

**BOARD OF ADJUSTMENT
MINUTES OF MEETING
March 7, 2023**

<p>CALL TO ORDER AND ROLL CALL</p>	<p>Kelley called the regular meeting of the Whitefish Board of Adjustment to order at 6:00 pm. Board members present were Doug Peppmeier, Mike Kelley, Ian Hasson, Scott Wurster, Phil Boland, and John Peschel. Planner 1, Nelson Loring represented the Whitefish Planning & Building Department.</p> <p>There were approximately 9 people attending in addition to the Board members and staff.</p>
<p>AGENDA CHANGES <i>6:00 pm</i></p>	<p>None.</p>
<p>APPROVAL OF MINUTES <i>6:00 pm</i></p>	<p>ACTION: Hasson made a motion, seconded by Boland to approve the January 4th, 2023 minutes without corrections. The motion passed unanimously.</p>
<p>COMMUNICATIONS FROM THE PUBLIC (ITEMS NOT ON THE AGENDA) <i>6:00 pm</i></p>	<p>Kelley announced that member Parker Kelly will no longer be participating in the Board of Adjustment meetings.</p>
<p>UNFINISHED BUSINESS: <i>6:00 pm</i></p>	<p>None.</p>
<p>PUBLIC HEARING 1: Douglas Rhoades WZV 23-01 <i>6:01 pm</i></p>	<p>A request by Douglas Rhodes, on behalf of Andrew and Denise Strong, is requesting a variance to the setback requirements for accessory buildings for a proposed garage replacement and expansion. The property is currently developed with a single family home zoned WR-4 (High Density Multi-family Residential District). The property is located at 405 Central Avenue and can be legally described as Lot 22, Block 61 Whitefish Original Townsite in S36, T31 N, R22 W, P.M.M., Flathead County (Loring) WZV 23-01</p>
<p>STAFF REPORT WZV 23-01 (Loring)</p>	<p>Planner 1, Nelson Loring reviewed his staff report and findings. As of the writing of WZV 23-01, nine comments were received.</p>
<p>STAFF RECOMMENDATION</p>	<p>Staff finds that the conditions for granting relief from the code set forth in 11-7-7 are not met. Staff recommends the Board adopt the findings in staff report WZV 23-01 and DENY the variance. However, if the Board wishes to approve the variance request, Staff</p>

	<p>recommends the Board amend Findings 1, 2, 4, 8, and 9 and suggested conditions of approval.</p>
<p>BOARD QUESTIONS OF STAFF <i>6:13 pm</i></p>	<p>Peppmeier addressed some errors in the staff report.</p> <p>Hasson asked if there is a limit to the number of accessory dwelling units (ADU) a property is allowed to have. Loring confirmed yes, there is a limit of 1 ADU per property. He confirmed this location already has a separate ADU.</p>
<p>PUBLIC HEARING <i>6:15 pm</i></p>	<p>Kelley opened the public hearing.</p>
<p>APPLICANT / AGENCIES</p>	<p>Andrew Strong, applicant and Doug Rhoades, architect.</p> <p>Strong explained they purchased the home in July 2021 with the plan to restore the home and construct it back to its original state. Strong explained they originally intended to brace the garage and apply new paint; however, after pressure washing and cleaning up Strong determined it was too rotted and, therefore, decided new construction would be best.</p> <p>Strong referenced records from Dec. 2021, the Lynns and the Boyles variances. Strong stated both variance applications sought to receive approval for garages positioned over the property lines—Strong stated the predominant finding was that the hardship was not the cause of the property owner because the zoning requirements came after the buildings’ construction. Strong believed this supported their approvals. Strong stated this is a unique property and approving this would not begrudge anybody else, as no one in their immediate neighborhood has spoken against it.</p> <p>Kelley opened the floor to questions for the applicant.</p> <p>Doug Rhoades pointed out the support from the community and stated there would be no adverse impact on the community. Rhoades stated it would be a shame to be unable to rebuild the garage in its original location.</p> <p>Peppmeier questioned the applicant about their parking space requirements and suggested the logical thing to do would be to drop a parking space and move the garage footprint over, as only three (3) parking spaces are required per code. Peppmeier asked what the</p>

aversion to dropping that space is. Peppmeier also asked if a survey was completed on this property.

Rhoades responded the property would be surveyed.

Kelley confirmed with Rhoades that no survey had been acquired.

Peppmeier disclosed it would be very difficult to decide without a survey.

Strong stated he would be more than happy to place a condition upon the variance that a survey would be acquired.

Kelley noted that in the Strong's application where it asks, "Are you being granted a special privilege," the applicant responded "No." Kelley suggested the applicant would receive a special privilege because the request is not up to zoning code. Kelley stated if the Board approves this request, a precedent will be set that others in the community can ask for the same. Kelley stated the applicant is asking for the maximum, where the Board of Adjustment seeks the minimum.

