

Oakwood, Dayton, Ohio

October 11, 2012

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 Vice Chair, Mr. Dan Deitz, presided and the Recording Secretary, Mrs. Cathy Gibson, recorded.

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

MR. KIP BOHACHEK.....	ABSENT
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:

Reiff Lorenz, 426 Lonsdale Avenue  
The Steigers, 420 Lonsdale Avenue

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

It was moved by Mr. Lauterbach and seconded by Mr. Hill that the minutes of the meeting held August 9, 2012 be approved as submitted and the reading thereof be dispensed with at this hearing. Upon a viva voce vote on the question of the motion, the same passed unanimously and it was so ordered.

Mr. Deitz reviewed the meeting procedure with the applicant and explained since only three of the five board members are present, and unanimity is needed to approve the request, the applicant may postpone if they so wish. The applicants indicated their desire to proceed with the hearing.

Application #12-4, the request by James and Judith Steiger to vary the side yard setback for a rear addition at 420 Lonsdale was presented. Mr. Steiger explained plans to install a mudroom/half bath and a variance is needed for the proposed location since they don't want to cover a basement window. He noted it will be one story; the same color siding and roof. Mrs. Steiger explained they want it to look good and will also install some landscaping. Mr. Lauterbach asked if there will be a cover over the door. The contractor indicated there is a one foot overhang. Mr. Lauterbach asked if the fence will be relocated. Mr. Steiger concurred as it keeps the dog in the rear yard. Mr. Lauterbach referenced the elevation from the street and the visible roof line. He wondered if they could turn the fascia toward the house rather than the street. The contractor agreed. Mr. Hill asked if the kitchen is inside the mudroom. Mrs. Steiger agreed and explained there will be an arch between the rooms so as to eliminate doors. Mr. Hill asked if the basement is finished. Mrs. Steiger indicated they have a drop ceiling and rooms they use.

Mr. Deitz opened the public hearing. Mr. Reiff Lorenz explained he owns the apartment building adjacent to the variance encroachment and believes this will not impact his tenants and he has no objection to the request. There being no other comments, Mr. Deitz closed the public hearing and the board reviewed the request.

## 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 physical surroundings, shape or topographical conditions in this application which create a hardship for the property owner.  
 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-6 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 lifestyle needs of the property owners 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 construct an addition that encroaches into the required side 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 in question can yield a reasonable return if the variance is not approved.  
 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 granting of the variance will not be detrimental to the neighborhood.  
 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: The proposed addition will have no impact whatsoever on the four unit apartment building to the east.  
 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, topography or other land conditions that make it difficult to comply with the 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: Since the applicant wishes to maintain an existing basement window, the addition must be moved to the east thereby encroaching approximately one foot into the required side yard setback.

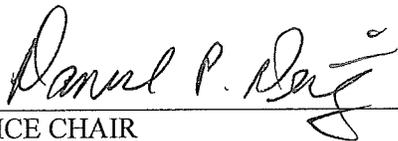
BOARD OF ZONING APPEALS FINDINGS: Sustained.

Upon consideration of these representations by the applicant, the board made a finding that these standards for variances have been met.

Therefore, it was moved by Mr. Lauterbach and seconded by Mr. Hill that application #12-4, the request by James and Judith Steiger to vary the side yard setback for a rear addition at 420 Lonsdale Avenue, and known as lot 2786-87, be approved based on plans and information submitted, subject to modifying the roof on the north side so the facia is turned into the house, and in accordance with all applicable city rules and regulations. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Mr. Weiskircher announced this is Mrs. Gibson's last meeting as she is retiring after 31 years with the city. He and the board extended thanks for her work over the years.

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

  
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 VICE CHAIR

ATTEST:

  
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 RECORDING SECRETARY