

ZONING BOARD OF APPEALS MINUTES OF APRIL 14, 2009

Meeting called to order by Chairman Markwardt at 5:02 p.m. in the 1st Floor Conference Room, Suite 108, City Hall Plaza.

PRESENT: Dean Markwardt, Wallace Reek, Karl Zimmermann, 1st Alternate Todd Zieglmeier and Ed Gerl (arrived at 5:07 p.m.)

EXCUSED: Don Schnitzler

ALSO PRESENT: Planner/Zoning Administrator Curtiss, Director of Planning and Economic Development Angell, Deputy Clerk Panzer, Bruce Tibbett, Nancy Tibbett, George Sternweis and Sue Nelson

ZB09-05 Motion by Zieglmeier, second by Reek to approve the minutes of March 10, 2009 as submitted. All Ayes

Motion carried

Deputy Clerk read the variance request from Bruce and Nancy Tibbett to construct a 22' x 34' garage onto the east side of the residence at 1610 W. 6th Street, zoned "R-3" Residential (Standard Single-Family) District. Section 18-62 (4)(f) 3(a) of the Municipal Code requires a minimum 7.5-ft side yard setback. Applicants requested a 5-ft variance to the east side yard setback to construct the new garage 2-ft 6-in from the lot line.

Background

The applicants currently have a detached garage and proposed to replace it with a larger garage attached to the east side of house.

A building permit would be administratively denied for this plan, based on non-compliance with Section 18-62 (4) (f) 3(a) of the Municipal Code. The applicants requested a 5-ft variance to the 7.5-ft side setback requirement.

Planner/Zoning Administrator Curtiss distributed the variance criteria identified within the Municipal Code and the variance criteria identified by State law.

Planner/Zoning Administrator Curtiss added the following statements to her statement of facts summary:

1. The 7.5-ft requirement as it is related to accessory structures proposed to be attached to the principal building is identified in the Municipal Code general provision 18-04 (2)(g); which says when an accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to main buildings. Meaning whatever that requirement is in that district for a dwelling side yard would then apply and in this case in the 'R-3' District that is the 7.5 feet.
2. When zoning codes are written it is pretty common that detached accessory structures will have less of a setback and in this case in Marshfield's code it is a 3-ft minimum. When the garages are attached it is very typical just like our code that those will be subject to the same standards for principal structures for reasons that it becomes part of the structure, a larger mass than otherwise would be if it were singly detached.
3. When zoning codes are written to determine appropriate side yard setbacks for garages in ordinances it often relates to lot sizes in the community and of the various zoning districts. In this case, the 'R-3' District has a 7.5-ft setback whereas in larger lot subdivisions it might be 10-ft. It is kind of a balancing act when these standards are set, because it allows the flexibility and at the same time recognizes the potential impact on neighboring properties in community character.

Planner/Zoning Administrator's statement of facts regarding the variance request:

1. The property is zoned "R-3" Residential (Standard Single-Family).
2. The property is recorded as Lot 2 of Block 3 of Maryknoll Subdivision in the City of Marshfield. The subdivision was platted in the 1950's.
3. The Lot is 13,300-sq. ft. in size, 69.70-ft wide and is a conforming lot in the R-3 Residential District. The R-3 District Lot standards for a Single-Family Residence are 10,000-sq. ft. minimum lot size and 60-ft. minimum lot width.
4. The lot is not unique in size when compared to the rest of the lots in the Maryknoll Subdivision (lots and blocks between West 5th Street, South Schmidt Avenue, West 8th Street and South Lincoln Avenue). This subdivision makes up a large part of this R-3 Residential District.
5. There are alternatives to build and locate a new detached garage on the lot without a variance.
6. The general purposes of side yard setbacks are to ensure access to sunlight, to ensure access around a structure, room for maintenance, open space, privacy and line of sight. Houses that are side-by-side with little setback could potentially cut off solar light, potentially leaving a wall in permanent shadow. Setbacks can provide room for easy and convenient maintenance to, or access around, a building. Setbacks also provide a sense of open space and privacy between adjoining buildings, to avoid the window-to-window effect, and can provide a clear line of sight to street and back yards.
7. There is questionable compliance with variance criteria outlined in Section 18-35 (2) of the Municipal Code.

Zieglmeier referred to #5 of the statement of facts and asked if there are other options to building an attached garage.

Planner/Zoning Administrator Curtiss said that there are possible options for an attached garage, but not for a two stall garage maintaining the 7.5' setback.

Zimmermann asked if the garage door was going to be an 18' overhead door as the drawing shows or a 16' overhead door with a service door as the picture shows.

Mr. Tibbett stated that it would be a 16' overhead door with a service door as the elevation picture shows. He said that he has also changed the pitch on the roof of the garage to 4' 12". The existing pitch of the house roof is 6' 12". The reason for the 6' 12" pitch was to create some attic space for storage, but he really doesn't need it.

Reek asked Mr. Tibbett if there was any particular reason why he wanted to do this since he has a double garage now.

Mr. Tibbett explained that his double garage is 18' wide now and it is hard to squeeze two vehicles in it. The new garage won't sit any closer to the lot line than the one that is there now. The new garage will be 22' wide and 34' deep. He has a pop up camper that he is looking at storing and he has to do some work to the house, so he thought this would be a good time to attach the garage to the house.

Chairperson Markwardt stated that the existing garage is only 2.5' from the lot line. He asked if that was within the current code or if it was grandfathered.

Planner/Zoning Administrator Curtiss said that there is some sort of grandfather clause, because it was built in 1952, predating the code.

Zimmermann asked if Mr. Tibbett was building the garage without an overhang.

