

MINUTES
BOARD OF ZONING APPEALS
April 26, 2021

The Warsaw Board of Zoning Appeals met for regular session on Monday, April 26, 2021 at 7:00 p.m. in the City Council Chambers, 102 S. Buffalo Street, Warsaw, Indiana. The following members were present or excused:

Present: Rick Keeven, Dan Smith, Tammy Dalton, Justin Taylor (City Director), Kim Arnold (Recording Secretary)

Absent: Tom Allen, Jeff Johnson, Scott Reust

CALL TO ORDER

Keeven called the meeting to order.

APPROVAL OF MINUTES

The March 22, 2021 meeting minutes were reviewed and presented for approval. Keeven made a motion to approve the March 22, 2021 meeting minutes as presented. Dalton seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

2021-04-01 — Variance from Development Standards -2118 Bluewater Drive - Allow Existing Crawl Space Floor 6” Below The Base Flood Elevation - Keeven turned the meeting over to City Director Taylor for a brief explanation of the request. The petitioner has requested a variance to allow an existing crawlspace to be 6” below Base Flood Elevation (BFE). The property, located at 2118 Bluewater Drive, was constructed in 2015. In March of 2020 the DNR conducted a scheduled Community Assistance Visit (CAV) to review floodplain development in the City over the last 5 years. During the CAV, the DNR flagged several properties that had apparent issues related to the City’s floodplain regulations. Of the (5) deficiencies noted by the DNR, the petitioner’s property is the last remaining issue to be resolved. Crawlspace floors are permitted to be below the BFE per the City’s municipal code, however, the current code stipulates that one side of the house must have an exterior grade that is at or below the finished floor of the crawlspace or the crawlspace will be considered a basement. This provision in the

code is intended to prevent hydrostatic pressure from compromising the foundation of a structure. In order for the subject property to comply with current floodplain regulations, the DNR recommended that the property owner fill in 6" of their crawlspace with concrete or some other construction fill material. Doing this would bring the finished grade of the crawlspace up to the BFE and remove the need for additional flood proofing. The DNR was also presented with a FEMA issued technical bulletin showing that a crawlspace can be a maximum of 2' below grade without posing a safety risk during a flood event. They said since the City's current floodplain ordinance did not allow the crawlspace to be constructed in this manner it would still be considered noncompliant. The petitioner, wanting to do the right thing, sought bids to fill the crawlspace. The cost to the homeowner will be around \$10,000 to \$13,000.

Conditions for variances

- (1) Variances shall only be issued when there is:
 - a. A showing of good and sufficient cause.
 - b. A determination that failure to grant the variance would result in exceptional hardship.
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The City of Warsaw Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

The exceptional nature of this case result from the incredible disruption filling the crawlspace would create, with no demonstrable improvement to safety. According to the attached engineering report, filling in the crawlspace is not only unnecessary to improve the flood performance of the structure but it could also be a detriment to the property. The Planning Department understands that the floodplain ordinance is vital to ensuring public safety as well as minimizing property damage from flood events; however, requiring this homeowner to undertake an unnecessary and potentially damaging action on their property is not in agreement with the intent of the floodplain ordinance. The Planning Department recommends that you approve this variance from development standards.

Keeven opened the meeting to any person wishing to speak in favor or against the petition. Taylor and Ann Seward, the property owners, were present to answer any questions and explain the request. Seward stated the variance will create a win/win situation and they will be able to put the situation behind them. Discussion followed. No other person was present to speak for or

against the petition. Keeven closed the meeting to the public. Motion was made by Smith to approve *2021-04-01 — Variance from Development Standards -2118 Bluewater Drive - Allow Existing Crawl Space Floor 6” Below The Base Flood Elevation*. Dalton made a motion to second the petition. The motion passed unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be May 24, 2021

Keeven made a motion to adjourn the meeting. Dalton seconded the motion. The motion carried unanimously.

Rick Keeven, Vice-President

Kim Arnold, Recording Secretary