



CITY OF WAUWATOSA
7725 WEST NORTH AVENUE
WAUWATOSA, WI 53213
Telephone: (414) 479-8917
Fax: (414) 479-8989
www.wauwatosa.net

MINUTES
MEETING OF THE BOARD OF ZONING APPEALS
Thursday, September 23, 2010

PRESENT: Mr. Randall, Ms. Meyer, Mr. Pennoyer, Ms. Bruderle-Baran – 4

EXCUSED: Mr. Subotich

ALSO PRESENT: T. Szudy, Planner

The committee elected Mr. Randall as acting chair for this meeting.

Mr. Randall as acting Chair called the meeting to order at 7:04 p.m.

2006 Two Tree Lane

Variance

Ms. Szudy reported that Jeff and Mary Johnson want to construct a new attached two-car garage at the rear of their house and convert the existing attached garage into living space. The existing garage is too small to accommodate today's lifestyle. The new addition has a proposed setback of 18 feet from the rear property line. However, the AA Single Family Residence District requires a 25 foot rear yard setback. According to information submitted by the applicant, there are drainage problems on this property due to the existing terrain to the east and the location of the proposed addition was influenced largely by these drainage issues. Please refer to the documentation submitted by the applicant for more information. The Washington Homes Association Architectural Review Board recently approved the proposed addition and property owner of the land to the south and east of the applicant also submitted a letter of support.

Present in favor: Jeff Johnson, 2006 Two Tree Lane

David Pekel, Pekel Construction and Remodeling, 2132 N. 70th St.

No one present in opposition.

Mr. Pekel said they are requesting a variance to the rear yard setback for the construction of an attached garage with finished living space above. He said the historic neighborhood characteristics were considered when plans were made.

Mr. Pekel pointed out special circumstances considered relevant to their request. He noted the parcel behind is undeveloped and essentially land locked. The Johnson home has water run-off issues caused by the green space behind their home. Mr. Pekel said that the affected neighbors have granted their acceptance and permission to this attached garage addition.

Mr. Pekel explained that Two Tree Lane runs a very short distance in the Highlands to the north. If you come west on Lloyd from 60th there is a natural descent that continues down to Two Tree Lane. The Johnson's home is in the middle of the change. He said with a heavy rainfall water runs through their yard and the garage

redirects some of the water to the side of the house where it accumulates and gets into their basement. Mr. Pekel felt that the garage addition would be a buffer for this accumulation of water. The Johnson's present garage is incapable of supporting two full size vehicles.

Mr. Pennoyer didn't feel that the water run-off was compelling enough of a hardship. He questioned whether the addition would move the water around. Mr. Pekel commented that the development was at the turn of the century and that the garage is too small.

Mr. Pekel answered a question and noted that this is a historic home and specific guidelines have to be met. He said they met with the Washington Home Association Board and the addition was approved by them on September 14, 2010.

Ms. Bruderle-Baran believed that the grade change has come up as an exceptional circumstance numerous times.

Mr. Randall questioned the setback for a detached garage in the back. Ms. Szudy advised 18 inches from the lot line. Mr. Randall asked if there were anything that would preclude the owner of the green space from subdividing it. Ms. Szudy suggested it was more likely they would just add the land to the surrounding properties. Ms. Meyer thought there were some negotiations done about the green space parcel and it would be unbuildable.

Mr. Randall asked about the unique sidewalk that appears in the city right of way. Mr. Johnson said that it is in the city right of way and two trees were originally planted there.

Mr. Pekel said that a complete water analysis was not done. A detached garage was considered but it would create the same circumstance of the water going to the right or left. He advised that there is a tremendous degree of water that flows underneath the home. Mr. Pekel said further remediation is being done to remedy this. He said the attached two car garage is a benefit to the living space and is more cohesive with the historical intent of the home.

The question of the detached garage resumed and Mr. Johnson said it would go onto their limited green space which would cut their yard space in half. Mr. Johnson noted that with the unique sidewalk on the city right of way, they don't have much green space in the front yard.

Mr. Randall had reservations about approving the variance as he felt a detached garage could be built on this site.

