. tall vinyl fence within the front yard setback along Boston Avenue as shown on the submitted site plan. The Board also **APPROVED** the request to increase the chain link fence height to a maximum of 4 ft. tall within the site visibility triangle located at the intersection of Brooklyn and Boston Avenues. The Board **DENIED** the request to install a 5 ft. tall chain link fence within the front yard setbacks of Brooklyn Avenue and Boston Avenue. Within this area, the fence shall be limited to a maximum of 4 ft. in height.

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Case # SA-21-248 Parker & Associates, Inc., on behalf of Amber Ridge, LLC – Two (2) 5 ft. Side Yard Setback Variances to Erect a Two-story Single Family Dwelling within the 10 ft. Side Yard Setback – 714 Howard Street – R-5A Residential District.

Mr. Brock Parker, Mr. Joey Gilkerson, and Mr. Brandon Brittingham were present. Mr. Henry Eure presented and entered the Staff Report and all accompanying documentation into the record. He summarized the report explaining that the applicant, on behalf of the owners, request permission to construct a single-family dwelling within both side yard setbacks on a property located at 714 Howard Street. Board approval of two (2) 5 ft. side yard setback variances are requested.

Mr. Parker explained that the lot is 40 ft. wide and if the setbacks are met that they would have to construct a 20 ft. side home. The owners need to provide a marketable home that fits in the character of the neighborhood. The average house on the block is 26 ft. wide. After receiving the Staff Report and seeing the Staff concerns, a revised plan was done and submitted for the Board's review prior to the meeting that reduces the requested variance. After looking at all the houses on Howard Street, a 26 ft. building envelope was developed for review. By approving two (2) 3 ft. side yard setbacks, an attractive house that keeps with the neighborhood can be constructed. Mr. Parker added that they are in agreement with the remainder of the Staff Report.



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Mr. Jester questioned how the parcel came to be and came to be so narrow. Mr. Eure responded that the lots are old and existed prior to the Zoning Code when lot sizes were typically smaller.

Mr. Jester questioned Mr. Parker on the testimony regarding the market value. Mr. Brittingham asked to respond as he sells the residential real estate. If a 20 ft. wide house is built, it will be a rental because they won't be able to sell it. He explained that the owners had purchased several properties on the street and renovated them. If a narrow house is built they won't find a buyer. When a new house is sold, it increases the property values in the neighborhood. He added that it is going to be a challenge to build this house with lumber prices.

Mr. Gilkerson added that they already have a challenging street and to put up a narrow house would make the house become a rental.

Mr. Jester questioned if the request was denied if they would still proceed with building a house. Mr. Brittingham responded in the affirmative because they had to run the infrastructure on the street.

Mr. Gilmore questioned Mr. Eure on number 5 of the criteria and the desire to construct attractive dwelling to increase the income. Mr. Parker responded that it was subjective because they could build a rental and get the maximum rental income out of the house but the owners want to build a house to be sold.

Mr. Eure stated that they were proposing an attractive dwelling but if they built a house that meets the Code requirements it may not be as attractive.

Mr. Soper questioned if they built the house at 716 Howard Street. Mr. Brittingham responded in the affirmative. Mr. Soper questioned if the house was 21 ft. wide. Mr. Brittingham responded that it was larger. Mr. Soper questioned if Amber Ridge owned the property. Mr. Brittingham responded in the affirmative. Mr. Soper questioned the accuracy of ownership as the plat said something different. Mr. Brittingham responded that they have no control over when the deed is recorded. Mr. Soper questioned 714 Howard Street being listed on realtor.com as a pending sale and if they already had a buyer. Mr. Brittingham responded in the negative. Mr. Soper questioned why they built a larger house on 716 Howard Street. Mr. Brittingham responded that 716 Howard Street was a larger lot and was more desirable. Corner lots sell first. Mr. Soper stated that there was a 21 ft. wide house on the market but they were trying to build a larger house. He explained that there isn't a need to grant a larger variance when a 21 ft. wide house has already been built on the street. Mr. Soper questioned how long the house at 710 Howard Street was on the market. Mr. Brittingham responded that it was on the market for 30 to 40 days. Mr. Soper questioned how long 716 Howard Street was on the market. Mr. Brittingham responded that it was on the market for four (4) to five (5) months. Mr. Soper questioned why a variance was not



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requested for the corner lot. Mr. Brittingham responded that they didn't request a variance and it took a long time to sell because it was a narrow house. The wider the house the more desirable it is. Mr. Soper questioned the reason to build a 21 ft. wide home on a corner when they know a corner lot is desirable. Mr. Parker responded the corner lot allowed them to average the setbacks and they had 13 ft. setback so they were already getting two (2) 10 ft. reliefs from the Code. He added that they were willing to amend their request now. Mr. Parker added that 26 ft. is the average width for the block.

Mr. Eure stated that there have been interesting points however Mr. Soper posed interesting points. Mr. Eure suggested a 24 ft. wide home which would be a fair compromise. Mr. Brittingham stated that above a 21 ft. wide home they could work out a plan.

Mr. Soper questioned if there was going to be a need for a variance on the vacant lot next door. Mr. Eure responded that they could combine the lots and build a larger home. Mr. Soper noted that if they grant a variance on the other vacant lot that a precedent would be set.

Mr. Parker thanked the Board of entertaining their request.

Upon a motion by Mr. Gilmore, seconded by Mr. Jester, and duly carried, the Board **APPROVED** two (2) side yard setback variances of 2 ft. each for the construction of a new single-family dwelling. The dwelling shall be no closer than 8 ft. from both side property lines.



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ADJOURNMENT

With no further business, the meeting was adjourned at 7:24 p.m.

This is a summary of the proceedings of this meeting. Detailed information is in the permanent files of each case as presented and filed in the City of Salisbury Department of Infrastructure and Development Department.

Albert G. Allen, III, Chairman

Amanda Pollack, Secretary to the Board

Beverly R. Tull, Recording Secretary