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**MINUTES**  
**MEETING OF THE BOARD OF ZONING APPEALS**  
**Thursday, November 19, 2009**

PRESENT: Mr. O'Connell, Mr. Pennoyer, Mr. Randall, Ms. Meyer – 4

EXCUSED: Ms. Bruderle-Baran, Mr. Subotich

ALSO PRESENT: J. Ferguson, Planner

Mr. O'Connell as Chair called the meeting to order at 7:00 p.m.

**1616 Martha Washington Drive**

**Variance**

Ms. Ferguson reported that due to health issues, the applicants would like to demolish their existing two-car garage and rebuild a new accessible one. This would be an attached two-car garage and main floor room addition in a similar location. The new garage will provide fully sheltered accessibility from the garage into the home and will utilize the existing driveway and alley approach. The applicants currently have ambulatory related health issues and want to modify their home so they can age in place. The new addition has a proposed setback of 14 feet from the rear property line; however, the AA Single Family Residence District requires a 25 foot rear yard setback. The existing garage is currently non-conforming as it is setback 24.7 feet from the rear property line. Additionally, the house was built in 1922 prior to existing zoning standards, meaning that it predates the current zoning standards and possibly zoning standards zoning in Wauwatosa altogether. Due to the house being setback 81 feet from the front of the property and considering the existing configuration and orientation of the house, almost any expansion towards the rear of the parcel would require a variance.

Present in favor: William and Martha Berger, 1616 Martha Washington Drive  
Jim Klett, Architect; 1036 E. Lexington Blvd., Whitefish Bay

Mr. Berger said that there is a small amendment to the original paperwork due to the new plat of survey done which he presented to the committee. Mr. Berger said the setback from the angled rear property line would be 13'4" instead of 14' as the original paperwork stated.

Mr. Berger advised that the variance is necessary to provide a fully sheltered garage with accessibility directly into the home. He said they are adding a laundry room on the main level and are removing walls and enlarging doorways to make the house somewhat ADA accessible. Mrs. Berger said that due to her illness, she needs the laundry room on the first floor. In order to do this, the garage would have to be moved toward the alley.

Mr. Randall asked about the first floor plan. Mr. Klett reported that there is a mudroom with a washer and dryer. Two doors will be going into the garage for more convenience in loading things so close to the stairs. By doing this it makes a straight shot to the stairs.

Mr. Randall asked about the neighboring property lines. Mr. Berger reported that the home to the north has an attached garage which at the shortest distance is about six feet from the alley line. The house to the south has a detached garage which is just a few feet off of the driveway.

Mr. Berger noted that their plan has been approved by the Highland Board with the support of the neighbors.

Mr. Randall asked Ms. Ferguson what the side yard setbacks would be for an attached and a detached garage on this parcel. Ms. Ferguson replied that the side yard setbacks for an attached garage are three feet to the north and six feet on the south side. The detached garage setbacks for this parcel are 18' from the lot line and the rear yard would be five feet.

Mr. Randall discussed the possibility of widening the attached portion of the addition on the north side so you wouldn't encroach within the space on the east. Mr. Klett replied that there are two egress windows which would be lost if it were added on there. There is also a structure above the bedroom so a skylight could not be installed.

Mr. Berger said this parcel is unique in that the property angles so much and the alley is approximately 45 feet wide. He noted that when the addition is built the home will still be quite away from the neighboring homes. He said they did a survey and there are many homes, especially north of theirs that do not meet the setback requirement.

Mr. Randall asked if there was a specific reason that the addition couldn't go south on the property line. Mr. Klett reported that there a mature maple tree and additional outside space would be lost. He noted that this was a concern of the Highlands Board. He felt that by encroaching this way would make you feel the homes were on top of each other. They said the addition would be brought up to today's standards.

Mr. Randall noted that there is a home in the neighborhood that appears to have an attached one car garage with a detached garage built behind it. He said as a matter of right you could do something like that which could detract from the neighborhood appeal. Ms. Berger commented that this scenario would not be safe for her and one of the reasons the neighbors approve of the addition is that it will be more attractive looking than existing.

Mr. Pennoyer felt this is the most practical way to do this to achieve what is needed.

Mr. Klett commented that when residents are aging in place, it is more practical to have a connected garage.

Mr. O'Connell reported that the current structure does not meet the current setback. The way these properties are laid out being set very far back does not leave a lot of space when doing something like this. He noted that this is not unique to have a garage set back so close to the alley here, they are not doing anything that hasn't already been done in this area.

Ms. Meyer commented that as a former member on the Highland Board, there is probably not one single conforming property in that neighborhood.

Mr. Berger explained that the current garage is somewhat decrepit and the neighbors would be happy to see a new garage. Mr. Klett answered a question that the inside garage dimensions are 21 feet deep x 22.4 feet.

Ms. Meyer noted that the proposed site is where the alley widens. The distance between this property and the one across the alley is about 51 feet which is an exception to this piece of property.

Moved by Mr. Pennoyer, seconded by Ms. Meyer to approve the variance. This Board finds that 1). Exceptional circumstances do exist pertaining to this lot in that the front yard slopes so substantially that it required the house to be placed toward the rear part of the lot. Per the zoning requirement 24.10.110, the rear yard setback is particularly onerous and restrictive in this case. It states that the setback distance be either 20% of the lot depth or a maximum of 25 feet. In this case, because the lot is so deep the setback for the primary structure is the maximum 25 feet. This does not leave adequate room for the construction of the addition and the enjoyment of the property. 2). A variance is necessary for the preservation and enjoyment of the property rights possessed by others in the district and vicinity in that this variance will result in a design which will continue to allow adequate driveway for visitor cars and for this owner to park directly behind the garage without extending into the alleyway. It will conform to the norm for attached garages facing the alley. 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 the neighbors have reviewed the plans and are in support of the addition. As a precedent, numerous attached garages facing the alley have been constructed near their property lines. The neighbor directly to the north of this property has an attached house/garage that is within six feet of the rear property line. 4). The difficulty or hardship was not created by the property owner in that because of health reasons the homeowner needs the proposed garage connected and accessible for aging in place in their current home.

Mr. O'Connell asked for a friendly amendment to the motion that the plans must be approved by the Design Review Board. Mr. Pennoyer approved with consent of the second.

Ms. Meyer also asked for an additional friendly amendment to include the angle of the rear property and how it widens which makes it unique. Mr. Pennoyer consented to the request.

Vote on the motion: Ayes: 3 Noes: 1 (Randall)

Meeting adjourned at 7:27 p.m.

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Jennifer Ferguson, Secretary

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