

**Minutes of the Zoning Board of Appeals
Of the City of Portland**

Held on Monday, December 8, 2014 at 7:00 P.M.
In Council Chambers at City Hall

Members Present: Graham, Miller, Barnes, Fedewa

Staff: City Manager Gorman, Zoning Administrator Frederick, City Clerk Miller

Guests: Steve & Kathy McCann; Emily McCann; Terry Gordon and Eric Miller of Garn Restoration

City Clerk Miller called the meeting to order at 7:00 P.M.

City Clerk Miller opened the floor for nominations for the office of Chairman as former Chair Frederick is now serving as Zoning Administrator for the City of Portland.

Motion by Miller, supported by Graham, to nominate Barnes as Chair.

There were no other nominations.

All in favor. Approved.

Chair Barnes opened the floor for nominations for the office of Vice Chair.

Motion by Miller, supported by Barnes, to nominate Graham as Vice Chair.

There were no other nominations.

All in favor. Approved.

The Pledge of Allegiance was recited.

Chair Barnes clarified that the Zoning Board of Appeals is actually a 5-person board but has one vacant seat that the City Council is looking to fill.

Motion by Graham, supported by Miller, to approve the proposed agenda as presented.

Yeas: Graham, Miller, Fedewa, Barnes

Nays: None

Approved

Motion by Graham, supported by Miller, to approve the minutes of the April 14, 2014 meeting.

Yeas: Graham, Miller, Fedewa, Barnes

Nays: None

Approved

Chairman Barnes opened the Public Hearing at 7:06 P.M. to consider a variance request from the minimum front setback requirement for the R-2 District (Sec. 42-132, (b)) and standards for projections into yards (Sec. 42-301, (c)) for the building located at 716 Union St.

City Manager Gorman stated the house at 716 Union St. owned by Steve & Kathy McCann was destroyed by fire earlier this year after it was struck by lightning. This property is located on a corner, creating a unique circumstance. The City Zoning Ordinance Section 42-306 (c) (2) states, "If any nonconforming building or structure is damaged by fire, wind, or an act of God or the public enemy, it may not be rebuilt or restored unless in compliance with this chapter."

City Manager Gorman stated that all required postings and notices were made in accordance with the law, and letters to all properties within a 300-foot radius were mailed to the property owners. He further stated no negative comments have been received, but that a letter of support was received from St. Patrick's Church.

Zoning Administrator Frederick stated the McCanns are requesting two variances to restore the 2nd floor of their home destroyed by fire after it was hit by lightning and burned. The first request is for the distance from the house to the right-of-way requiring a variance of 11 ½' from Grand River Ave. and 9 feet from Union St. as the required distances of 13 1/2' from Grand River Ave. and 16' from Union St. will not be met. The second request is for the distance from the covered porch to the right-of-way requiring a variance of 15.3' from Grand River Ave. and 13' from Union St. as the required distances of 20' will not be met.

Zoning Administrator Frederick further noted that the 1st floor of the home is still standing and that the foundation of the home cannot be moved. Restoration of the 2nd floor is all that is required.

Chair Barnes went through the application for the requested variances and Mr. and Mrs. McCann responded with the rationale for the property.

Under requirement a., the McCanns stated existing position of the house, porch, and foundation does not comply with the setback requirements.

Under requirement b., the McCanns stated the home has been in this place for 140 years.

Under requirement c., the McCanns stated the variances would not be detrimental to the surrounding area. The home has been in this location for 140 years.

Under requirement d. the McCanns stated the variance would not impair the intent of the Ordinance as it has not for the past 140 years.

Under requirement e., the McCanns stated the variance is required as the necessary construction is a result of a fire caused by lightning strike.

City Manager Gorman suggested this Ordinance may be something the City would want to consider changing as currently written it is very aggressive in bringing buildings up to code.

City Manager Gorman thanked the McCanns and Garn Restoration for being so easy to work with.

Chair Barnes closed the Public Hearing at 7:29 P.M.

Under New Business, the Board considered the variance request from the minimum front setback requirements for the R-2 District (Sec. 42-132, (b)) and standards for projections into yards (Sec. 42-301, (c)) for the building located at 716 Union St.

Motion by Graham, supported by Miller, to approve the variance request for the minimum front setback requirement for a minimum setback of 11 ½' from Grand River Ave. and 9' from Union St. for the house at 716 Union St.

Yeas: Graham, Miller, Fedewa, Barnes

Nays: None

Approved

Motion by Graham, supported by Miller, to approve the variance request for the projection into the yard of 15.3' from Grand River Ave. and 13' from Union St. by the porch for the property at 716 Union St.

Yeas: Graham, Miller, Fedewa, Barnes

Nays: None

Approved

Under Member Comments, Member Fedewa commented that he has noticed at least 20 cars parked on the Keusch property at 425 Water St. He voiced his concern that this is becoming a junk yard in the City limits.

Chair Barnes noted that this is a code enforcement issue.

Zoning Administrator Frederick stated that he was up there in April and met with Adam Keusch about the fence. The fence contractor was out 3 times to level it as best as possible. The number of cars parked on the property had been reduced quite a bit at that time. It was decided there was not enough soil between the fences along the property for shrubs to be planted, so climbing vines were to be planted instead. Since that time he hasn't noticed on greenery growing on the fence. It is another issue if there are more cars now parked on the property.

City Manager Gorman stated the issue will be addressed and will be brought into compliance.

Member Fedewa asked if there is a limit to the number of cars that can be parked on the property.

Zoning Administrator Frederick stated there is no numerical limit, the property is zoned an industrial use so they are allowed to use the property for "automotive" uses.

There was further discussion of the issue.

Chair Barnes stated his honor in serving on the Zoning Board of Appeals, he further stated that he appreciates everyone taking time out of their schedules and be willing to say "no" if needed.

Motion by Miller, supported by Fedewa, to adjourn the meeting at 7:41 P.M.

Yeas: Miller, Fedewa, Graham, Barnes

Nays: None

Approved

Respectfully submitted,

Yvonne Miller, Secretary