

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Chairman Bader does not see any additional impact on the character of the neighborhood due to the property not being the owner's primary residence.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Chairman Bader said a single-family home, typically, does not provide a place for an owner to stay when guests are present, so there really is no other feasible method. Mr. Wilmer agreed.

Regarding question #3: *Show that the requested variance is not substantial.*

Chairman Bader said he does not think it is substantial. Again, because there is no substantial difference whether or not it is the owner's primary residence.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Chairman Bader sees no impact to the environment related to the variance.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Mr. Wilmer believes the hardship is self-created.

Chairman Bader asked if there were any other comments or questions.

Mr. Wilmer believes that granting the variance would undermine the legislative intent of the ordinance.

Chairman Bader called for a motion.

Mr. Wilmer moved that the board ***Table*** the application to await the outcome of the next City Council meeting regarding potential amendments to the current Short-term Rental ordinance.

Ms. Henshaw seconded the motion, which *failed to carry* with a roll call vote of (3-3):

Ryan Wilmer	Voting	YES
John Roberts	Voting	NO
Roger Brazill	Absent	
Julie Harris	Voting	NO
Susan Haller	Voting	YES
Carol Henshaw	Voting	YES
Joseph Bader	Voting	NO

Chairman Bader asked for an alternate motion.

Ms. Harris moved that the board Approve the application as submitted and presented for the following reasons:

- #3. The variance is not substantial.
- #4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.

The motion *failed* for lack of a second. Chairman Bader asked for an alternate motion.

Mr. Wilmer moved that the board Deny the application as submitted and presented for the following reasons:

- #1. The granting of the variance will produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- #3. The variance is substantial.
- #4. The proposed variance will have an adverse impact on the environmental conditions in the neighborhood.

Ms. Haller seconded the motion.

After some discussion, Mr. Wilmer withdrew his motion to deny and moved, once again, that the board Table the application to await the outcome of the next City Council meeting regarding potential amendments to the current Short-term Rental ordinance.

Ms. Haller seconded the motion, which *carried* with a roll call vote of (5-1):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Absent	
Julie Harris	Voting	NO
Susan Haller	Voting	YES
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

ITEM 02 Application #23-017: 239 Ontario Street, SOUTH OF TRACKS LLC, requesting an Area Variance necessary to operate a Short-Term Rental from a property that is not their primary residence. In accordance with §850-110.5 of the Zoning Ordinance, within the R-O zone district, the Short-Term must be the owner’s primary residence. Applicant seeks a variance from this requirement.

Michael Fiorentino, property owner, presented the application. It is very similar to his previous application for a short-term rental at 90 Jefferson Avenue. He lives locally, so he is able to oversee the property easily. His neighbors also provide oversight. He has contacted several residents in the area and has received no objections. He has received five letters of support.

Mr. Brown pointed out the major difference between this application and the one for 90 Jefferson Avenue. It is located in a mixed use “Residential-Office” zone district, as opposed to a strictly residential zone district.

Chairman Bader opened the Public Hearing.

Stefania Campagna, of 59 Jefferson Avenue, spoke in support of short-term rentals in general.

Mr. Brown received no additional written comments. Chairman Bader closed the Public Hearing.

This is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood. Chairman Bader led the board through the five-part test.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Chairman Bader believes not being a primary residence has no impact on the character of the neighborhood.

Ms. Henshaw said this one short-term rental may not produce an undesirable change; however, multiple short-term rentals might.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Mr. Roberts said he sees no other feasible method.

Regarding question #3: *Show that the requested variance is not substantial.*

Mr. Roberts and Chairman Bader believe the request is not substantial.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Roberts believes there would be no adverse effect on the environment. Chairman Bader agreed.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Ms. Henshaw believes it is self-created. Mr. Roberts agreed.

Chairman Bader asked if there were any other comments or questions. Hearing none, he called for a motion.

Mr. Wilmer moved that the board ***Table*** the application to await the outcome of the next City Council meeting regarding potential amendments to the current Short-term Rental ordinance.

Ms. Haller seconded the motion, which ***carried*** with a roll call vote of (4-2):

Ryan Wilmer	Voting	YES
John Roberts	Voting	NO
Roger Brazill	Absent	
Julie Harris	Voting	NO
Susan Haller	Voting	YES
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

ITEM 03 **Application #23-018: 350 Bristol Street, HALEY BICKEL, requesting an Area Variance necessary to construct a 288 square foot, accessory storage structure on an existing foundation that is located in front of the home. In accordance with §850-30 of the Zoning Ordinance, accessory structures cannot exceed 165 SF. Further in accordance with §850-28 of the Zoning Ordinance, accessory structures must be located in the side or rear yard.**

Haley Bickel presented the application. Her rear lot line is about 5 feet from the house, so there is not adequate room for an accessory structure in the rear yard. She has a large, wedge-shaped, side yard. She is proposing to place a prefabricated structure, on an existing foundation that used to hold a single-car garage. The size would remain the same. The location is surrounded by trees, so there is limited visibility by the neighbors.