Ms. Meyer noted as a past board member of the Washington Homes Association Board that the only place they would likely approve a detached garage would be the green space on the north which would increase the addition of pavement with potential water problems. She said these designs are looked at very thoroughly because of the historic nature of the neighborhood.

Mr. Pennoyer felt the hardship is the water run-off issue. He agreed that a detached garage would only make water run-off problems worse. Mr. Randall didn't know if there is enough evidence to suggest that this structure would alleviate the issue.

Moved by Ms. Meyer, seconded by Ms. Bruderle-Baran to
approve the variance request by David Pekel, Pekel
Construction and Remodeling, and Jeff and Mary Johnson.

This Board finds that 1). Exceptional circumstances do exist pertaining to this lot in that that it resides within a historic district; that it has an undevelopable lot where the non- conforming setback is; no property owner would be adversely impacted; it would also help to remediate flooding , and there is an unusual setback because of the indented right of way in the front of the house;

2). A variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity in that the attached garage would be more compliant with the historic nature and character of the neighborhood;

3). The variance will not create a special detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this or to the public interests; 4). The difficulty or hardship was not created by the property owner as this is how the lot was originally plated.

Ms. Bruderle-Baran asked for a friendly amendment to eliminate the undevelopable lot and call it green space for exceptional circumstances – approved by the motioner.

Mr. Randall asked for two friendly amendments as well. Add reference to the surface water flow that is an issue and concern for exceptional circumstances. Regarding the special detriment he added that it is relevant that a detached garage could be placed within 18” of rear yard in a code compliant way, but the homeowner does not want to create a detriment to other properties; an attached garage may be better for this property and neighborhood – approved by the motioner and second.

Mr. Pennoyer commented that this is a unique situation because of the stormwater issues, but is not 100% convinced that the design will take care of this. He questioned whether a condition be placed on the motion that the city verify that there would be some advantages to the proposed addition and that it won't adversely affect any adjacent properties with water run-off. Ms. Szudy said it is something that the board may want to consider in that the city does have a stormwater engineer. Mr. Pennoyer was concerned if the addition gets built and displaces the water to adjacent neighbors. Mr. Randall didn't know if it were reasonable for the city to set a standard to prove this. He thought it would be reasonable to add a condition that this plan is reviewable by the City Engineer to ensure that this would not increase surface water flow toward an adjacent property.

Mr. Pekel said that they are encumbered as part of the building permit and inspection not to divert property run-off to another property. He said that it is the building inspector's responsibility as well as the contractor and the property owner to ensure that that circumstance is created or attributed to. He said they would not pass final inspection for occupancy if this were to happen.

Mr. Randall said in the context of deliberation that it would be an appropriate condition to add to the motion that the appropriate city official review the drainage plan because of the issue on record, and the stormwater treatment by the new construction. This plan should meet with their satisfaction. Approved by the motioner and second.

Moved by Ms. Meyer, seconded by Ms. Bruderle-Baran to approve the variance request by David Pekel, Pekel Construction and Remodeling, and Jeff and Mary Johnson.

This Board finds that 1). Exceptional circumstances do exist pertaining to this lot in that that it resides within a historic district; that there is green space to the east where the non- conforming setback is; no property owner would be adversely impacted; it would also help to remediate the surface water flow , and there is an unusual setback because of the indented right of way in the front of the house;

2). A variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity in that the attached garage would be more compliant with the historic nature and character of the neighborhood;

3). The variance will not create a special detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this or to the public interests in that a detached garage could be placed within 18” of the rear yard in a code compliant way, but the homeowner does not want to create a detriment to other properties; an attached garage may be better for this property and neighborhood; 4). The difficulty or hardship was not created by the property owner as this is how the lot was originally plated.

Based upon these finding, it is found that the Variance request be granted subject to the following conditions: the appropriate city official review the drainage plan because of the issue on record, and the stormwater treatment by the new construction. This plan should meet with the city official's satisfaction.

Roll call vote taken. Ayes: 3 Noes: 1 (Randall)

Meeting adjourned at 8:10 p.m.

mks

Tamara Szudy, Secretary