

**MINUTES OF THE REGULAR MEETING OF THE
AMES ZONING BOARD OF ADJUSTMENT**

AMES, IOWA

DECEMBER 11, 2024

The Ames Zoning Board of Adjustment met, pursuant to law, in Regular Session at 6:00 p.m. on December 11, 2024, in the Council Chambers of City Hall. The following members were present: Chad Schneider, Caleb Whitehouse, Leah Patton, Marshall McDaniel; Julie Kruse (absent). Also, present were Assistant City Attorney Victoria Feilmeyer, Planning Director Kelly Diekman and City Planner Justin Moore.

APPROVAL OF MINUTES NOVEMBER 13, 2024

Moved by Whitehouse, seconded by Patton, to approve the minutes of the November 13, 2024, Zoning Board of Adjustment meeting. Vote on Motion: (4-0). Motion declared carried unanimously.

CASE NO. 24-10

Public Hearing on a request for a Variance to the Single-Family Conservation Overlay Standards for a partially constructed new single-family home with no garage setback from the front façade and other variations to the design features of Section 29.1101(9) at 814 Wilson Avenue (Parcel Number 09-02-301-110)

Planner Justin Moore started his staff report on 814 Wilson. It is a single-family home in the Single Family Conservation Overlay District, and the owner is represented by Keystone Equity Group. The variance specifically is being requested for four key areas that are listed in the report. They're requesting a variance for the garage set back design feature. The roof pitch requirement, the porch design, and the foundation elevation requirement to the Single Family Conservation Overlay standards.

This permit was reviewed by city staff and was approved at the end of May. The review process did not catch the design deficiencies and was discovered after the home was partially built. City Staff reached out to the builder to correct the issues. The elevation and revised design were included in your packet. The owner is making changes to the window design to the top floor and removing the two-car garage door to a single door with an additional window. Also, they will be adding a post to the porch.

The orientation of the garage and the roof pitch wouldn't change. The variance also includes a foundation elevation request to change from the design standard of 18 inches to 12 inches.

The applicant has their statement and answers included in your packet. Staff was able to find in favor of all but one of the findings, and that finding was the spirit of the ordinance. We were not able to find that the spirit of the ordinance was met, that is also outlined in the staff report. The Staff does not recommend support for a variance due to that standard not being met.

Questions for Staff:

Mr. Schneider questioned if the definition of the spirit of the ordinance is about design standards. Mr. Moore stated that it must have a deliberate design to match the pattern of the neighborhood. He explained that was how the Single Family Conservation District Overlay was developed. The expectation is that the orientation of the porch and the other aesthetics with the front of the home be most prominent. The garage is either set back a certain distance behind that front facade or is rear loaded. A front-loaded garage is permitted here provided that it is set back. This maintains the pattern of the neighborhood design.

Mr. Schneider asked if the overlay had exterior design elements that are required. Mr. Moore said there are no material requirements, only design elements. Mr. Whitehouse questioned when the Overlay was adopted. Mr. Moore stated it was adopted in the 1990's. The Overlay extends through a large portion of the area north of downtown but is separate from the historic district. It was developed through an inventory of the neighborhood and the predominant home styles.

Marshall McDaniel asked for more information about the error that occurred. Mr. Moore explained that the staff reviewed the permit this past spring. The errors in the design were not caught and a permit was issued. They proceeded with construction. Staff reached out to them later to inform them that they would need to stop because the permit was issued in error. They got to the point as shown in the photo. The owner is proposing to make changes and asked for a variance for the other things.

Mr. Schneider asked if the criteria are weighted. Mr. Moore said it's hard to quantify the criteria as they are all listed together, all are equally expected. The most prominent feature on this home that jumps out is the garage orientation. Then it would be the main run of the roof, and the porch isn't as prominent on the front as others in the neighborhood.

Leah Patton asked for examples of homes in the neighborhood to see what is considered compliant. Planning Director Kelly Diekmann clarified that their question was regarding what a typical home in the neighborhood looks like, which is relevant to the character for compatibility. Mr. Schneider said this speaks to the "spirit" of the ordinance. Mr. Diekmann stated that this is an interpretation of the intent of the zoning versus the factors of the conditions of the neighborhood.

