

Oakwood, Ohio  
October 22, 2015

The Zoning Board of Appeals met in session this date at 4:30 o'clock p.m., in the council chambers of the City of Oakwood, 30 Park Avenue, Oakwood, Ohio 45419. The Vice Chair, Mr. Dan Deitz, presided and the Recording Secretary, Ms. Lori Stacel recorded.

Upon call of the roll, the following members of the Board responded to their names:

MR. KIP BOHACHEK .....	ABSENT
MR. DAN DEITZ.....	PRESENT
MR. GREG LAUTERBACH .....	PRESENT
MR. KEVIN HILL .....	ABSENT
MRS. LINDA WEPRIN .....	PRESENT

The following officers of the city were present:

Mr. Jay A. Weiskircher, Assistant City Manager  
Mr. Ethan M. Kroger, Code Enforcement Officer  
Ms. Lori Stacel, Clerk of Council

The following visitors registered:

John and India Clarke, 112 Beverly Place  
Mark Keil, Contractor  
Patrick McFall, 229 Schenck Avenue  
Brian Weaver, Contractor  
Mr. Robert Schuler, 102 Beverly Place  
Ms. Beverly Johnson, 103 Beverly Place

Mr. Lauterbach moved to excuse the absence of Mr. Bohachek and Mr. Hill. The motion was seconded by Mrs. Weprin.

Mr. Deitz mentioned to the members of the Board that the minutes from the September 10, 2015 meeting which was slated for approval showed that Mr. Bohachek was present for the meeting, but he was actually absent. There being no further discussion, Mr. Lauterbach moved that the minutes from the September 10, 2015 meeting be approved once that correction is made. Mrs. Weprin seconded the motion and it was so ordered.

Mr. Deitz reviewed the meeting procedure with all in attendance. He explained that in order for the requests to be approved this evening, it would require a yes vote from each Board member in attendance this evening. He shared that the applicants have the option to table their request until the other two BZA members could be present for the meeting.

Both applicants agreed to proceed.

Application #15-5, a request by John and India Clarke to 1) vary the rear yard setback for a concrete stoop; 2) vary the lot coverage requirements for an addition to an existing accessory structure (two car garage, workshop and storage shed) and, 3) vary the west side yard setback for a driveway addition at 112 Beverly Place, was introduced.

Mr. Deitz opened the public hearing.

Mr. Mark Keil, contractor for 112 Beverly Place, shared that the Clarke's project objectives are to: preserve the existing workshop; preserve or rebuild the exterior basement entrance; add a two car garage with lawn equipment storage; add a mudroom style entrance at the rear; expand the size of the kitchen to include additional seating; add a half-bath to the first floor; and, to add a covered rear entrance with a stoop.

He explained that there was a misunderstanding in the staff report that was sent out prior to the meeting regarding the workshop. The Clarkes already have a workshop that has existed since they moved in; they just want to make it larger.

Mr. Keil displayed a picture of the existing home's architecture showing the foundation. He explained that both he and the Clarkes feel that the Board should consider the square footage at 910 square feet versus 935 square feet due to the foundation extending past the walls and not being level with the house.

Mr. Keil shared that the proposal is the best solution to meet the Clarkes needs. The Clarkes understand that if they eliminate the workshop it would open up quite a few other opportunities, but after reviewing the other plan options, it wasn't giving the Clarkes exactly what they needed.

Mr. Robert Schuler, 102 Beverly Place, shared that he is a neighbor and he loves the plans. He believes the updates will increase the value of their home and his home.

Mr. Weiskircher shared that three letters were received from neighbors in support of the work being proposed by the Clarkes.

Ms. Beverly Johnson, 103 Beverly Place, shared that she lives across the street from the Clarkes. She said the Clarke's home is beautiful, but it has a tiny kitchen. The plans that Mr. Keil has created are beautiful and she doesn't see any issue with adding value to a property in the neighborhood.

Mr. Lauterbach inquired about the roof line and the height limitations.

Mr. Weiskircher confirmed that the height limitations are 18 feet.

Mr. Keil explained that the roof was reduced to 17 feet.

Mr. Deitz asked if all the construction will be new.

Mr. Keil answered yes, except for a rear section of the garage wall.

Mr. Lauterbach asked if there was an overhead garage door.

Mr. Clarke answered yes. He said that they were hoping to expand that to move wood in and out of the garage.

Mr. Lauterbach asked the Clarkes that in their opinion if they sold the house what the workshop could be used for.

Mr. Clarke answered that the workshop could be used as extra storage space or as an extra garage for a smaller vehicle.

A neighbor in the audience answered stating that she lives behind the Clarkes and she has small kids. She said there is always extra storage space needed for things like bikes or scooters for example.

There being no further public testimony offered, the public hearing was closed and the Board of Zoning Appeals began its deliberations.