Rhoades responded there have been many variances approved for setbacks, whereas this variance request is minor.

Strong stated if the garage were to be moved inward, they would still need a variance for the rear setback and if the variance is denied, they will leave the garage as it is and paint it. Strong confirmed their request to expand the garage is so they can accommodate modern day vehicles.

Wurster asked Strong to clarify what he meant by stating the hardship is not the fault of the property owner because it arose after zoning requirements were enforced.

Strong responded that many of the findings in the previous variances mentioned, state that their hardship is not the fault of the property owner because they occurred prior to the effect of the zoning requirements.

Boland asked the applicant to explain how they could paint a building that, per the applicant, appears to be dilapidated with rotting boards.

	<p>Strong replied he was being a little comical about the prior discussion regarding the status of the building. Strong shared that Leo (the Builder) could add additional wall braces on the inside to support the building.</p> <p>Wurster asked the applicant what the hardship is that they are claiming.</p> <p>Strong replied the hardship is the condition of the building and its size is limiting because it does not accommodate current vehicles.</p> <p>Wurster shared he is concerned this project would be expanding a prior non-conforming use. Wurster asked for confirmation the applicant’s proposal is to take down the garage, rebuild and expand.</p> <p>Strong confirmed that is the proposal; however, Strong stated he will build on the same footprint if it helps the Board.</p> <p>Rhoades commented that as the Board of Adjustment, you adjust things. This is not a fire code, or health and safety issue.</p> <p>Wurster responded the standard is public health and safety, which is what the Zoning Ordinance maintains. That is the issue.</p> <p>Strong, with one last comment, stated you are representing the community. Strong shared the immediate community is requesting you approve this variance.</p> <p>Kelley opened the floor to public comment.</p>
<p>PUBLIC COMMENT 6:44pm</p>	<p>Jean Peterson, 415 Central Ave, shared it is lovely to live next to a place being refurbished well. Peterson asked the Board to listen to the neighbors, these folks have been so good to refurbish this lot.</p> <p>Nanda Tedholm, 413 Central Ave, shared the home was not in good shape when the Strongs bought it. Tedholm shared she trusts that Rhoades and Strongs will make a garage that compliments the home.</p> <p>Leo Keane, builder for the Strongs. Suggested maybe it is a good thing to set a precedent to rebuild and refurbish properties throughout town. Our goal is to make the home and garage beautiful, and we would need to expand the garage to do so. Keane</p>

	<p>stated a 24 x 24ft garage is pretty much required to fit two modern-day vehicles.</p> <p>Eric Greenburg, 416 Central Ave, shared the work completed has been extraordinary. Greenburg asked the Board to please consider exercising your flexibility to approve this.</p> <p>Marguerite Kaminski, who works in Whitefish, stated this is a crown jewel project in Whitefish. Kaminski said this is a truly remarkable project and shared her support for approval.</p> <p>Kelley closed the public comment.</p>
<p>MOTION / BOARD DISCUSSION 6:53pm</p>	<p>Before a motion was made, Peppmeier stated a point of clarification for the public present. Peppmeier shared per the applications he reviewed, there were no other options for the previously approved variance requests. Peppmeier spoke for the Board and said all are very serious about these decisions, stating when a variance is granted it becomes public knowledge. When an application has options, the Board has strict criteria it legally needs to follow. Peppmeier stated legally, 8 out of 8 criteria points must be met for a variance to be granted.</p> <p>Wurster made a point to echo what Peppmeier shared.</p> <p>Boland commented, asking if a survey was acquired and how that may change the Boards opinion.</p> <p>Kelley also confirmed what Peppmeier had to say and shared strict compliance is what the Board follows on behalf of the City. Kelley stated the project in hand is the garage, and the Board has a strict compliance list to adhere to.</p> <p>Peppmeier shared some options: 1. a survey would have been very helpful; 2. Losing a parking space is a solution; 3. Reduce the square footage to 20 x 20ft and ask for a variance to the rear setback only.</p> <p>Hasson made a motion, seconded by Boland to deny the findings of fact within staff report WZV 23-01*</p> <p><i>*Amendment from staff: Kelley had stated WZA 23-01, where the correct verbiage is WZV 23-01.</i></p>

<p>VOTE <i>7:01pm</i></p>	<p>The motion was denied unanimously.</p>
<p>GOOD AND WELFARE</p>	<p>1. Matters from Board. Nelson shared there will be another variance in April.</p> <p>2. Matters from Staff. Board shared well wishes to Parker Kelly.</p> <p>There is an open seat on the Board of Adjustments.</p>
<p>ADJOURNMENT <i>7:01pm</i></p>	<p>The meeting was adjourned on a motion by Kelley at approximately 7:05 pm. The next regular meeting of the Board of Adjustments is scheduled to be held in April at 6:00 pm.</p>