Ms. Patton asked if there were any other homes that would be like this home in the neighborhood. Mr. Moore stated that many years ago prior to the overlay being put in place, there were homes built that don't fit the overlay standards. Some of those homes have garages that are more prominent. Those were allowed to be built prior to the standards being put in place. Ms. Patton asked if any other homes that have been built are like this home, since the standards were put into place. Mr. Moore stated not to his knowledge since the standards had been adopted. Mr. Diekmann stated that since the standards were adopted there were only two new builds in this area in the last 10 years, one on Clark Ave and a duplex on Duff Avenue. There aren't a lot of tear downs and rebuilds in this area, so there isn't a pattern of how a modern house gets built in this area.

Mr. McDaniel stated that his issue is the error by the City. They were given a permit and began building because a permit had been issued and then they were asked to stop the process because the error was detected. Mr. Moore confirmed his summation. Mr. Diekmann stated that staff is not authorized to deviate from the ordinance. An error by the Staff does not negate the standards of the city. The staff cannot undermine the ordinance and not respect the standards set by the City Council and the rest of the community. The applicant in good faith obtained a permit, their designer didn't identify the zone correctly, city staff didn't correct it, by the time this was caught it was 70% complete. Mr. Diekmann became aware of this late summer and questioned if this was in the Overlay District and then did an onsite visit. At that time when staff reached out to Mr. Albright to begin discussions on what happened and what the options were for the variance with some modifications.

Mr. Diekmann displayed two homes in the neighborhood for the Board to review. The first example has a garage in the rear but is a front-loaded property. The porch is on the front of the home, it doesn't meet the eight-foot width standard, and the slope of the roof is much different. The second example was directly next door that is a standard home for the neighborhood with a 6/12 pitch to the roof, porch takes up the entire front façade and the garage is in the rear with rear access to it. This would be the intent with the roof pitch and the porch. There is requirement that the drive be less than 12' wide as there are no two car garages or driveways at the time this neighborhood was built. This is what led to proposing to reduce this to one car garage door and driveway to respect that standard.

Caleb Whitehouse asked about the requirement for the orientation of the garage door. Mr. Diekmann stated that it is supposed to be back 18' from the front of the house, which is approximately the depth of a car. There aren't many garages in this area that are like that, typically they are much farther behind the house or off the alley. There are a few others that aren't typical.

Mr. Diekmann stated that the Historic District is within the Overlay, but this block is not in the Historic District. He stated when the staff looked at neighborhood compatibility, which was a Finding that could be made, they looked at the pattern of the block. The report stated how many driveways came off the street versus the alley in the area. For zoning there are basic massing and orientation compatibility expectations. Staff felt this property met those enough to make that finding. Staff felt the spirit wasn't met as that is based on the design intent and they didn't feel it

could meet that bar. It has come before the Board to see how the design intent applies to the spirit of the ordinance versus the general compatibility of a single-family structure. It is a precise design issue and not a use variance or an encroachment issue.

Ms. Patton asked if the garage was removed off the front and the porch extended would that be more within the spirit of the Overlay. Mr. Diekmann said it could be. As Mr. Moore reported the most deficient element is the garage location. The applicant can speak to that and there have been many options how to bring this into compliance. The applicant has comments on what if the garage isn't part of the structure. Mr. Diekmann reiterated that if the garage door was removed, reface the façade embellish the porch that could be within the spirit, but a design would need to be brought forward before he could say yes. The roof pitch is another reason it doesn't meet the spirit.

Mr. Whitehouse stated that would remove two of the four items that are of issue. Mr. Diekmann said the current home doesn't meet any of the design standards. The proposed home would meet more of the design standards.

