

ZONING BOARD OF APPEALS MINUTES OF APRIL 12, 2005

Meeting called to order by Vice Chairman Blackwood at 4:45 p.m. in the Executive Conference Room, City Hall Plaza.

PRESENT: Harry Blackwood, Dean Markwardt, Don Wink and 1st Alternate Marvin Duerr

EXCUSED: Karl Zimmermann

ABSENT: Wallace Reek

Also Present: Planner/Zoning Administrator Curtiss, Jeffery Andrews, Marla Morgan, James Oelhafen, Marian Erikson-Oelhafen, Donald Lander, Shirley Lander, Shirley Burt-Overli, Wendy Evert, Dave Schalow, Tammy Treutel and Michael Behling of Woodstock Construction

There was an error on the Zoning Board of Appeals notice that was published in the newspaper. We can not elect a Chairman or Vice Chairman until after the Common Council Organizational meeting of April 19th. The items to elect a Chairman and Vice Chairman will be on the next Zoning Board of Appeals meeting.

Administrator Curtiss read the variance request from Jeffery Andrews to construct a covered front porch on the home located at 500 South Palmetto Avenue, in the 'R-4' Low Density Single and Two-Family Residential District. Section 18-62(5)(f) of the Municipal Code requires a minimum 25' front yard setback. Applicant requests an 8.5' variance in order to build the covered porch 16.5' from the South Palmetto Avenue right-of-way.

Planner/Zoning Administrator Curtiss noted that initially she was concerned the porch addition would encroach into the corner vision clearance triangle on the property. However, after a site visit and additional field verification, corner vision is not an issue.

Planner/Zoning Administrator Curtiss read a statement of facts regarding the variance request.

Markwardt asked the applicant to clarify the details of the porch construction and asked the Administrator if the variance was necessary for an open porch. Jeffrey Andrews explained the porch would be a full length, covered porch with four posts. A dormer would be designed over the door, but the porch would not be enclosed. Curtiss explained when an addition is integral to the principal structure; it must meet the same setbacks. Whether or not the porch is open or enclosed doesn't make a difference in the variance request.

Duerr commented on similar porch features of existing homes along South Palmetto Avenue and thought the porch addition would add to the aesthetics of the neighborhood.

ZB05-02 Motion by Duerr, second by Wink to grant a 8.5' front yard variance in order to build the covered porch 16.5' from the South Palmetto Avenue right-of-way. All Ayes.

Motion carried

The Zoning Board of Appeals considered the following issues in granting the variance.

1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.
2. This house is already nonconforming for front setback on Palmetto Avenue with a 22.5' setback. A two-ft overhang on the front of the house also projects in the yard area.
3. The 'averaging provision' for setbacks cannot be applied along Palmetto Avenue as there is only one other home in the block on this side of the street. The house to the south has a similar 22-ft nonconforming setback.

4. This request would increase the degree of setback non-conformity of the structure along Palmetto. It is the intent of the zoning code to permit these nonconforming structures to continue, but not to allow alteration or enlargement of a structure in such a manner as to increase the degree of nonconformity. Section 18-33(4)(b) provides that a structure may not be altered increasing the degree of nonconformity, *except* as permitted by the Board.
5. The house is located on a corner lot with vision clearance requirements. The proposed porch would not extend into this area.

Administrator Curtiss read the variance request from Donald Lander to construct a 20' x 28' detached garage on the lot at 1614 South Apple Avenue in the 'R-4' Low Density Single and Two-Family Residential District. Section 18-04(2)(a) of the Municipal Code requires that accessory buildings not exceed the ground floor area of the main residence. The accessory structures on the lot would total 1,168 sq. ft., exceeding the 1,144 sq. ft. ground floor of the home. Applicant requests a 24-sq. ft. variance in order to construct the additional garage.

Planner/Zoning Administrator Curtiss presented a statement of facts regarding the variance request.

Duerr asked if a variance would be necessary if the house was 1,168-sq. ft. in size or larger. Curtiss answered 'no' and explained that total size of accessories in R-4 districts cannot exceed the lesser of 1,200-sq. ft. or the ground floor area of the home. In this case the size of the home sets the limit for size of accessory structures.

Mr. Lander understood that if he removed the storage shed on the lot, this variance wouldn't be necessary. But, he wants to keep the storage shed because it has been sided to match the home and placed on a concrete slab. He also noted that the new garage could have been designed a little smaller, but he wanted the additional area to maneuver around vehicles.

ZB05-03 Motion by Markwardt, second by Duerr to grant a 24- sq. ft. accessory structure size variance. All Ayes.

Motion carried

The Zoning Board of Appeals considered the following issues in granting the variance.

1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.
2. No additional zoning variances are required. The proposed garage meets all other requirements of the zoning ordinance related to accessory structures.
3. Zoning limitations on accessory structure size are intended to ensure that accessory structures are subordinate to the principal structure, and to prevent large structures from imposing too much on neighboring properties. The detached garage, as an individual accessory structure, is about half the size of the house. The total square footage of accessory structures only exceeds the ground floor of the home by 24-sq ft. The variance request is very minimal. In fact, if the storage shed were removed a variance would not be necessary.
4. The floor area of the house is only 1, 144-sq. ft. This smaller than average home limits the total accessories on the lot to less than the 1,200-sq. ft. maximum permitted under the 'R-4' district.

