

**HEARING OFFICER –Kelly Conference Room #155
September 25, 2024 @ 2:00 p.m. - Record of Meeting**

The Hearing Officer meeting was held on Wednesday, September 25, 2024 in the Kelly Conference Room #155 and on Zoom. Hearing Officer present: Ryan Robling

REPORTS RESOLUTIONS AND COMMUNICATIONS:

APPROVAL OF MINUTES:

Ryan Robling, Hearing Officer, made a motion to approve all minutes from 2023.

Robling made a motion to approve all minutes from 2024.

PETITIONS:

V-28-24

John & Jennifer Kincaid

523 W 7th Street

Parcel: 53-05-32-413-0800000-005

Request: Determinate sidewalk variance to allow construction of a single-family dwelling without construction of a sidewalk along the Jackson Street frontage of the property in the Residential Urban Lot (R4) zoning district.

Case Manager: Gabriel Holbrow

Gabriel Holbrow, Case Manager, presented the staff report. Staff is recommending the Hearing Officer adopt the proposed findings and approve V-28-24 with the following condition:

1. A zoning commitment for the determinate sidewalk variance must be recorded and submitted prior to approval of a building permit.

Jennifer Kincaid, petitioner, gave more information about the variance request.

PUBLIC COMMENT:

Barb Lund spoke in favor of this petition.

George Hartzog, Pastor and Chief Administrative Officer of the Fairview United Methodist Church, spoke in favor of this petition. Hartzog wanted to add that anyone can use the sidewalk on the side of the church.

Dietrich Hartzog, Executive Director of the Wesley Living Learning Center at Fairview United Methodist Church, spoke in favor of this petition. Hartzog stated there is no significant traffic on Jackson Street.

BACK TO HEARING OFFICER:

Robling asked if there are traffic counts for the section of N. Jackson Street; Holbrow said no.

Robling asked if there are any vehicular speed data; Holbrow said no.

Robling asked for confirmation that the UDO has specific rules about when existing right-of-way width is not sufficient to include newly constructed sidewalks and tree plots; Holbrow confirmed.

Robling asked if sites that are going through development, are often required to remove things like trees in order to develop; Holbrow confirmed.

Robling asked if the location of the utility poles actually interfere with the location of the sidewalk. They seem to be located within 2 feet of the road. From old street view pictures of the street it appears even a building didn't affect the location of those poles. Holbrow said the utility poles appear to be in the Right-of-Way, which does not prevent construction of a sidewalk, but they do add complication to the design of the sidewalk.

Robling asked if the sidewalk were to be constructed as required would the Lund property be forced to be demolished in order to construct a sidewalk on the Lund's property; Gabriel said no.

Robling said, "I'm not sure criteria number 2 was answered in the proposed findings. And, I too am having difficulty answering it. Development Services staff, and certainly the petitioner, may not be aware but legal crossings require a number of things including a landing. A newly added sidewalk would allow for the creation of a landing and thus potentially allow for a future crosswalk and related infrastructure to the school so that could potentially impact the use of a property adjacent to the property in the variance.

For criteria 1 Jackson St. was identified as having "extremely low volume of vehicle traffic" but I don't note any evidences to support this claim. While I do suspect that it does not feature many vehicles I'm more concerned about vehicles speeds. Do we have data to suggest that vehicles are traveling at or below lethal speeds? That is speeds below 20 miles per hour. I'm especially concerned because there is a strong possibility that the person in the road is going to be a child walking to school. I don't agree with the idea that sidewalks are a preferences. Especially so when adjacent to a school in an urban-residential area. Sidewalks are life preserving infrastructure. The current design would have a pedestrian travel in a roadway, with their back to traffic, for roughly 90 feet. If a sidewalk was constructed as required a pedestrian would be able to cross from the new sidewalk to the adjacent church's sidewalk in roughly 20 feet, while perpendicular to the street allowing them to look in both directions of vehicle traffic while in the roadway. 69% of pedestrian fatalities happen in locations without a sidewalk so I'm not sure that I can support a positive finding of fact for criteria 1.

For criteria 3 I am again finding it difficult to find positive findings of fact. The UDO explicitly outlines how properties should develop their required sidewalk when it cannot be located within the right-of-way. This inclusion, to me, represents that the UDO expects this occurrence to happen enough that it cannot be deemed as peculiar. Additionally, I do not believe that one existing tree needing to be removed on a developing lot is peculiar. I find no practical difficulty preventing this property from being developed if the required sidewalk is constructed. The lot is not substandard for the district."

Due to lingering questions, Robling made a motion to forward V-28-24 to the October 19, 2024 Board of Zoning Appeals meeting.

Meeting adjourned 2:33 P.M.