

ZONING BOARD OF APPEALS MINUTES OF OCTOBER 11, 2011

Meeting called to order by Chairperson Gerl at 5:00 p.m. in the 1st Floor Conference Room, Suite 108, City Hall Plaza.

PRESENT: Ed Gerl, Richard Kenyon, Robert Lewerenz, Dean Markwardt and 1st Alternate Todd Zieglmeier

EXCUSED: Ken Bargender

ALSO PRESENT: Planner/Zoning Administrator Miller, Deputy Clerk Panzer, Dion Landini, Jackie Derfus, Celia Tennant and Joshua Dahl

ZB11-011 Motion by Markwardt, second by Kenyon to approve the minutes of August 2, 2011 as submitted.

Motion carried

Deputy Clerk read the variance request from Dion Landini for property located at 402 West 7th Street, zoned "R-5" Medium Density Single and Two-Family District for a recently expanded garage. Section 18-62 (6)(f) of the Municipal Code requires a minimum 7'-6" side yard setback for attached accessory structures. The Applicant submitted an after-the-fact permit and requests a 6'-4" side yard setback variance to allow the garage to remain 14" from the west lot line. Section 18-04 (2)(a) of the Municipal Code limits accessory structure size to no greater than the ground floor area of the main building used for residence. The main building used for residence is 624 square feet and original garage area was 1,078 square feet. The recently expanded garage area is 1,176 square feet. Therefore, the Applicant is also requesting a 552 square foot area variance for the garage area to exceed the ground floor area of the main building used for residence.

Planner/Zoning Administrator Miller explained that the applicant was in the process of expanding his garage due to the structural deterioration of a side wall. He was doing the work for safety reasons and neglected to get a building permit at the time. The existing garage was already 5.5 feet too close to the side yard setback and the addition would increase that encroachment with the required setback.

Background

The Applicant has expanded his existing non-conforming garage. The original attached garage was nonconforming because it exceeded the allowable size for an accessory structure and was too close to the lot line. The front portion of the original garage was approximately 26 inches from the west property line. The back portion of the garage was approximately 5 feet from the west property line. The recent expansion has moved the front portion of the garage wall 14" from the west property line. The back portion of the garage now sits approximately 31" from the west property line.

The Building Inspector noticed the construction work being done on the garage and informed the Applicant that he needed a building permit before he could continue working on the garage. When the building permit was applied for, it was discovered that the existing garage was too close and that he would either have to move the garage back to the original location, or apply and receive a variance. The Applicant stated that the original wall was deteriorating and he needed to fix it so it would not collapse.

Accessory structures are also limited to the ground floor area of the main building used for residence. The main building used for residence is 624 square feet. The original garage was 1,078 square feet. The expanded garage is 1,176 square feet.

The Applicant is requesting a 6'-4" variance along the west property line to the side yard setback requirements in Section 18-62 (6)(f) and a 552 square foot area variance to Section 18-04 (2)(a) and allow the recently expanded attached accessory structure to exceed the ground floor area of the main building

used for residence.

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

1. The property is located at 402 West 7th Street.
2. The structure is a duplex consisting of an upper and lower unit.
3. The Lot has an area of 4,920 sq. ft. and is irregularly shaped in the rear yard. The front lot dimension bordering West 7th Street is 40 feet.
4. The property is zoned 'R-5' Medium Low Density Single and Two Family Residential District where the minimum lot size for a two-family residence is 10,800 sq. ft. and the minimum lot width is 40 ft. The minimum lot size for an existing duplex is only 6,000 sq. ft.
5. The Lot does not meet the minimum lot size requirements for a two-family dwelling in the 'R-5' Medium Low Density Single and Two Family Residential District.
6. The existing structure was built in 1931.
7. The existing structure predates the current code and is considered a 'nonconforming structure' and was not developed according to the current setback restrictions of the 'R-5' district.
8. Section 18-62 (6)(f) of the Municipal Code requires a minimum 7.5 -ft least side yard setback in the 'R-5' Medium Low Density Single and Two Family Residential District.
9. The existing attached garage is only located 14 inches from the side yard property line to the west.
10. Section 18-04 (2)(a) of the Municipal Code limits accessory structure size to no greater than the ground floor area of the main building used for residence.
11. The ground-floor area of the main building used for residence is 624 sq. ft. and the newly expanded garage area is 1,176 sq. ft.

Planner/Zoning Administrator Miller explained the reason behind Section 18-04(2)(a) of the Municipal Code. Typically, you don't want an accessory structure, an out building to exceed the size of your residence. Currently, this garage is almost twice the size of what is typically allowed for a residential structure. The purpose for that is for scale. You don't want to have a small house and then a larger garage. It is just not compatible for the residential use. This building used to be a commercial building many years ago. The original size was grandfathered in and now we are going bigger.

Dion Landini said the building used to be a bike shop.

Summary Responses from Applicant

(Unnecessary Hardship) "The original garage was deteriorating and I needed to replace it before it fell in." The entrance to the top floor residence is adjacent to the driveway. The steps to the entrance limit the driving room entering and exiting the garage.

(Unique Property Circumstances) "The lot is so narrow it's hard to fit a normal sized garage door so I moved the wall out."

(No Harm to Public Interests) "The new wall looks better and is not an eyesore. My neighbor does not have to be concerned that the wall could collapse on his property." The expansion of the attached garage primarily affects the neighbor to the west who has signed a statement that he has no issues with the newly constructed garage wall.

Kenyon said he visited the site and talked with a neighbor and the neighbor actually thought this was a major improvement over the existing garage in terms of safety and aesthetics both. In looking at the garage from the street, you would have never guessed that it was that big. Scale wise it looks pretty decent.

Dion Landini explained that he moved the wall over 16” from where it was, so he could get a standard size garage door in and have the step clear there, so they could open the door without any problems. He apologized for not getting a building permit. He said he didn’t realize that he had to get one for just replacing a wall.

Markwardt said he had no objection to the size of the garage compared to the residence, because most of the garage is hidden behind the residence and it is not visible from the street.

Zieglmeier said it looks like the applicant was just trying to square everything off.

Dion Landini said he was just trying to straighten the wall out. He didn’t need any more room.

Planner/Zoning Administrator Miller said there was a jog in the back portion of the garage foot in from the outside wall, so that is where a lot of the area comes in, because it has been squared off.

Markwardt felt this request met the following criteria:

- Unnecessary Hardship - The garage as it stood wasn’t designed for a pickup truck or today’s typical vehicle. Applicant was unable to squeeze a vehicle in the garage as well as unable to acquire a standard garage door for it.
- Unique Property Circumstances - The lot is small, narrow and odd shaped.
- No Harm to Public Interests - The neighbors have no objections.

Joshua Dahl and Celia Tennant, applicants’ neighbors, had no objections. The garage looks better and is safer than it was.

ZB11-012 Motion by Zieglmeier, second by Markwardt to grant the variance request from Dion Landini for a 6’-4” side yard setback to allow the garage to remain 14” from the west lot line and a 552 square foot area variance for the garage area to exceed the ground floor area of the main building used for the residence.

Motion carried

Zoning Board’s basis for approval of the variance request:

There is a hardship that exists at this time based on a standardization of the hardware (garage door) and just squaring off the building. And it was preexisting on the lot size. Nonconforming issues added to it and there is no harm to public interest.

Motion by Kenyon, second by Lewerenz to adjourn at 5:17 p.m.

Motion carried

Lori A. Panzer
Deputy City Clerk