Applicant:

JD Albright, 1027 Norwood Court, Norwalk, IA 50211 was sworn in. Mr. Albright stated that he was representing Keystone Equity Group, a homebuilder that builds all over Central Iowa. The builder thought they acted in good faith with the building permit submission. When the discrepancy was brought to their attention they again acted in good faith and submitted these redesigns. This is the compromise for the garage and the windows. The front porch on the redesign doesn't show the column on the left side and a railing could be added the that to tame that down. They will investigate the grade of an additional 6 inches. They may be able to drop the grade around the property to make that compliant. He responded about taking the garage off would be difficult as it is built into the house and the house is built around the garage. He said if it were merely attached to the side, or the corner of the home and it could be removed. This house was built around the garage which makes it extremely difficult to remove it and extend the front porch. They looked at other design options, but they must look at the marketability of some of those options. They are proposing changing the windows to make the design features more in line with the neighborhood. If the property had to be brought into full compliance that would be real financial hardship, the house is built around the garage and the mechanicals are all done. There wasn't a stop work order made but the builder was encouraged not to continue. The house hasn't been worked on since Mr. Albright met with staff so they can look at options for resolution.

Questions for the Applicant:

Mr. Whitehouse asked if making the garage into a bedroom was considered. Mr. Albright said that there are four bedrooms on the second level and is 1600 square foot home. They want the property to be affordable as a four bedroom home currently. The expectation of buyers would be to have a two-car garage, and the builder will be reducing this to a one car to be more compliant. The applicant has agreed to look at putting a two-car garage pad off the alley with a driveway for marketability. This will give the owners additional off-street parking and then a garage could be put on that pad later. Mr. Albright stated that they are trying to compromise and keep the property marketable.

Mr. Albright appreciated the Board's time and thought that they were acting in good faith with the submission of the original permit. The design change from city staff on the original permit was that they had to reduce the driveway from 16' down to 12'. They made that change from their original submission and thought that all was good.

Public forum: Matt Kennis 820 Wilson Ave. was sworn in. Mr. Kennis questioned if there were any responses from the community regarding this item. Mr. Diekmann stated that there were no written comments brought forward. There were a few phone calls, but nothing sent in writing. Mr. Moore stated that the calls were inquiring about the details.

Mr. Kennis appreciated the transparency of the process. He stated that the builder appears to have submitted the permit. The house doesn't look like the neighborhood but isn't an eye sore, it is a nice building. The adjustments appear to make it more aesthetically appealing. It is an unfortunate situation. He stated in full disclosure he reached out to the Federal National Mortgage Association

to purchase the property himself. He was told that a non-profit organization would have first option. He asked the applicant if the House is for low income or is a Habitat House. The applicant stated that the price of the home would be marketed in the high \$200,000 or low \$300,000. Mr. Schneider informed Mr. Kennis that his questions needed to be directed to the Board. The Board can ask the applicant questions later. Mr. Diekmann stated that the target sales price is \$360,000, it is not a Habitat for Humanity home. Habitat didn't build this home so it can't be a Habitat house. Mr. Kennis said he didn't have a strong opinion. Mr. Schneider asked if seeing the design assuages his concerns. Mr. Kennis said the consistent window design makes it look conventional, and the redesign looks better than how it looks currently.

Assistant City Attorney, Victoria Feilmeyer asked the Planning staff to explain to the Board about how zoning issues are reviewed in the permitting process. Mr. Moore said that once a permit application has been received the Inspection staff will bring it to the Planning Department. Since this is in the Single Family Conservation Overlay area the Planning Department would review the plans. When that happens the Planning staff would pull out the standards and review the building plans. That is how the process is triggered to happen. Mr. Diekmann stated that Planning doesn't review all single-family homes, it is only when Inspections brings it to them to review. The error was that Inspections didn't identify the Overlay applied to the property. The second error was that the driveway application when reviewed didn't catch that it led to a two-car garage, which isn't permissible in the Overlay District. That was an oversight by the planning department when the driveway permit application was reviewed. We didn't look at the façade of the structure just at the width of the driveway. Two divisions missed the Overlay and staff should have at least caught that the garage didn't meet the standards.

Discussion by the Board:

Mr. Schneider stated that usually there is a motion then discussion, but the Board will discuss first. To clarify he stated the Board is looking at the four items on page 3.