Mr. Tibbett said yes. From the neighbors wall to the foundation of the garage that is there now it is 10'. The peak of his garage which is 17' will come to the back corner of his neighbor's house. He said that he will lose one window in the downstairs of his house. He plans to raise the roof on the back wall of his house, so he can change his ½ bathroom to a full bathroom upstairs.

Zimmermann referred to Juliene Krahn's letter opposing the variance request and asked if she was a back door neighbor.

Mr. Tibbett said yes, she is down the end of the block on another street.

Planner/Zoning Administrator Curtiss explained that it is required to notify property owners within 100' and abutting of variance requests.

Mr. Tibbett said that he went around to the neighbors as did Sue Nelson and none of them were opposed to this variance.

Sue Nelson of 1606 West 6th Street, next door neighbor, read a letter she wrote and expressed the following concerns:

- The garage would be very close to her home and all three of her bedrooms are located on that side of her home. The large garage door would be opening/closing right between two of her bedroom windows.
- She has a great love and appreciation of natural light and a structure this large would block light into her home. And looking out from her windows, she would have a view of a tall building.
- She generally leaves her windows open for cross ventilation and fresh air, and such a large structure would negatively impact this.
- She has shrubs and a lilac bush, which could be affected by decreased light.
- She is worried about the impact of value on her home, should she ever sell.

Sue Nelson passed around a few pictures showing the closeness of her home and Tibbett's existing garage.

Zieglmeier mentioned that attaching the garage to the house will limit access to the Tibbett's backyard. Currently there is a walkway between the house and garage. If an attached garage is built the walkway will be gone and the Tibbetts shouldn't be trespassing on the neighbor's lawn to get to their backyard.

Mr. Tibbett said that there would be an entrance on the front and the back of the garage.

George Sternweis of 1604 West 6th Street spoke against the variance request. He said this variance has no bearing on his property, but he has the same feelings as Sue Nelson has. If it were a garage to garage scenario he would not have any concerns about it, but since it is a garage to a bedroom side of a home he is against it.

Gerl asked what the separation was now between the Tibbett's house and garage.

Mr. Tibbett said that there is about a 4' separation.

Gerl asked what the code was now.

Planner/Zoning Administrator Curtiss said for a detached structure the distance between that and a home is 5' for current day.

Gerl asked if Mr. Tibbett could leave the detached garage as it is and build onto the back to make it bigger.

Mr. Tibbett explained that he would need at least a 24' wide garage, so he wouldn't have to worry about swinging into the corner of his house all the time.

Planner/Zoning Administrator Curtiss said that there is room on the lot to push the garage back.

Mr. Tibbett said if the variance is turned down, he would not build a new garage. The only way he would build a new garage is if it were attached to the house. He has a two car garage now, and he is not going to tear it down to rebuild a new detached garage just to make it a few feet bigger.

ZB09-00 Motion by Reek to grant the variance request from Bruce and Nancy Tibbett as submitted for a 5-ft variance to the east side yard setback to construct the new garage 2-ft 6-in from the lot line. Motion died for lack of a second.

ZB09-06 Motion by Gerl, second by Zieglmeier to deny the variance request from Bruce and Nancy Tibbett, because of Sue Nelson's concerns and that there is no real hardship to the lot or building itself.

Bruce Tibbett said that the garage he was planning on building was not just to create more room it was also to help them stay out of the weather. He is 49 years old and planned on staying in this house the rest of his life, but since he can't attach the garage to his home he may change his mind and have to move. He has a lovely neighborhood and a beautiful backyard with a nice deck and some trees.

Vote on motion **ZB09-06**; Gerl, Markwardt, Zimmermann and Zieglmeier voted Aye, Reek voted Naye.
Motion carried

Planner/Zoning Administrator Curtiss distributed a Zoning Board of Appeals Decision Self-Audit report related to Variance Requests to Marshfield Municipal Code, Section 18-04 (6) Major Street Setback Requirement. She explained that it is recommended either as the situation arises or as part of an annual self-audit to look at the decisions related to variance requests and if some of those variance requests are of the recurring type and if there are some common elements related to that then it might be a situation that this Board may want to recommend to the Plan Commission to study it and recommend any changes to the Common Council that they feel might be necessary to improve the clarity, administration and effectiveness of the standards. She examined the requests related to the 18-04 (6) Major Street Setback Requirement for the past 10 years. Overall there were 24 requests to that specific requirement. Of those 24 requests, three were denied. She explained the report in detail.

Planner/Zoning Administrator Curtiss said in 1992, a consultant specifically recommended that the major street requirement be taken out of the zoning ordinance and be dealt with in the subdivision code and that the additional right-of-way be dedicated when that plan is developed, prior to the right-of-way instead of through this process, but that didn't happen for some reason.

The Board asked Planner/Zoning Administrator Curtiss for some time to review her report and more information related to the location of properties, address of the properties and reasons why they needed the variance.

Director of Planning and Economic Development Angell said that one of the projects that his summer intern will be working on this summer is the Subdivision Code. The timing is right, if we want to put it into the Subdivision Code we will be working on it, so we might as well do it now versus a year from now.

Planner/Zoning Administrator Curtiss will provide a copy of the transportation plan which identifies what all the major streets are and their classification.

Chairperson Markwardt expressed concerns about the number of recurring requests for homes that have front porches that are small in older neighborhoods.

Planner/Zoning Administrator Curtiss suggested auditing the recurring requests for front porches encroaching of the front yard and perhaps recommending to the Plan Commission a general provision to allow encroachments of porches or decks to a certain extent. This would promote sociability and your aesthetics, because more and more people are getting rid of the enclosed mud rooms and converting them into open porches.

Board members suggested reviewing and discussing self-audits at a future regular meeting when there are no other items on the agenda.

Motion by Zimmermann, second by Zieglmeier to adjourn at 5:53 p.m.

Motion carried

Lori A. Panzer
Deputy City Clerk