

MINUTES
COLUMBIA CITY BOARD OF ZONING APPEALS
REGULAR MEETING
APRIL 2, 2024
7:00 P.M.

WHITLEY COUNTY GOVERNMENT CENTER
MEETING ROOM A/B, LOWER LEVEL

MEMBERS PRESENT

Cathy Gardner
Jon Kissinger, Chairman
Anthony Romano, Vice Chair
Dennis Warnick

MEMBERS ABSENT

Stacey Dumbacher

STAFF

Nathan Bilger
Amanda Thompson

ATTORNEY

Dawn Boyd

(E)lectronic participant

AUDIENCE MEMBERS

Two visitors signed the Guest List at the meeting. There were no attendees on the webcast. A Guest List is included with the minutes of this meeting.

CALL TO ORDER/ROLL CALL/INTRODUCTIONS

Mr. Kissinger called the meeting to order at 7:00 P.M. Ms. Thompson read the roll with members present and absent listed above.

CONSIDERATION OF PREVIOUS MEETING MINUTES

Mr. Romano made a motion to approve the March meeting minutes as presented. Mr. Warnick gave the second. The motion passed 3-0-1; Ms. Gardner abstained due to not having been present at the March meeting.

ADMINISTRATION OF OATH

Ms. Boyd administered the Oath to one visitor.

OLD BUSINESS

1. 24-C-SE-1

Anytime Parking and Storage, LLC, requested approval of a Special Exception for outdoor storage of vehicles and equipment on a 5-acre property located on the east side of 50 East, ¼ mile south of Swihart Street. Mr. Bilger summarized the request for outdoor storage of vehicles on a gravel lot with the intention of selling parking spaces, with 24-hour access to buyers. He stated that the petitioner was prepared to discuss additional business details. Mr. Bilger described the design layout, discussing parking space sizes, lighting, fencing, waste bin, cameras, landscaping, and signage. No changes had been made to the Staff Report from March, so Mr. Bilger suggested the same 8 conditions, along with a 9th, as discussed at the March meeting, that the Special Exception expire two years from the date of approval, at

which point it could be re-reviewed. There were no questions for Mr. Bilger, and Mr. Kissinger requested to hear from the petitioner.

Christian Joy was present and described his plan to start with reduced, daylight only, hours of operation, increasing to 24-hours after installing lighting. He distributed a document with updated details regarding the topics Mr. Bilger had listed. Ms. Gardner asked Mr. Joy if he would be willing to come back before the Board for a review prior to moving forward with the “future” parking areas and other changes as part of expanding the business. Mr. Joy confirmed he was not against this condition. Mr. Romano voiced that he felt comfortable enough with the proposal not to feel the need to require an expiration. Mr. Kissinger and Ms. Gardner agreed with Mr. Romano. Mr. Kissinger wondered if a dumpster was required. Mr. Bilger stated it was not required but was an item to be discussed. Mr. Joy asked if he would be permitted to narrow the parking spaces during the winter season, when customers would be less likely to be moving items in and out. The members felt Mr. Joy could alter the size of the spaces, as needed. Ms. Gardner expressed she did not feel the need to require landscaping, based on the rural location of the site. Mr. Kissinger suggested that trees could be added, and the members agreed. Mr. Joy expressed his goal of having an inviting and professional-looking location, being clean and well maintained. Mr. Joy stated that it was not his intention to store semi-trucks and other commercial vehicles, but he asked the Board if he would be permitted to store such vehicles if requested. Mr. Warnick stated that the conditions being reviewed did not restrict the type of vehicles, but he cautioned that larger vehicles may require more space for maneuvering. Also, Mr. Joy confirmed for Mr. Warnick that he would not permit junk vehicles, and Mr. Joy stated that he would require all vehicles to be operable and insured. Mr. Warnick made a motion to approve 24-C-SE-1 with the following conditions:

1. Approved as presented and per site plan.
2. Vehicles shall not idle more than 5 minutes from 7:00 p.m. to 5:00 a.m. to avoid creating noise disturbance.
3. Any lighting on the property shall be oriented and/or shielded to prevent light spillage and glare on adjacent residential areas and public rights-of-way.
4. Any signage shall conform to the requirements of the sign code.
5. The driveway shall be paved with hard surface for at least the first 25’ from the road edge.
6. The remainder of the driveway back to the body of the storage area, approximately 225’ from the road edge, be paved with hard surface before June 1, 2029.
7. A dust control product be applied in the spring and summer.
8. Landscaping shall be required. The type of landscaping installed shall be at the petitioner’s discretion.
9. Storage shall primarily consist of non-commercial vehicles.

Ms. Gardner gave the second. Motion passed 4-0.

NEW BUSINESS

There was no new business.

OTHER BUSINESS

Mr. Bilger reminded the Commission members of a Training Session meeting scheduled for April 29th. He listed possible meeting topics.

Mr. Bilger requested interpretation on how the Zoning Code applies to rights-of-way. He cited §1.06 and §3.05, both of which indicate zoning does apply to rights-of-way, but he said he did not find any standards that appeared to apply to the rights-of-way, only to within the property lines. Considering that the Board of Works has authority over the rights-of-way, Mr. Bilger wondered if there was a potential overlap in authorities or if the higher standard prevails, and then, which is the higher standard? He provided several example scenarios for the Board to consider: a building addition in the right-of-way, a fence in the right-of-way, an accessory structure in the right-of-way. He posed additional questions pointing out that if there are no standards for the rights-of-way, Staff is unable to determine when Variances might be needed. Mr. Bilger also referred to several signs in the City which, being located in the right-of-way, had been approved by the Board of Works; but, if zoning standards had been applied, these signs would also have been subject to Variance consideration.