*Roof Pitch – Mr. McDaniel stated that he thinks the roof pitch is minor. Mr. Whitehouse said he didn't think most people would notice that as they were walking by.

*Porch Design is only 40% rather than 50% of the front façade – Mr. Whitehouse stated that the example porch from across the street was narrow. Mr. Schneider thinks an additional post on the right side would be good with the proposed post on the left. Mr. Albright with Keystone Group stated that the post on the left isn't shown but they could add a post on the right and connect with a railing to bring a more colonial look to add to the character of the home. Mr. Schneider questioned if the Board could add requirements to the variance. Mr. Diekmann confirmed that if there were conditions made to justify the Finding that is allowed. The Board reached a consensus to have a post on both sides with a railing.

*Elevation of 12 inches versus 18 inches. Board stated that this is not something that needs changed. Mr. Diekmann added that with the porch there will be a step. They could excavate down but he would not advocate that as a necessity. Mr. Schneider concurred and said that drainage away from the home is better.

*Garage – Mr. Schneider said that this is a major factor due to the character of the neighborhood and the requirements of the Overlay, it discourage front facing garages. He asked the Board if the changes being proposed for the garage does it make it less noticeable. Mr. Whitehouse said it made it better. Ms. Patton confirmed that it made the garage less prominent. Mr. Whitehouse stated that he lives in a similar neighborhood with single car detached garages. Mr. Schneider shared that decreasing it to a single car garage would be more traditional for this neighborhood along with the addition of the window. Mr. Diekmann asked for clarification from the applicant. Currently, there is a solid steel garage door, would changing the garage door help with keeping to the neighborhood design. Mr. Diekmann stated that it is not in the Historic District just a contemporary build that needs to fit the neighborhood. Mr. Diekmann wasn't suggesting a specific garage door style. He went on to say the Board could make another condition to the variance to satisfy the Finding. Mr. Albright said that if you added glass to the garage door it would become more of a focal point so wouldn't suggest it. Mr. Schneider and Ms. Patton concurred that the proposed garage door style is not an issue. Mr. Whitehouse asked if there was a thought of extending the porch around the new window. Mr. Schneider said that then the roof line would also have to be extended out. Mr. Albright questioned if doing that would trigger other setback requirements for the front porch. Mr.

Diekmann explained that an encroachment is allowed for front porches. He continued saying that the staff discussed the porch being in front but not wrapping around. The builder did extend the eave further forward from the current photograph. The builder could make it look like the front porch entry is out in front of the garage with either steps and/or hardscaping to make it more prominent. Mr. Diekmann said the Board needs to decide if other elements can minimize the garage. Mr. Schneider referred to the proposed drawing and asked about the stonework in front of the garage. Stonework is a modern element, and this neighborhood doesn't have that look. Mr. Diekmann said they spoke with the applicant about that, and they talked about brick instead. It isn't a prohibitive material, but a modern or cultured stone would not be the best choice. There is variety in the area. Mr. Diekmann went on to say that the Board could approve but give staff the ability to look at other material options to consider. Mr. Albright said that they could eliminate the stone altogether. He stated that the architect added this element with the other proposed changes. Mr. Schneider suggested just continuing the clapboard siding. Mr. Albright said they could tame it down. Mr. Whitehouse said that would create a gap in the siding. Discussion among the Board members continued regarding siding versus other hard material options. Mr. Diekmann said that if the Board chooses to approve the variance and the Board is giving staff the latitude for this design element that it must be stated in the approval of the variance, or the plan that is proposed would be what is being granted with the approval. Mr. Whitehouse asked if there was currently a two-car driveway. Mr. Albright stated there is no driveway poured at this time. There will be a single car driveway poured up to the single car garage door. Mr. Albright feels that there is progress being made with this discussion.

