

Oakwood, Dayton, Ohio
September 12, 2013

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, Dayton, Ohio-45419. The Chair, Mr. Kip Bohachek, presided and the Acting Recording Secretary, Ms. Sherri Laidler recorded.

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

MR. KIP BOHACHEK	PRESENT
MR. DAN DEITZ.....	PRESENT
MRS. JANE G. VOISARD	ABSENT
MR. GREG LAUTERBACH	PRESENT
MR. KEVIN HILL	PRESENT

The following officers of the city were present:

Mr. Jay A. Weiskircher, Assistant City Manager
Mr. Dave Bunting, City Inspector

The following visitors registered:

John Harris, 336 Ridgewood Avenue

Application #13-2, the request by John and Antoinette Harris to vary the east side yard setback for the purpose of installing two (2) A/C condenser units at 336 Ridgewood Avenue and known as lot 312-311 PT.

Mr. Bohachek moved to excuse the absence of Mrs. Voisard. The motion was seconded by Mr. Deitz. Mr. Bohachek then asked the members of the Board if any discussion was warranted regarding the minutes from the December 13, 2012 and June 13, 2013 meetings which were slated for approval. There being no discussion, Mr. Bohachek moved the minutes from both meetings approved. Mr. Lauterach seconded the motion and it was so ordered.

Mr. Bohachek opened the public hearing. Mr. John Harris, property owner at 336 Ridgewood Avenue, addressed the Board. Mr. Harris explained that his plans to install a patio in his rear yard prompted his request to relocate the condenser units to the side of his property. The current placement of the units interferes with the proposed patio. He explained that there is nothing on the east side of the house that would impede placement of the two condenser units. He also informed the Board that he has spoken to his neighbors to the east of his property who would be most impacted by this placement and has verbal and written verification that they have no objection to this request. Mr. Harris provided copies of this written verification to all of the Board members. Mr. Harris stated that although the units will not be visible from the street, he will screen them by means of a trellis or fencing. He also noted that the units are high-efficiency (Trane XL15i) 2.5 ton and 3.0 ton units and are among the quietest models available on the market.

The Board members then proceeded to pose questions to Mr. Harris regarding his request. Mr. Lauterbach expressed his appreciation for the letter from the neighbors assuring the Board that the neighbors were aware of the request and there would not be an issue with the neighbors. Mr. Lauterbach then asked when Mr. Harris was planning to have the units installed if the request was approved. Mr. Harris replied that he was hoping to have the patio completed and the new units installed by Thanksgiving. Mr. Deitz asked if the power lines would be an issue. Mr. Harris noted that the power lines are underground and would not interfere with placement of the condenser units. Mr. Hill asked if the units had already been purchased. Mr. Harris answered that he has purchased the units. Mr. Hill then asked if there was a sound mitigation feature on the units and Mr. Harris assured him that he did, in fact, purchase the quietest models available.

There being no other comments, Mr. Bohachek closed the public hearing and the Board reviewed the request.

Mr. Deitz commented that based on the information presented by Mr. Harris along with the letter from the neighbors he had no problem approving this request. Mr. Lauterbach also commented that he had no problem approving the request. Mr. Hill expressed his concern about the noise level from the compressors, but noted that the neighbors have not voiced opposition to this placement. Mr. Bohachek stated that most new condenser units are quiet. The Board members then reviewed the drawings and plot plan to determine the proximity of the units to the neighbor's house. Mr. Bohachek commented that he is comfortable with the proposed placement in relation to the neighbor's house. He also quipped that Mr. Harris should definitely install quiet, high-efficiency units or put up with the wrath of Dave Bunting!

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 shape or topographical conditions that necessitate the relocation of the A/C units from the rear to the east side yard.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

- 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 fairly typical of properties in the R-3 zoning district.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

- 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 relocate A/C units from the rear yard to the side yard in order to accommodate a planned rear yard deck.
BOARD OF ZONING APPEALS FINDINGS: Sustained.
- 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 variance is necessitated by the property owners desire to relocate the condenser units from the rear to the side yard.
BOARD OF ZONING APPEALS FINDINGS: Sustained.
- 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 proposed variance is not granted.
BOARD OF ZONING APPEALS FINDINGS: Sustained.
- 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 plan is the adjoining neighbor to the east.
BOARD OF ZONING APPEALS FINDINGS: Sustained.
- 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: There is elevation change between the adjoining properties so the neighbor will be looking down on the two (2) condenser units. However, there is existing vegetation along the property line that will help screen the two units. According to the property owner, the new A/C units are the quietest manufactured by Trane.
BOARD OF ZONING APPEALS FINDINGS: Sustained.
- 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: There are no shape or topographical conditions associated with this application.
BOARD OF ZONING APPEALS FINDINGS: Sustained.
- 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 new A/C units are 2.5 and 3 tons respectively. According to the applicant, he has already spoken with his neighbor to the east about the project and they do not object to the placement of the A/C units in the adjoining side yard.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

Therefore, it was moved by Mr. Hill and seconded by Mr. Lauterbach that application #13-2, the request by John and Antoinette Harris to vary the east side yard setback for the purpose of installing two (2) A/C condenser units at 336 Ridgewood Avenue be approved contingent upon installation of the high-efficiency units Mr. Harris referenced in his presentation.

Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

The Board of Zoning Appeals adjourned. The public meeting concluded at 4:50 p.m.


CHAIR

ATTEST:


RECORDING SECRETARY