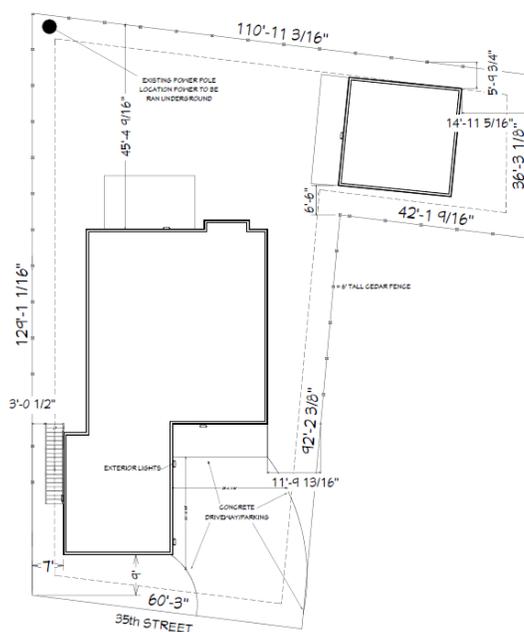




CITY OF GARDEN CITY

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File Number: BLDFY2019 – 132/149
For: Appeal
Location: 306 and 308 E. 35th Street
Applicant: Kim Spears
Report Date: 8/14/2019



Garden City Design Committee
Staff Contact: Chris Samples

STAFF REPORT: Appeal of BLDFY2019 – 132/149 – Application materials can be found here:

[Link](#)

**City of Garden City
Staff Report**

A. Project Overview

Project Description: Kim Spears is appealing an administrative decision to require a detached sidewalk for two single family detached homes located at 306 and 308 E. 35th Street (Ada County Parcel Number R2734540401).

Proposed Scope of Work

Request	Code Standard/Policy	Notes
Appeal of required sidewalk improvements associated with two new single-family homes	<ul style="list-style-type: none"> 8-4E-6 (Sidewalk Standards) Garden City Sidewalk Policy 	None

Required Decisions

The following decision processes are required for the project:

Decision	Recommendation Authority	Decision Authority	Hearing Date
Appeal	N/A	Design Committee	8/19/2019

Exhibits: [Link](#)

1. Appeal application
2. Building permit application
3. Sidewalk waiver review

Standards for Review: Standards for review of this application are:

Design Review Standards	
Standard	Staff Comments
8-6A-9 Appeals	Procedural history noted
8-4E Transportation and Connectivity Provisions	Review of decision

Policies and Studies: The following policies and studies were reviewed for this application:

1. [Garden City Sidewalk Policy](#)

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Agency Comments: Agency comments were not received in association with this appeal.

B. Appeal

APPEAL STANDARDS FOR REVIEW	
City Code	City Standards/Staff Comments
<u>GCC 8-6A-9 Appeals</u>	<p>On May 14, 2019, the appellant applied for two building permits (BLDFY2019 – 0132 and BLDFY2019 – 0149) for two single family homes located on one property. The appellant requested a waiver to the required sidewalks pursuant to Garden City Code 8-4E-6 (Sidewalk Standards) and the Garden City Sidewalk Policy.</p> <p>On June 12, 2019, Developer Services Department staff issued an approval for the two homes and denied the sidewalk waiver request. After the completion of other required reviews, building permits were issued for the two homes on July 8, 2019.</p> <p>A timely appeal application was received on July 12, 2019 within the 15-day timeframe allowed by GCC 8-6A-9 and scheduled for August 19, 2019. Appeals concerning Title 8, Chapter 4 of the Garden City Code are heard by the Design Committee.</p>
<u>GCC 8-4E Transportation and Connectivity Provisions</u>	
GCC 8-4E-2 Applicability, GCC 8-4E-6 Sidewalk Standards and The Garden City Sidewalk Policy	<p>Sidewalks improvements are required GCC 8-4E-2 (Applicability) for new construction, addition, expansion, grading, alteration, or any new or more intense use of property. Sidewalks must meet the standards of GCC 8-4E-6 (Sidewalk Standards) and the Garden City Sidewalk Policy (The Policy). The Policy allows applicants to apply for a waiver to these standards and The Policy. To apply for a waiver, the Policy requires an applicant to provide documentation to substantiate their request. The Policy lists what a decision maker may consider when deciding a waiver and lists specific justifications that shall not be considered by the decision maker.</p> <p>The waiver was denied based on the following</p>

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grounds:

1. The appellant's request was based on justifications that could not be considered by the decision maker.

The policy prohibits a decision maker from considering the following to determine a waiver:

- a. Lack of sidewalk on adjacent properties
- b. Loss of parking
- c. Ownership of property
- d. The installation of sidewalk constitutes an unexpected expense to applicant
- e. Cost of improvement vs. anticipated revenue of project
- f. The desire of the applicant or property owner to not have a sidewalk

The appellant's request letter asked for a waiver based on the following:

- a. "The area is currently in transition, with adjacent owners planning to sell or develop in the future and it is likely that the entire road will need to be reconstructed."
- b. "Installing a sidewalk on sixty feet of frontage would not have any beneficial impact to pedestrians on this street. I think it is likely that they would not utilize the sidewalk, as it would require them to step up on it, then step down and go around the numerous cars that park on 35th Street."
- c. "Additionally, Ada County High (*sic*) District is not requiring improvements. The permit I have submitted includes a primary dwelling of 1800 square feet and an ADU that is 600 square feet."

The waiver was denied due to a waiver request based on a lack of sidewalk adjacent to the subject property and the desire of the appellant to not have a sidewalk, both of which are not allowed to be taken into consideration by the decision maker.

2. The appellant did not provide documentation to

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	<p style="text-align: center;"><u>substantiate their request.</u></p> <p>The policy provides examples of documentation that could be submitted, <u>including but not limited to:</u></p> <ol style="list-style-type: none"> a. ACHD Five Year Work Plan b. Letter from the transportation authority c. Signed engineering design plans d. Technical safety analysis e. Documentation from the current trip generation standard that ACHD utilizes f. Bids (if bids are utilized the applicant shall provide 3 from local contractors that are verifiable businesses) g. Ada County Assessor data h. The most current International Code Council Building Valuation data <p>The waiver request did not include any documentation to support their request.</p> <p>The appellant has indicated in their appeal application that the denial of the sidewalk waiver would adversely affect them, stating in their appeal: “Adding the buffer would require the sidewalk be pushed back into my lot and leave my garage 2’ from it”.</p> <p>This reasoning was not mentioned in their original waiver request. An analysis of this additional argument will not be conducted in this report.</p>
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C. Policy and Study Analysis

POLICIES AND STUDIES	
Document	Staff Comments
<u>Garden City Sidewalk Policy</u>	The Garden City Sidewalk Policy was evaluated in associated with the waiver request denial.

D. Decision Options

The Design Committee may take one of the following actions:

1. Uphold the decision to deny the sidewalk waiver request.
2. Overturn the decision to deny the sidewalk waiver request and grant the request.
3. Request the appellant return with revised materials for additional review.

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Pursuant to Garden City Code 8-6A-9 (Appeals), the appellant can appeal the Design Committee's decision to the City Council within 15 days of the decision's signature. After 15 days, the decision will be final.

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