Mr. Schneider referred to the Criteria. – *The O-SFC is meant to help maintain the general quality and appearance of the neighborhoods; promote a more cohesive look to the neighborhoods; recognize the neighborhood characteristics as a major part of the City's identity and positive image; promote local design qualities; stabilize and improve property values; reduce conflicts between new construction and existing homes; and allow a limited amount of increased housing densities.* ”

Mr. Schneider asked the Board if adding a post to the right side with the addition of the railing to the porch, removing the stonework and just have siding on the front if that would be keeping within the “spirit” of the Overlay. Mr. Whitehouse said he felt it was closer. Mr. Schneider questioned the statement of *general quality and appearance and promotes a cohesive look*. Mr. Schneider said the neighborhood is not cohesive because there are different types of houses. Ms. Patton agreed with that statement. He went on to say the main issue is the garage. Mr. Schneider said other than removing the garage which he didn't feel the Board is prepared to do, it's better to minimize and make it as cohesive as possible. Mr. Whitehouse is torn about the functionality of the front facing garage so close to the street. The Board talked through the points of the functional versus aesthetic criteria. Discussion continued about colors for the home, garage and trim. Mr. Albright stated that they will have to reframe the garage due to the change in doors, and they can eliminate the accent trim. The Board requested that the home, garage and trim be painted all the same color.

Mr. Diekmann asked for clarification on the stone element. He agrees that the stone doesn't blend but there are brick and foundation elements that are common. If the Board chooses to have the stone removed, Staff would like the opportunity to explore other front design elements.

Victoria Feilmeyer, Assistant City Attorney suggested to step through all the criteria to make sure a variance is something that the Board wants to grant with possible conditions.

Mr. Diekmann requested to hear the list of changes. Mr. Schneider began: roof pitch no change, elevation no change, porch design a post on both left & right side of the porch with a railing, garage similar to the applicant design, reduce the two-car garage down to a one car garage, remove the stone element and allow staff to evaluate whether there should be some other hard element utilized, home, garage door and trim painted to match. Mr. Albright stated that there is also a condition for vertical windows. Mr. Diekmann said they aren't getting a variance for the windows the proposal complies with the code. It is just being restating that the proposed window design is in compliance.

Ms. Feilmeyer requested that the Board step through the criteria. The Board will decide whether to grant the variance or not. It can be as simple as you accept the staff findings.

Mr. Schneider moved to accept Alternative 2, The Zoning Board of Adjustment, approves the variance with conditions of changes to the home, these will be outlined, by making specific findings and facts consistent of the request dealing with all the Variance criteria.

- 1) *Granting of the Variance will not be contrary to the public interest.*

Board agrees with Staff.

- 2) *That without granting of the variance, and due to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship.*

Board agrees with Staff.

- 3) *The spirit of the Ordinance shall be observed even when the variance is granted.*

Spirit of the Ordinance, Board disagrees with Staff based on the following findings:

- a) Windows will be changed according to the proposed plan provided by the applicant.
- b) The foundation elevation of 12 inches rather than the 18 inches required is sufficient compliance.
- c) The roof pitch consideration of 5/12 instead 6/12 substantially complies and is not a violation of the spirit.
- d) Porch design as submitted by the applicant with the changes including the addition of two posts, one on the left and one on the right with an adjoining railing, the proposed porch now fits the design within the spirit.
- e) The garage setback with the changes that have been proposed including the removal of the stone material from the proposed alterations provided by the builder, with an opportunity for the Staff to explore brick or other hard materials in its place that would be fitting and conforming with the neighborhood, and that the garage door and trim be painted to match the siding of the home to make it less prominent. With these changes to the Variance, the Board feels the proposal will fit within the spirit of the ordinance.

- 4) *Substantial justice shall be done as a result of granting the variance.*

Board agrees with Staff.

Whitehouse second

Roll call: McDaniel, aye; Schneider, aye; Patton, aye; Whitehouse, aye. Vote on Motion: (4-0)
Motion declared carried unanimously.

Variance has been granted.

Mr. Schneider stated that this decision can be appealed through the District Court within 30 days after the filing of the Decision and Order.

ADJOURNMENT: Moved by McDaniel, seconded by Whitehouse, to adjourn the meeting at 7:33 PM.

Vote on Motion: 4-0. Motion declared carried unanimously.


Natalie Rekemeyer, Recording Secretary


Chad Schneider, Chair