Chairman Bader opened the Public Hearing.

Stefania Campagna, of 59 Jefferson Avenue, came forward. She said the property is well maintained. The structure will not create a detriment to the health, safety and welfare of the community, and will have no adverse effect on the environment. It will look nice.

Mr. Brown said no written comments were received. Chairman Bader closed the Public Hearing.

This is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood. Chairman Bader led the board through the five-part test.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Mr. Roberts noted that the structure will be located on an existing foundation, so there will be no change.

Mr. Wilmer and Chairman Bader agreed.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Ms. Henshaw said the applicant would need a variance to add a garage, due to the triangular shape of the lot.

Chairman Bader said the applicant could change the location of the structure, but would not be able to utilize the existing foundation. Therefore, it would not have the same benefit.

Mr. Roberts agreed.

Regarding question #3: *Show that the requested variance is not substantial.*

Chairman Bader noted that the application is for two variances; one for the location and one for the size. The zoning ordinance permits two accessory structures up to 165 square feet each, for a total of 330 square feet. The applicant is requesting one 288 square foot structure. Therefore, the requested variance is not substantial.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Wilmer said the variance will have no effect on the environmental conditions.

Ms. Haller asked if the structure will match the house.

Ms. Bickel said the design is compatible and the color would be similar, just slightly darker.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Ms. Henshaw believes this may not be self-created due to the shape of the lot.

Chairman Bader said the existing foundation prevents it from being self-created.

Mr. Wilmer said it is arguable whether it is self-created.

Chairman Bader asked if there were any other comments or questions. Hearing none, he called for a motion.

Mr. Roberts moved that the board Approve the application as submitted and presented for the following reasons:

- #1. The granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- #2. The benefit sought by the applicant cannot be achieved by some other feasible means that would not require a variance.
- #3. The variance is not substantial.
- #4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.
- #5. The hardship is not self-created.

Mr. Wilmer seconded the motion, which *carried* with a roll call vote of (6-0):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Absent	
Julie Harris	Voting	YES
Susan Haller	Voting	YES
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

ITEM 04 Application #23-023: 191 Pleasant Street, JOHN FRAREY, requesting a Use Variance necessary to operate a carry-out restaurant (“sandwich shop”) from the existing structure in the R-2 “Two-Family Residential” zone district. In accordance with §850-32 of the Zoning Ordinance, the proposed use is not permitted.

John Frarey presented the application. The property has been in his family for three generations. It is a four-bedroom home with 1,000 square feet of commercial space. This space has been a grocery store, a retail clothing store, and multiple restaurants, including Macri’s Deli and Casa de Pasta. The front and side yards are paved, as well as a large area in front of the detached garage.

Chairman Bader opened the Public Hearing.

Stefania Campagna, of 59 Jefferson Avenue, spoke in support of the application. She likes that it is conveniently located to Main Street and the Public Market.

Mr. Brown noted that no written comments have been received.

Chairman Bader closed the Public Hearing and led the board through the required four-part test.

Beginning with question #1: *Show in “Dollars and Cents” that the land in question, if used for any permitted use, will not yield a reasonable return.*

Chairman Bader referred to the contractor’s quote, submitted by the applicant, to convert the space into a two-bedroom apartment. The cost is substantial and there would not be a reasonable return on this investment.

Mr. Wilmer agreed.

Regarding question #2: *Show that the hardship is unique and is not shared by all properties in the neighborhood.*

Ms. Henshaw said the existing commercial space makes the property unique. Ms. Haller and Chairman Bader agreed.

Mr. Wilmer pointed out that the proposed variance would return the property to its former use.

Regarding question #3: *Show that the granting of the variance will not alter the essential character of the area.*

Mr. Wilmer said it would be an improvement.

Chairman Bader said the use would better suit the structure.

Ms. Henshaw views it as a positive change in the character of the neighborhood.

Regarding question #4: *Show that the hardship is not self-created.*

Mr. Roberts said it is not self-created, due to the existing nature of the building.

Chairman Bader asked if there were any other comments or questions.