Mr. Romano referred to §1.06 and §3.05 and stated that it seemed clear that the Code should apply to the rights-of-way. He described his interpretation that the Board of Works would consider the location of a proposed encroachment, but that the Board of Zoning Appeals should also review such cases with respect to the Zoning Ordinance. Ms. Gardner stated her understanding that rights-of-way were established to prepare for the expansion of a roadway and to allow space for utilities, and she did not feel the Board of Zoning Appeals should oversee area that the Board of Works was responsible for. Mr. Romano referenced the signs Mr. Bilger had mentioned and asked why the rights-of-way should be able to have different rules than properties. Mr. Bilger added that the Board of Works does not hold public hearings, and he felt there seemed to be an overlap in authority. He described that many parts of the City had very large rights-of-way, and he displayed an aerial of one such location and pointed out that an owner of a corner lot may not have much of any yard that was not actually rights-of-way. The members discussed the process of reducing the road rights-of-way, which Mr. Bilger stated would be very difficult due to the number of affected parcels. Mr. Romano expressed that a yard located within the property lines shouldn't have different rules than the area within the rights-of-way. He gave an example that if he requested a 10' fence within the property lines, that would require a public hearing and Variance consideration, but if zoning does not apply to the rights-of-way, he could propose a 10' fence in the right-of-way and only need to seek the Board of Works' approval. He added that the Board of Zoning Appeals is required to uphold certain standards. Ms. Gardner wondered if the Board of Works might need to hold public hearings. Mr. Romano felt the Board of Works should review and then the Board of Zoning Appeals. He asked Mr. Bilger what downside, other than time, there would be for that process. Mr. Bilger replied that because standards were not written for the rights-of-way, Staff was unsure of when to determine that a Variance might be needed.

Mr. Bilger considered that if reviewed by both Boards, whichever Board reviewed first might approve a proposal that the other entity may deny. Also, he displayed an image on the aerial of a

shed located in the right-of-way and asked for the Board's thoughts on the process if the shed were compliant with the Code, except for its location. Mr. Romano said that if it were compliant, he didn't see the need for the Board of Zoning Appeals to review. Ms. Gardner referenced the process for Variances in subdivisions with Home Owners' Associations, where documentation of the HOA's approval would be placed in the file; she suggested the same process might apply for right-of-way cases. Mr. Bilger asked Ms. Thompson if he had missed any points of discussion. Ms. Thompson requested clarification, due to a pending request, that a 6' fence proposed in the right-of-way would still require Variance approval even if it had already been approved by the Board of Works. Mr. Bilger confirmed her thought was accurate, based on the discussion. Mr. Romano supported this interpretation, stating that conditions in the right-of-way should not be different than inside the property lines. Mr. Warnick referenced a fence that had briefly been located in the right-of-way of Line Street; the fence interfered with traffic visibility, and he asked if it had received approval. Mr. Bilger stated the fence referenced was part of the reason for his question because the fence had received approval from the Board of Works and was otherwise compliant with zoning, not needing Variance consideration; the visibility problem appeared to be related to the fencing material and not something that either entity would have realized prior to its installation.

Ms. Gardner requested that Mr. Bilger display an example of a fence located in the rights-of-way on a corner lot. She and Mr. Kissinger noted visibility issues for the neighbors' driveways and for traffic. Mr. Kissinger asked if a fence in the right-of-way would be held to a reduced height on both frontages, being that a corner lot has two frontages. Mr. Bilger stated that the Zoning Code defines the front yard of a corner lot to be the side that is narrower, and the longer frontage is then defined as a side yard. Then, he said, the Code says front setback requirements apply to both frontages, but because the standards for fences are written with reference only to the front yard, and there are no standards for a side yard, a fence located along the frontage of a side yard would not be required to have a reduced height. Ms. Thompson referred to the aerial example and asked if the fence, located in both rights-of-way, would not need a Variance approval if it was 3' tall on the narrow side (the front yard) and 6' tall on the longer side (being a side yard, by definition). Mr. Bilger confirmed this was correct. Mr. Bilger noted that the property he was using as an example appeared to be square, and in that case, the Board of Zoning Appeals would need to determine if both street sides were front yards. Based on the discussion, Mr. Bilger said it seemed as though the Board did want to see the case that had been proposed, so he anticipated it would be filed for the May 9th meeting. Mr. Warnick commented that if the Board of Works had already approved the right-of-way encroachment, it didn't seem as though the Board of Zoning Appeals should need to review it. Mr. Romano responded that he felt the two Boards consider different things, so a review by both seemed warranted.

ADJOURNMENT

Mr. Warnick made a motion to adjourn. Mr. Romano gave the second, and the meeting was adjourned at 8:08 P.M.

GUEST LIST

- 10. Christian Joy 4721 W. Lincolnway, Columbia City
- 11. Rachel Witte 301 N. Line Street, Columbia City

GUEST LIST (WEBCAST)

- 12. None.