

Oakwood, Dayton, Ohio  
September 11, 2014

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 DEITZ.....PRESENT  
MR. GREG LAUTERBACH .....PRESENT  
MR. KEVIN HILL .....PRESENT  
MRS. LINDA WEPRIN .....PRESENT

The following officers of the city were present:

Mr. Jay A. Weiskircher, Assistant City Manager  
Mr. Dave Bunting, City Inspector  
Ms. Lori Stacel, Clerk of Council

The following visitors registered:

John, Amanda, Riley and Kieran Robb, 352 Wonderly  
Pat Scott, 362 Wonderly Avenue  
Larry Bower, Contractor

Mr. Bohachek asked the members of the Board if any discussion was warranted regarding the minutes from the August 14, 2014 meetings which were slated for approval. There being no further discussion, Mr. Bohachek moved that the minutes from the August 14, 2014 meeting be approved. Mr. Lauterbach seconded the motion and it was so ordered.

Mr. Bohachek reviewed the meeting procedure with all in attendance.

Application #14-5, the request by John and Amanda Robb to vary the west side yard for a proposed one story addition at 352 Wonderly Avenue and known as lot 2951.

Mr. Bohachek opened the public hearing. Mr. John Robb, property owner at 352 Wonderly Avenue, shared that his family moved into the home at 352 Wonderly Avenue seven years ago and have refinished the basement, renovated the front porch and completed several waterproofing projects since moving in. The proposed addition would include space for an office, half bath and dining room. He added that once the proposed addition is complete, the entire house will be re-sided.

Mr. Dietz asked why an addition in the rear of the house isn't feasible. Mr. Robb shared that they have concerns with placing the addition in the rear of the house because of the proximity to the driveway and garage as well as then requiring the kitchen to be remodeled and in turn changing the flow of the house.

Mr. Lauterbach asked if the pantry connects to the proposed addition. Mr. Robb clarified that the pantry shown in the plans is actually the dining room.

Mr. Lauterbach asked if the window to the south looks out to the rear yard. Mr. Robb confirmed that it does.

Mr. Bohachek asked what material will be used on the new siding replacement on the house. Mr. Bower confirmed that vinyl siding will be used.

Mr. Bohachek explained that the vinyl siding could present an issue due to the building code requirement for fire separation distance since the property is less than 5 ft. from the property line.

Mr. Lauterbach inquired about the roof design. Mr. Bower shared that the property owners supplied a picture from a house in Oakwood with a similar design.

Mr. Lauterbach asked if other roof designs were considered. He further explained that flat roofs are not aesthetically appealing and he feels there are other options that could be pursued.

Mr. Hill agreed with Mr. Lauterbach's comments and asked if the property owners even considered placing the addition at the rear of the house.

Mr. Robb shared that they did not get an architect evaluation. Mrs. Robb explained that they thought about adjusting the kitchen, but they were uncertain of the layout and had concerns about the flow of the house.

Mrs. Pat Scott, 362 Wonderly Avenue, shared that she is a neighbor and is happy with the proposed changes.

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

Mr. Bohachek discussed that not only would zoning approval be required with this request, but the building code issue will need to be addressed as well.

Mr. Hill added that as long as the wall has a 1-hour fire-resistance rating, vinyl siding should be acceptable.

Mrs. Weprin asked if the fire resistance ratings are a new requirement from the state. Mr. Bohachek shared that it is not a new requirement, but the code has been recently amended from 3 feet to 5 feet. He added that fire separation distance is an important factor in both commercial and residential building codes.

Mr. Dietz shared that he understands that the neighbor supports the proposed addition, but he feels that the house would be mismatched and stand out from the other homes in the area.

Mrs. Weprin shared that the proposed addition would make the house look aesthetically better and she liked from a re-sale standpoint the idea of adding the half bath on the main floor.

Mr. Lauterbach added that he feels the look and design of the roof was a missed design opportunity and that there are other design opportunities that would accomplish what the property owners are looking for.

Mrs. Weprin shared that she feels the addition to the rear of the house would affect the flow of the room and limit accessibility from one room to another.

Mr. Bohachek asked if anyone had a motion to present for this application. No motion was presented.

Mr. Bohachek asked for clarification on the process when no motion is brought forward. Mr. Weiskircher explained that the request would be denied.

Mr. Bohachek asked if the applicant would be able to present a different proposal to the Board. Mr. Weiskircher explained that the applicant would either need to wait a year to present the same proposal to the Board or they could submit a new proposal at any time.

Mr. Dietz asked how the ordinance reads in regards to the new proposal. Mr. Bunting explained that the ordinance specifies that substantial changes are required to present a new proposal.

#### **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 cause a hardship to the property owner.

BOARD OF ZONING APPEALS FINDINGS: Denied.

- 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 for the R-5 zoning district.

BOARD OF ZONING APPEALS FINDINGS: Denied.

- 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 accommodate a proposed addition and is not based upon a desire to make more money out of the property.

BOARD OF ZONING APPEALS FINDINGS: Denied.

- 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 property owners desire to construct an addition on the west side of the home that will encroach approximately 2' into the required 5' setback.  
BOARD OF ZONING APPEALS FINDINGS: Denied.
- 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 granted.  
BOARD OF ZONING APPEALS FINDINGS: Denied.
- 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 impacted by the proposed addition is the neighbor to the west. Although there is currently a concrete porch slab with a covered awning on this side of the house, the addition represents a significant increase in mass along this side of the property.  
BOARD OF ZONING APPEALS FINDINGS: Denied.
- 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: If the addition is approved the property owners intend to re-side the entire house and install new landscaping along the front of the house.  
BOARD OF ZONING APPEALS FINDINGS: Denied.
- 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: Reducing the width of the proposed addition in order to accommodate the required setback essentially renders the proposed living space unusable.  
BOARD OF ZONING APPEALS FINDINGS: Denied.
- 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.

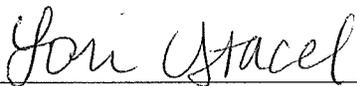
PRELIMINARY STAFF FINDINGS: As part of the proposed improvements the property owner is taking steps to enhance the overall appearance of the property by re-siding the entire house and installing new landscaping.

BOARD OF ZONING APPEALS FINDINGS: Denied.

The public meeting concluded at 5:05 p.m.

  
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 CHAIR

ATTEST:

  
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 RECORDING SECRETARY