Chairman Bader called for a motion.

Mr. Wilmer moved that the board Approve the application as submitted and presented with the following condition:

1. The application shall proceed to the Planning Commission to review standard conditions for restaurant use.

Mr. Wilmer noted the following reasons for approval:

1. The applicant cannot realize a reasonable return as demonstrated by competent financial evidence;
2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. The requested use variance will not alter the essential character of the neighborhood; and
4. The alleged hardship has not been self-created.

Mr. Roberts seconded the motion, which *carried* with a roll call vote of (6-0):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Absent	
Julie Harris	Voting	YES
Susan Haller	Voting	YES
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

ITEM 05 Application #23-024: Pier#1, Boathouse # 14, MARK MALVASO, requesting an Area Variance necessary to construct a 3-foot addition to the existing boathouse, resulting in a total length of 35 feet. In accordance with Schedule 1 of the Zoning Ordinance, the maximum length of a boathouse is 32 feet.

Mark Malvaso presented the application. He purchased the boat and the boathouse in October 2022. The proposed additional space is needed to house the entire boat and cover the motor. Other adjacent boathouses currently exceed the 32-foot allowance, some by more than the 3-foot extension he is proposing. One adjacent boathouse is 5’9” beyond the permitted 32 feet. With the proposed extension, there would be 28 feet remaining to the boathouse directly across the channel. It would not restrict the channel as much as some of the others.

Mr. Roberts asked if modifications could be made to the inside, in order to gain the 3 feet needed to cover the boat. Mr. Malvaso said no. The location of the pilings do not allow for internal expansion of the boat well portion of the boathouse, without significant redesign, tear-down and rebuilding costs.

Chairman Bader opened the Public Hearing.

Patrick Walsh, Boathouse #2, Pier 3, spoke in support of the application.

Chris Wade, Boathouse #11, Pier 2, came forward in opposition of the project. The proposed extension will create a hardship for him and neighboring boathouse owners. The channel is already too narrow. He said the structure could be modified by moving the pilings forward.

Paul Smith, Boathouse #12, Pier 1 spoke in opposition. He has an adjacent boathouse. If the proposed extension is built, it will block the current view from his porch. He also mentioned that Boathouse #14 has shifted over the years, and is now touching his. It needs work.

Gary Patterson, Boathouse #32, Pier 2, is concerned for the precedent that would be set if the variance is approved. Other boathouse owners will begin to seek extensions.

Mr. Brown noted that the following two written comments were received:

- Chris Kornbau, Boathouse #1, Pier 3, sent a letter of support.
- Thomas and Carol McWilliams, Boathouse #16, Pier 2, sent a letter of opposition.

Chairman Bader closed the Public Hearing.

This is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood. Chairman Bader led the board through the five-part test.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Chairman Bader said an extension would not change the character of the neighborhood, but would create a detriment to nearby properties. Ms. Haller agreed.

Mr. Wilmer agreed and noted that the applicant's boathouse is on an inside channel, where the space is tighter.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Mr. Roberts said there is a feasible method. The interior could be reconfigured and modified to hold the boat.

Chairman Bader recognized the poor condition of the boathouse. The pilings will likely need replacing, so the applicant could take that opportunity to make the desired modifications.

Mr. Roberts suggested that that extending only the roof might provide the necessary coverage for the boat.

Regarding question #3: *Show that the requested variance is not substantial.*

Chairman Bader said an increase from 32 to 35 feet is not substantial; however, there would be a substantial impact on the channel.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Roberts recognized the adverse effect on the channel in regards to maneuverability.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Chairman Bader recognized that the applicant purchased the boat with the boathouse. It may or may not be considered a self-created hardship.

Chairman Bader asked if there were any other comments or questions. Hearing none, he called for a motion.

Mr. Roberts moved that the board Deny the application as submitted and presented for the following reasons:

- #1. The granting of the variance will produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- #2. The benefit sought by the applicant can be achieved by some other feasible means that would not require a variance.
- #3. The variance is substantial.
- #4. The proposed variance will have an adverse impact on the environmental conditions in the neighborhood.
- #5. The hardship is self-created.

Mr. Wilmer seconded the motion, which *carried* with a roll call vote of (6-0):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Absent	
Julie Harris	Voting	YES
Susan Haller	Voting	YES
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

ADJOURNMENT

Mr. Roberts moved to adjourn the meeting at 9:00, seconded by Ms. Henshaw and carried by unanimous voice vote (6-0).

Richard E. Brown, Secretary

Joseph Bader, Chairman