

Planning Department  
City of Aurora, Colorado

## **SUMMARY OF BOARD OF ADJUSTMENT AND APPEALS ACTIONS**

BOA Hearing Date: November 17, 2020  
Hearing Location: Virtual Public Hearing, held via WebEx  
Case Manager: Christopher Johnson

Board Members Present: Kari Gallo  
Gary Raisio  
Lynn Bittel  
Ron Swope  
Richard Palestro  
Marty Seldin

**Case Number: 11-20 – 2050 Joliet Street**

### **Description:**

Request by the property owner, Javier Navarro Aguilar, was heard for the following Single-Family Dwelling Variance:

- An adjustment to the requirement of Section 146-4.6.5.C.2, which requires that all driveways or parking surfaces located in front yard shall not cover more than 40 percent of the total front yard area.

Recommendation from staff to approve of the proposed variance with 2 conditions:

1. That the applicant cut back the northern edge of the driveway so that there is at least 2 feet of separation between the edge of the driveway and the property line; and
2. That the applicant applies for and receives the necessary driveway permit from the Building Department for the new concrete poured on-site which reflects the changes requested as part of this approval

### **Case Presentation Given at the Hearing:**

Staff gave a presentation describing the applicant's request, the nature of the code violation, and the reasoning behind a code limitation on impermeable surface. The home in question is also unique for the Original Aurora area, having a pre-existing front-loaded driveway and garage versus alley-loaded as is common in this part of the City.

Several Board members asked questions of staff. Mr. Raisio asked whether the requirement for a 2-foot separation between the edge of pavement and an adjacent property line was a zoning requirement, and therefore whether the BOAA had the authority to waive it. Mr. Johnson and Mr. Daniel Money explained that it is not a zoning regulation, but rather a design standard, and therefore there is not a legal requirement to meet it. Mr. Swope asked if the requested removal of 2-feet of concrete along the property line would also require the removal of the existing fence between the subject property and the adjacent property to the north. Mr. Johnson explained that it may need to be temporarily removed to complete the work of removing concrete, but that the permanent removal of the fence would not be required as part of the approval. Mr. Seldin asked whether the existing downspout on the home was directed towards the driveway or if it led to a permeable area. Mr. Johnson explained that it pointed directly onto the driveway.

**Public Comment Given at the Hearing:**

Two members of the public were present at the virtual hearing. The adjacent property owner of 2049 Joliet Street, Mr. David Rios, was present and made a statement expressing his support of Mr. Aguilar's request.

After this, Chairman Bittel closed the comment period for discussion.

**Discussion of the Case:**

There was further discussion amongst the board relating to the need for the recommended condition of approval to remove 2 feet of concrete adjacent to the subject property's northern property line. After this Chairman Lynn Bittel closed the discussion period.

**Board of Adjustment and Appeals Results**

A motion was initially made by Mr. Palestro to accept the recommendation and approve as written. Mr. Raisio introduced an amendment to Mr. Palestro's motion, to approve the variance request but to remove the condition that 2 feet of concrete be removed from the driveway. This motion was seconded by Ms. Gallo. This motion was put to a vote with the result being a tie, with Board Members Gallo, Raisio, and Bittel voting to accept and Members Swope, Seldin, and Palestro voting to deny. The motion therefore died.

A second motion was subsequently introduced by Ms. Gallo, and seconded by Mr. Palestro, to approve the variance request, with 2 conditions, because the proposal complies with the required findings of Code Section 146, and:

- It does not have an adverse impact on adjacent properties;
- It is consistent with the neighborhood character;
- It is compatible with adjacent development;
- It will not have a negative impact on existing city infrastructure or public improvements; and
- It controls for any external effects.

The 2 conditions of approval are as follows:

- That the applicant installs a curb or other physical barrier along the northern property line to divert drainage flows; and
- That the applicant applies for and receives the necessary driveway permit from the Building Department for the new concrete poured on-site which reflects the changes requested as part of this approval

**Action Taken:** Approved

Votes for the Waiver: 6

Votes against the Waiver: 0

Absent: Mr. Berzins

Abstaining: None

**Case Number:** 12-20 – 14653 E 26<sup>th</sup> Way

**Description:**

Request by the property owner, Gabriela Amaro, was heard for the following Single-Family Dwelling Variance:

- An adjustment to the requirement of Section 146-4.2.2 Table 4.2-1, which requires a

minimum side yard setback of 5 feet from the property line in the R-1 Residential Zone District.

Recommendation from staff to approve of the proposed variance with 1 condition:

1. That the applicant receives approval of her Building Permit from the Building Department for the proposed carport.

#### **Case Presentation Given at the Hearing:**

Staff gave a presentation describing the applicant's request. The applicant also gave a brief testimony of her request and spoke on the slideshow presentation she had provided which was included in the case report. The applicant stated that she intended to install this carport to protect her vehicles from hail damage, and that she had received a verbal statement of approval from her neighbor. There no questions from the Board for staff. Mr. Raisio asked the applicant to clarify the dimensions of the proposed carport, which she did, stating that she intended the carport to be 12' x 39'.

#### **Public Comment Given at the Hearing:**

There were no members of the public present for this case. Chairman Bittel closed the comment period for discussion.

#### **Discussion of the Case:**

There was no further discussion of the case.

#### **Board of Adjustment and Appeals Results**

A motion was introduced by Mr. Raisio, and seconded by Mr. Palestro, to approve the variance request as recommended by staff, because the proposal complies with the required findings of Code Section 146, and:

- It does not have an adverse impact on adjacent properties;
- It results in an improved design;
- It is compatible with the character of the surrounding neighborhood;
- It achieves an internal efficiency of design; and
- It controls for any external effects.

**Action Taken:** Approved

Votes for the Waiver: 6

Votes against the Waiver: 0

Absent: Mr. Berzins

Abstaining: None

#### **Other Topics Discussed at the Hearing:**

Staff member Christopher Johnson informed the members of the Board that he would be resigning his position with the City of Aurora and would no longer be the staff liaison to the Board of Adjustments and Appeals. Mr. Johnson introduced Mr. Rachid Rabbaa, who would be the new Planning & Development Services staff liaison for the Board of Adjustments and Appeals.

SUMMARY OF PROCEEDINGS PREPARED AND SUBMITTED BY: Christopher Johnson

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Lynn Bittel, Chairman

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Christopher Johnson, City of Aurora