Oakwood, Dayton, Ohio
February 18, 2010

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, Mr. Jay Weiskircher, recorded.

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

MR. KIP BOHACHEK..... PRESENT
MRS. SHARON KILLWORTH ..... PRESENT
MR. DAN DEITZ ..... ABSENT
MRS. JANE G. VOISARD ..... PRESENT
MR. GREG LAUTERBACH ..... PRESENT

The following officer of the city was present:

Mr. Jay A. Weiskircher, Assistant City Manager

The following visitor was in attendance:

Bob Jahn, 3441 Indian Hill Drive

It was moved by Mrs. Killworth and seconded by Mrs. Voisard that the absence of Mr. Deitz be excused. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

The minutes of the previous meeting were dispensed with.

Tabled application #10-1, the request by Larry Hyatt to vary the rear yard setback for an addition at 218 Rubicon was presented. The project contractor, Rob Jahn, reviewed the submitted floor plans for the proposed addition and explained the rationale behind the decision to place the addition at the rear of the house rather than the south side yard. Mr. Bohachek commented that after reviewing the proposed floor plan, there are some logical reasons to locate the addition to the rear rather than the south side of the house. Mrs. Voisard noted her preference that the addition be along the side of the house where there is ample space. Discussion ensued on the desirability of having a great room immediately off the kitchen as is being proposed by the applicant. In response to a question posed by Mr. Bohachek, Mr. Jahn confirmed that both the architecture and the building materials being used on the proposed addition will match the existing.

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: The variance is needed to accommodate a proposed addition and is unrelated to the physical surroundings, shape or topographical conditions of the property.

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 somewhat unique in the fact that this lot is more than 4,800 square feet larger than the 6,000 square foot minimum lot size for the R-5 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 meet the life-style needs of the applicant and is not based primarily upon a desire to make more money out of the property.

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 alleged difficulty is created by the applicant's desire to build a two-story addition that encroaches approximately 12' into the required 35' rear yard setback.

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 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: Although the applicant is requesting a fairly significant variance, given the location of the addition and the size of the lot, it does not appear that granting the variance will be injurious to other properties in the immediate area.

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: It does not appear that the proposed variance will impair an adequate amount of light and air to adjoining properties nor create an adverse aesthetic impact.

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, topographic or other conditions that make it difficult to comply with the zoning regulations.

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: Although this is a fairly significant addition in terms of the footprint and mass, given the size of the lot and location of the addition, it does not appear the addition will directly impact any other properties in the immediate area.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

Therefore, it was moved by Mrs. Killworth and seconded by Mr. Bohachek that application #10-1, the request by Larry Hyatt to vary the rear yard setback for a two-story addition at 218 Rubicon Road, and known as lot #129, pt 128, be approved based on plans and information submitted with the stipulation that the architecture of the addition as well as the building materials will match the existing and in accordance with all applicable city rules and regulations.

Upon call of the roll on the question of the motion, the following vote was recorded

MR. KIP BOHACHEK..... YEA
MRS. SHARON KILLWORTH ..... YEA
MR. DAN DEITZ ..... ABSENT
MRS. JANE G. VOISARD ..... NAY
MR. GREG LAUTERBACH ..... YEA

There being three (3) yea votes and one (1) nay vote, said motion was declared passed.

The Board of Zoning Appeals adjourned. The public meeting concluded at 4:55 p.m.

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CHAIR

ATTEST:

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ACTING RECORDING SECRETARY