Mr. Lauterbach shared his concerns that he feels that the structure is just too big.

Mrs. Weprin asked if the plans were changed due to access issues to the garage.

Mr. Clarke answered and said that the plans were changed because they couldn't build onto the kitchen with the other plans because of access to the plumbing.

Mr. Deitz asked if there were any other plans that the Clarkes wanted to propose that were smaller than the proposed 930 square feet.

Mr. Keil answered no.

Mr. Clarke shared that they explored expanding the garage on the east side of the house and that was undesirable because it didn't preserve the integrity of the house.

Mr. Deitz asked what size would be needed if the lawn equipment structure is separated from the main structure.

Mr. Weiskircher answered that it wouldn't change. It would still be 20%.

Mr. Clarke asked if he would be able to do a shed once this structure is built if they separated the lawn equipment.

Mr. Weiskircher answered that he would already be at his max.

Mr. Deitz asked if they should vote on the variances separately.

Mr. Weiskircher answered yes.

Mr. Deitz shared that there are a few ways to proceed at this point. The Clarkes have the option to move forward with the vote, they could table the request or could propose a smaller square footage.

Mr. Clarke shared that their house still has a lot of backyard. He said that they have done everything they could to make this as appealing as possible, and meet their needs at the same time. He shared that he is puzzled by their lack of support. He feels that maybe tabling the request would be a good option at this point.

Mr. Weiskircher asked if the Board what square footage they would be comfortable with for the accessory structure.

Mr. Lauterbach shared that the plans look great with how everything is detailed out and how it ties into the existing structure. He also agreed with the square footage relating to the foundation since it extends beyond the walls and he would agree to the 910 square feet measurement.

Mr. Deitz asked Mr. Clarke if he would agree to a variance that was reduced by 60 square feet.

Mr. Clarke asked for clarification on the 60 square feet on whether it had to be removed off of a specific area.

Mr. Deitz answered that it did not.

For purposes of the minutes, the preliminary staff findings as stated in the Staff Report were as follows:

#### STANDARDS FOR VARIANCES

- A. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

##### PRELIMINARY STAFF FINDINGS:

- Accessory Structure: The variance request is being driven by the desire of the property owners to construct a workshop and storage shed that together with the existing garage covers more than 20% of the rear yard. There are no shape or topographical conditions that create a hardship for the applicant.
- Rear Yard: The rear yard variance request is associated with a stoop that will provide access to a proposed mudroom and half bath addition. Again, there are no shape or topographical conditions that cause the applicant a hardship.
- Side Yard Variance: The side yard variance is being requested to provide additional turn around space for exiting the garage.

- B. The conditions upon which a petition for a Variance is based are unique to the property for which the Variance is sought and are not applicable, generally, to other property within the same zoning classification.

##### PRELIMINARY STAFF FINDINGS:

- Accessory Structure: The conditions in this application which necessitate the variance are not unique to this property. The variance request is necessitated by the desire of the property owners to add a fairly significant workshop and small storage shed additions to the existing garage thus exceeding the maximum accessory structure coverage in the rear yard by 135 square feet.
- Rear Yard: The condition requiring the variance is not unique to this property and is associated with the desire of the applicants to build a small mudroom and half bath addition with an access stoop that encroaches four (4) feet into the rear yard setback.
- Side Yard Variance: The condition in this application is not unique to this property. The applicants are requesting a variance to make it easier to exit the garage and turn around in the driveway.

- C. The purpose of the Variance is not based primarily upon a desire to make more money out of the property.

##### PRELIMINARY STAFF FINDINGS:

- Accessory Structure: The purpose of the variance is to accommodate workshop and utility shed additions that exceed the maximum square footage permitted for an accessory structure in a rear yard of this size and is not associated with making more money out of the property.

- Rear Yard: The variance request is for a four (4) foot stoop encroachment associated with a mudroom and half bath addition and is unrelated to making more money out of the property.
- Side Yard Variance: The side yard variance is for the convenience of the drivers exiting the garage and turning around in the driveway and is not associated with making more money out of the property.

D. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property.

PRELIMINARY STAFF FINDINGS:

- Accessory Structure: The variance is needed to accommodate the proposed size of the workshop and utility shed additions and is not created by the Ordinance.
- Rear Yard: The rear yard variance is created by a stoop associated with the proposed home addition and is not created by the Ordinance.
- Side Yard Variance: The side yard variance is being proposed to make it easier to exit the garage.

E. The property in question cannot yield a reasonable return if permitted to be used only under the regulations of district in which it is located.

PRELIMINARY STAFF FINDINGS:

- Accessory Structure: The property can yield a reasonable return if the variance is not approved. As a matter of fact, an addition of nearly 350 square feet to the exiting garage can be completed without the need for a variance request.
- Rear Yard: The property can yield a reasonable return if the rear yard variance is not granted.
- Side Yard Variance: The property can yield a reasonable return if the side yard variance is not granted.