Administrator Curtiss read the variance request from Tammy Treutel to construct a 23'-high detached garage at 810 Western Street, in the 'R-5' Medium Low Density Single and Two-Family Residential District. Section 18-04(2)(f) of the Municipal Code requires that detached accessory structures not exceed 19' in height. Applicant requests a 4ft-height variance in order to build the garage as proposed.

Planner/Zoning Administrator Curtiss noted that the builder just today submitted a revised building plan for the garage. Curtiss presented the plan to the Board and summarized the changes and additional information presented on the plan. The size of the garage is the same, but designed with a 21.5' height to the peak of the garage. Curtiss compared the revised garage plan to the elevation and height of the house. The house is 23' in height based on the ground elevation. The new plan also shows a 4' difference in grade from the house to the proposed garage location.

The applicant explained the revised building plans and request for the variance.

Curtiss noted her objection to the original request and presented a statement of facts. She made the following observations from the revised plan. The proposed location of the garage on the lot is the same and meets setback requirements. A 21.5'-high garage requires a minimum 2.5' height variance as opposed to a 4' height variance as originally requested. The revised height of the garage would not exceed the height of the house. She noted that similar 2.5' height variances have been granted, however, still recommended caution in granting variances where the code was recently amended to address the general nature of recurring requests.

Curtiss explained the option of the Board to either consider the revised variance request or delay their decision till the next meeting.

Duerr considered a modification to the request 'not to exceed a 3-ft height variance' to allow some flexibility in the final design.

ZB05-04 Motion by Markwardt, second by Duerr to allow the applicant to modify the request to a 3 ft-height variance for the detached garage. All Ayes.

Motion carried

ZB05-05 Motion by Duerr, second by Markwardt to grant a 3-ft height variance. All Ayes.

Motion carried

The Zoning Board of Appeals considered the following issues in granting the variance.

1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.
2. The variance request, if approved, would allow an accessory structure to exceed the Zoning Ordinance's recently increased height limitations. The ordinance was amended in February 2001 to increase the height from 16' to the current 19' maximum. The ZBA has granted variances since the change of the code. However, I caution against granting variances where the code has recently been amended to specifically address the number of recurrent requests.
3. A 4-ft height variance is in excess of height variances granted since the Code change.
4. The proposed garage complies with all other related Zoning Ordinance requirements for accessory structures.
5. Zoning limitations on garage height are intended to ensure that accessory structures are subordinate to the principal structure, and to prevent large structures from imposing too much on neighboring properties.
6. The site plan indicates that the garage will be located 20' from the rear of the house placing the structure approximately 70ft from the front lot line. The proposed placement of the garage along the east lot line is similar layout and location to the detached garage located on the neighbor's lot.
7. The majority of the homes in the neighborhood are at a similar or greater height.

Administrator Curtiss read the variance request from Woodstock Construction to build a single-family residence at 1114 Devine Drive (Lot 62 of the 8th Addition to Devine Subdivision), in the 'R-2' Large Lot Single Family District. Section 18-62(3)(f) of the Municipal Code requires a 30' front yard setback.

Applicant requests an 8' variance to construct the dwelling at its closest point 22' from Devine Drive right-of-way.

Planner/Zoning Administrator Curtiss presented a statement of facts regarding the variance request.

Mike Behling of Woodstock Construction summarized the request. He noted site difficulties of a large corner radius and shape of the lot. He reviewed the different layout options for the lot. One option was to build the home with the front facing west. The house would be long and narrow if developed in this direction and would have no back yard. He felt this style of home was not consistent with the style of other homes in the subdivision. He decided on the current layout with the front of the house facing north. The house would be similar in size and style to others in the subdivision. Behling explained that in order to maintain a 30' setback along the curve, the house would have to be placed much further back on the lot than other homes east on Devine Drive. This would greatly offset the house from others on Devine Drive and place the garage entrance next to the patio of the neighbor to the east.

ZB05-06 Motion by Duerr, second by Wink to grant an 8' variance to construct the northwest corner of the house 22' from Devine Drive. All Ayes.

Motion carried

The Zoning Board of Appeals considered the following issues in granting the variance.

1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.
2. The builders can layout a house plan for the lot and meet all setback requirements. However, due to the setbacks along the curve the house would be setback much further than the existing homes developed on lots to the east.
3. This corner lot, unlike the majority of other corner lots in the City, is designed with a large 70-ft curve radius at the corner to accommodate the curve design of the road. A 30' front yard setback is required along the entire Devine Drive frontage.
4. The applicant has requested the minimal variance necessary to prevent a substantial offset of the house compared to other homes east on Devine Drive. The northwest corner of the house would only extend 8' into the yard area on the curve, allowing a much less noticeable offset of the home.
5. Corner vision is not an issue based on the curve design of the road.

Motion by Duerr, second by Markwardt to adjourn at 5:30 p.m.

Motion carried

Respectfully submitted,
Bonnie Curtiss
Planner/Zoning Administrator

For Lori A. Panzer
Deputy City Clerk