

Oakwood, Ohio
February 3, 2015

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, Oakwood, 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 BOHACHEKPRESENT
MR. DAN DEITZ.....PRESENT
MR. GREG LAUTERBACHPRESENT
MR. KEVIN HILLPRESENT
MRS. LINDA WEPRINPRESENT

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 and India Clarke, 112 Beverly Place
Mark Keil, Contractor

As the minutes for the January meeting were inadvertently excluded from the materials provided to the BZA in mid-January, action was deferred until the next meeting.

It was moved by Mr. Lauterbach and seconded by Mr. Hill that application #15-1, the tabled request by John and India Clarke to vary the rear yard and side yard setbacks for proposed two car garage, house and driveway additions at 112 Beverly Place, be reopened. Upon a viva voce vote on the question of the motion, the same passed unanimously and it was so ordered.

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

The matter was then opened for public hearing.

Mr. Mark Keil, contractor for 112 Beverly Place, asked the board members if they have any preliminary questions.

Mr. Hill asked if the turning radius for the side yard driveway expansion was based on the size of the Clarkes current vehicles.

Mr. Keil answered that it was and he understands it is a tight radius that will require maneuverability.

Mr. Keil shared that he understands that this proposal is not a small request, but it was the best solution to meet the Clarkes needs. The Clarkes understand that if they eliminate the workshop it would open up quite a few other opportunities, but after reviewing the other plan options, it wasn't giving the Clarkes exactly what they needed. At the last meeting, it was mentioned that a hardship was not shown. Mr. Keil read a list of hardships that Mr. Clarke created as to why they were asking for the variances. He added that there has not been any opposition to the variance requests at either meeting and after driving around Oakwood, he is unconvinced that it would have any impact on the neighborhood. The only good view, besides the neighbors to the east, is from Schantz Avenue heading toward Oakwood High School. He will have substantial oversight of the project and the information being presented is what will be built.

Mr. Clarke, property owner at 112 Beverly Place, explained that they are doing the updates because they love living in Oakwood. The garages are visually a tradition in Oakwood and he wants to preserve the footprint of the existing garage. He and his wife reviewed other plans, but this proposal satisfies their needs and desires.

Mrs. Weprin asked what type of projects Mr. Clarke does in his workshop.

Mr. Clarke shared that he builds things of a practical nature of a slightly larger scale. For example, he replaced the shutters on his house with ones he made of redwood and has built doors for his house.

There being no further public testimony offered, the public hearing was closed and the Board of Zoning Appeals began its deliberations.

Mr. Bohachek asked for staff clarification regarding the information on 545 Acorn and 241 Spirea that was provided to the board as requested with additional information. He was curious if a zoning approval was not required because the garage was attached to the house with an open breezeway.

Mr. Weiskircher responded that these projects occurred before the zoning code was in effect.

Mr. Dietz asked when the zoning code was written.

Mr. Weiskircher answered that the zoning code was adopted in the mid 1960's.

Mr. Hill shared that he appreciated city staff putting together all of the information as requested. He shared that he still is not hearing a hardship with this request and has concerns with the submission as proposed. He added that in the general interest of the community, he doesn't feel he can approve the request.

Mr. Lauterbach added that he has similar sentiments as Mr. Hill. There is much that could be achieved without the need of a variance and could be minimal compared to what is being requested.

Mrs. Weprin shared that she agrees with the other comments. She has been involved in a lot of remodeling and it seems like it could be done in other ways with less impacts.

Mr. Bohachek shared that he appreciates the time and effort that was put into the design of the structures. While it is well thought out, he is concerned about the precedent this will set if approved. He understands that there is a need for modernization, but wonders why the level of variance in this request is needed.

Mr. Dietz agreed with the comments of the other board members.

No motion for approval was presented for application #15-1, to vary the rear yard and side yard setbacks for proposed two car garage, house and driveway additions at 112 Beverly Place, so the variance requests were denied.

Mr. Bohachek complimented the Clarkes and Mr. Keil on the thoroughness and detail of their application and encouraged them to work with city staff on an alternative design that would meet their expressed needs without the mass of the original design.

Mr. Clarke asked if the addition to the house would exceed the required setback without the attachment.

Mr. Lauterbach answered that it would exceed the required setback and would need to be trimmed back approximately 6" – 12" or they would need to apply for a variance.

Mr. Weiskircher shared that in the past, city staff has worked with applicants and if the request was within 6", either Mr. Weiskircher or Mr. Bunting has discretion to approve the request.

Mrs. Weprin shared that as a real estate agent, the third garage adds about \$8,000 – \$10,000 to the value of the house. If the garage is kept as is, it could be used as a family room or den which would add more value when the house is sold.

Mr. Clarke added that the proposed changes were not to gain value from selling the house.

Mr. Bohachek commended the board members on their work with this application.

For purposes of the minutes, the preliminary staff findings as stated in the Staff Report were as follows:

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:

- Rear Yard: There are no shape or topographical issues that necessitate the rear yard variance request.
- Side Yard: The locations of the existing garage as well as the proposed garage make it impossible to turn around without the additional space provided by the side yard variance.

- 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:

- Rear Yard: The conditions in this variance request are created by the applicants desire to convert the existing garage into a workshop and to add a house and garage addition to the rear of the property.
- Side Yard: The side yard variance is needed to accommodate an enlarged turning radius for vehicles using the new garage.

- C. The purpose of the Variance is not based primarily upon a desire to make more money out of the property.

PRELIMINARY STAFF FINDINGS:

- Rear Yard: The purpose of the variance is to modernize the existing interior floor plan and construct a two bay garage to replace the existing garage space being converted to a workshop.
- Side Yard: The side yard variance is needed to provide an adequate turning radius for the new garage.

- 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:

- Rear Yard: The alleged difficulty in this application is being created by the applicants desire to convert an existing garage into a workshop, to enlarge the footprint of the existing house, and to construct a replacement garage.
- Side Yard: The side yard variance is needed to accommodate adequate turning radius to the new garage.

- 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:

- Rear Yard: The property can yield a reasonable return if the variance is not granted.
- Side Yard: Without the side yard variance it will be much more difficult to back out of the new garage.

- 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:

- Rear Yard: Connecting the house addition, the new two bay garage and workshop creates a significant amount of building mass in the rear yard. None of the properties on this side of Beverly, or the adjacent north side of Spirea, have this concentration of rear yard building mass.
- Side Yard: The side yard variance is not as concerning since many driveways around the community already directly abut adjacent properties.

- 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:

- Rear Yard: Although the appearance of the building addition along with the materials will match the existing, there will be very little green space remaining when the addition is completed.
- Side Yard: The proposed side yard variance should not have an adverse impact on the adjoining property to the west.

- 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:

- Rear Yard: It does not appear there is sufficient rear yard space to adequately accommodate the proposed additions and still have a property that is visually compatible with the surrounding neighborhood.
- Side Yard: Without the side yard variance there is not sufficient space to make an adequate turning radius.

- 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:

- Rear Yard: The proposed addition will result in rear yard building mass, size and scale that distinguishes this property from all others in the immediate area.
- Side Yard: In the overall scheme, the proposed side yard variance is insignificant compared to what is being proposed in the rear yard.

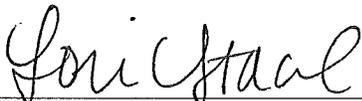
Therefore, it was moved by Mr. Bohachek and seconded by Mr. Deitz that the meeting be adjourned. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

There being no further business, the meeting concluded at 5:26 p.m.



CHAIR

ATTEST:



RECORDING SECRETARY