F. The granting of the Variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

PRELIMINARY STAFF FINDINGS:

- Accessory Structure: Although none of the proposed garage addition will be seen from the street, the proposed structure adds significant bulk to the lot.
- Rear Yard: The stoop is the only portion of the proposed home addition that encroaches into the rear yard setback so it will have no impact whatsoever on any of the adjoining properties.
- Side Yard Variance: The side yard variance should not directly impact the adjoining property to the west.

G. The proposed Variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, the danger of fire, or danger to persons or property, nor will it create unreasonable noise, create a substantially adverse aesthetic appearance or substantially diminish or impair property values within the neighborhood.

PRELIMINARY STAFF FINDINGS:

- Accessory Structure: Notwithstanding the fact there is a privacy fence along the full length of the south lot line, the proposed addition nearly

doubles the size of the existing accessory structure and will have a visual impact on some of the surrounding properties.

- Rear Yard: The proposed rear yard encroachment will have no impact whatsoever on adjoining properties.
- Side Yard Variance: The proposed side yard variance should have no impact on the adjoining properties to the west.

H. The shape, topography, or other conditions of the land is such that it is extremely difficult to comply with the regulations generally applicable to the property.

PRELIMINARY STAFF FINDINGS:

- Accessory Structure: There are no shape or topographical conditions that make it difficult to comply with the regulations.
- Rear Yard: There are no shape or topographical conditions that make it difficult to comply with the regulations.
- Side Yard Variance: There are no shape or topographical conditions that make it difficult to comply with the regulations.

I. The applicant must show that the Variance requested will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use or development of property or improvements permitted in the vicinity; will not materially impair an adequate supply of light and air to properties and improvements in the vicinity; will not substantially increase congestion in the public streets due to traffic or parking or increase the danger of flood or fire; will not unduly tax public utilities and facilities in the area; or will not endanger the public health, safety or welfare.

No yard, setback, or lot area or width Variance may be granted unless any structure subsequently placed on the lot, and the result of any changes in existing structures, must be of such appearance, size and location that it will not have an adverse impact upon the value of other residences in the immediate vicinity and on approximately the same size lots and, while recognizing the diversity of Oakwood housing, is reasonably compatible with the appearance, size and location of such other residences on such lots.

Plans for any structure to be placed upon, or improved or expanded upon, a lot granted such a Variance must be submitted in advance for approval by the BZA, and no structure may be erected except in accordance with plans approved by the BZA on the basis of meeting these conditions and the other standards required for Variances. In considering the plans, the BZA must give notice and hold a public hearing in the same manner as described above in this Section.

PRELIMINARY STAFF FINDINGS:

- Accessory Structure: Although the proposed plan is an improvement over the original plan, the addition still appears to be excessive. A more modest workshop and storage shed addition that complies with the maximum lot coverage requirement seems to be a more reasonable approach.
- Rear Yard: The rear yard variance request for an access stoop to the proposed mudroom and half bath addition will have no impact whatsoever on any of the adjoining properties.
- Side Yard Variance: Although the location of the garage is not changing, having additional space to exit and turn around is understandable.

STAFF RECOMMENDATIONS: Although the Clarkes have come a long way with their proposal, the size of the proposed addition is still quite large. It appears that a more modest addition still could provide the homeowner with space for a reasonably sized workshop and eliminate the need for an accessory structure variance request. Staff is not opposed, however, to either the rear yard variance for the access stoop or the side yard variance for the added turn around space.

Therefore, it was moved by Mr. Lauterbach and seconded by Mrs. Weprin that application #15-5, the request to vary the rear yard setback for a concrete stoop at 112 Beverly Place, be approved. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Therefore, it was moved by Mr. Deitz and seconded by Mr. Lauterbach that application #15-5, the request to vary the west side yard setback for a driveway addition at 112 Beverly Place, be approved. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Therefore, it was moved by Mr. Lauterbach and seconded by Mr. Deitz that application #15-5, the request for an addition to an existing accessory structure (two car garage, workshop and storage shed) at 112 Beverly Place, be approved with a maximum area of 885 square footage. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

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Application #15-6, a request by Patrick McFall to vary the west side yard setback for a proposed garage addition at 229 Schenck Avenue, was introduced.

Mr. Deitz opened the public hearing.

Mr. Brian Weaver, contractor for 229 Schenck Avenue, shared that they are requesting a variance to convert an existing single car garage to a two car garage. The exterior materials for the addition will match the existing proposed addition.

Mrs. Weprin asked what the width of the existing garage is.

Mr. Weaver answered that it is approximately 12.5-13 feet, which is very small and doesn't match the mass of the house.

