

Oakwood, Dayton, Ohio

June 13, 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 Recording Secretary, Ms. Lori Stacel recorded.

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

MR. KIP BOHACHEK.....PRESENT
 MR. DAN DEITZPRESENT
 MRS. JANE G. VOISARDPRESENT
 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:

Matt Currie, 263Ridgewood Ave.
 Jerry Neely, Deck Pros

Mr. Weiskircher noted that since this is the first meeting of the BZA for 2013, they will need to appoint a Chair and Vice-Chair. Following a brief discussion, Mr. Dietz made a motion, second by Mrs. Voisard to reappoint Mr. Bohachek as Chair and Mr. Dietz as Vice-Chair. The motion was passed unanimously.

Application #13-1, the request by Leslie King to vary the side yard for a 5 foot wide deck at 263 Ridgewood Avenue, and known as lot 297

Mr. Bohachek opened the public hearing. Mr. Matt Currie explained that he is requesting an additional 2' variance for his deck. The variance request is associated with open windows on the west side of the house and a desire to make the deck wheelchair accessible; he has concluded that the 3' width is simply inadequate. Mr. Currie added that he has already spoken to the neighbors and they do not have any objections. Mr. Bohachek inquired about the door on the west side of the deck. Mr. Currie confirmed that they will be removing 2-3 windows to add a sliding door in their place. Mr. Lauterbach inquired about the walkway at the end of the steps from the deck. Mr. Currie shared that the steps from the deck will step down into grass. Mr. Hill asked what type of material will be used for the deck. Mr. Currie confirmed that the deck will be wood and the spindles will be out of either bronze or wood. Mr. Neeley, Contractor with Deck Pros, added that the walkway will be 2' 6" and the bottom of the deck will be covered with lattes. 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 unusual shape or topographic conditions associated with this application.

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 not unique to this property. The applicant has already been issued a permit for a 3' wide deck that will extend to the north and wrap around the northwest corner of the house and extend to the existing sun room.
 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 request is not based 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 applicant indicates there are two reasons for the variance request. First, when the windows are open along the west side of the house there is not enough space to walk along the 3' side section of the deck. Secondly, the applicant has a grandmother in a wheelchair and needs the additional width to make the deck wheelchair accessible.
 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 deck is constructed within the required zoning setbacks.
 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: It does not appear that granting the variance request will be detrimental to the 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: The granting of the variance will not create an adverse aesthetic appearance nor diminish property values.
 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 topographic 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: As already mentioned, the additional width is being requested because of the deck space lost when the windows are open as well as the need to accommodate a wheelchair.

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.

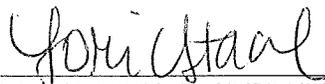
Therefore, it was moved by Mrs. Voisard and seconded by Mr. Hill that application #13-1, the request by Leslie King to widen the side portion of the deck from 3' to 5' thereby creating an encroachment of 2' into the side yard setback. , be approved based on plans and information submitted, subject to lattes installed on all sides and landscaping be installed on sides of house no smaller than 30" plants with estimated growth of 5'. 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 4:59 p.m.



 CHAIR

ATTEST:



 RECORDING SECRETARY