Mr. Lauterbach asked if the plan is to reroof the entire structure.

Mr. Weaver said that they are only going to reroof as needed and tie in as much as possible because the roof was just replaced six months ago.

There being no further public testimony offered, the public hearing was closed and the Board of Zoning Appeals began its deliberations.

Mr. Lauterbach shared that in his opinion a hip roof would look better because it would have less mass. He then asked if the house has a hip roof.

Mr. Weaver answered that the house does. He shared that he and Mr. McFall were discussing this and they could change the plans to do a hip roof if that is the preference of the Board.

For purposes of the minutes, the preliminary staff findings as stated in the Staff Report were as follows:

#### STANDARDS FOR VARIANCES

- A. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.  
PRELIMINARY STAFF FINDINGS: There are no existing shape or topographical conditions which create a hardship in this application.
- B. The conditions upon which a petition for a Variance is based are unique to the property for which the Variance is sought and are not applicable, generally, to other property within the same zoning classification.  
PRELIMINARY STAFF FINDINGS: The conditions in this application are not unique to this property.
- C. The purpose of the Variance is not based primarily upon a desire to make more money out of the property.  
PRELIMINARY STAFF FINDINGS: The purpose of the variance is to increase the size of the existing garage so as to accommodate two (2) vehicles.
- D. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property.  
PRELIMINARY STAFF FINDINGS: The difficulty in this application is created by the desire of the property owners to expand the footprint of the existing garage to the west thereby encroaching into the required side yard setback.
- E. The property in question cannot yield a reasonable return if permitted to be used only under the regulations of district in which it is located.  
PRELIMINARY STAFF FINDINGS: The property can yield a reasonable return if the variance is not granted. While there are many single car garages throughout the city, two car garages are the norm rather than the exception in the R-3 zoning district.
- F. The granting of the Variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.  
PRELIMINARY STAFF FINDINGS: The only property directly impacted by the proposed garage expansion is 219 Schenck – the property to the west.
- G. The proposed Variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, the danger of fire, or danger to persons or property, nor will it create unreasonable noise, create a substantially adverse aesthetic appearance or substantially diminish or impair property values within the neighborhood.  
PRELIMINARY STAFF FINDINGS: While the location of the proposed garage will replace an existing parking pad, there will certainly be more building mass impacting the property to the west. As far as the overall appearance is concerned, the proposed addition will match the existing.

- H. The shape, topography, or other conditions of the land is such that it is extremely difficult to comply with the regulations generally applicable to the property.

PRELIMINARY STAFF FINDINGS: Since the existing garage is located on the 10 foot side yard setback line, any proposed addition the west necessitates a variance request.

- I. The applicant must show that the Variance requested will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use or development of property or improvements permitted in the vicinity; will not materially impair an adequate supply of light and air to properties and improvements in the vicinity; will not substantially increase congestion in the public streets due to traffic or parking or increase the danger of flood or fire; will not unduly tax public utilities and facilities in the area; or will not endanger the public health, safety or welfare.

No yard, setback, or lot area or width Variance may be granted unless any structure subsequently placed on the lot, and the result of any changes in existing structures, must be of such appearance, size and location that it will not have an adverse impact upon the value of other residences in the immediate vicinity and on approximately the same size lots and, while recognizing the diversity of Oakwood housing, is reasonably compatible with the appearance, size and location of such other residences on such lots.

Plans for any structure to be placed upon, or improved or expanded upon, a lot granted such a Variance must be submitted in advance for approval by the BZA, and no structure may be erected except in accordance with plans approved by the BZA on the basis of meeting these conditions and the other standards required for Variances. In considering the plans, the BZA must give notice and hold a public hearing in the same manner as described above in this Section.

PRELIMINARY STAFF FINDINGS: The desire of the applicants to have a two (2) car garage is certainly understandable but it has to be weighed against the fact that the resulting side yard setback will only be 2 feet 4 inches where 10 feet is required.

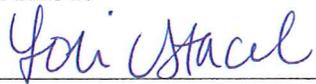
STAFF RECOMMENDATIONS: As already mentioned, the only property owner impacted is 219 Schenck and we have received a letter from that neighbor in support of the proposed variance. Moreover, the McFalls already park a vehicle on the west side of the garage so the location of the proposed addition is already actively being used. You will also note that there are no window or door openings on the west elevation in order to provide the adjoining property owner some additional privacy.

Therefore, it was moved by Mr. Deitz and seconded by Mrs. Weprin that application #15-6, the request to vary the west side yard setback for a proposed garage addition at 229 Schenck Avenue, be approved with the condition that a hip roof be used. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

There being no further business, the meeting concluded at 5:45 p.m.

  
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 VICE CHAIR

ATTEST:

  
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 RECORDING SECRETARY