



CITY OF WAUWATOSA

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MEETING OF THE BOARD OF ZONING APPEALS Thursday, May 23, 2013

PRESENT: Mr. Bittner, Mr. McGuan, Mr. Randall, Mr. Subotich, Mr. Pennoyer,
Mr. Kern, Ms. Kristoff

ALSO PRESENT: J. Ferguson, Planner

Mr. Randall as Chair called the meeting to order at 7:02 p.m.

1742 N. 72nd Street

Variance

Request by Darren Mize for a Variance to the side yard and rear yard principal building setback in order to construct an addition and for a Variance to the side yard setback in order for an accessory structure in the in R1-6 District at 1742 N. 72nd Street.

The applicant requested three setback variances to construct an addition and relocate an existing detached garage at the March 28th meeting. The Board held the item for additional information and proposal modifications to be made.

At this time, the applicant has modified their plans to address the Board's concerns. The required setbacks for the property are six feet from the south side lot line and 19.6 feet from the east rear lot line. The proposed addition to the principal structure has been moved approximately one and half feet further off the side lot line than previously proposed, so that is now 2.75 feet from the side lot line. The addition has also been moved back approximately ten inches from the rear lot line to ensure the roof overhang does not cross the property line. The height of the addition has been reduced to one story until it reaches the required six foot side setback, where it then becomes two stories, in an effort to negate the impact to the neighboring property.

Instead of relocating the existing detached garage from its current location to the rear yard, the applicant is proposing to construct a carport. The structure would necessitate a variance to the side yard setback along Yale Place; the required setback is four feet and the proposed structure would encroach two and a half feet into the set back. Additional approval from the Board of Public Works is necessary for the second curb cut.

The neighbor to the south (1736 N. 72nd Street) submitted a letter to express their concerns with the addition. The applicant's architect contacted the neighbor to discuss the modifications to the original plans.

At the previous meeting, the Board had concerns with the structure overhanging the property line. The applicant has moved the addition so that the roof overhangs to not cross the lot lines. Should the Board approve a variance(s), it could require the applicant to survey the location of the structures at the time footings/foundations are constructed to verify setback compliance should it so desire.

Present in favor: Daniel Acevedo, Architect, 8655 N. Deerwood Drive
Wade Weissmann, Architect, 8655 N. Deerwood Drive
Darren Mize, 1742 N. 72nd Street, Wauwatosa, WI
Michelle Mize, 1742 N. 72nd Street, Wauwatosa, WI

Mr. Weissmann stated that due to discussions with the neighbors to the south, the applicants examined the design and decided to create the setback to match the setback to the house and notched the garage back in order for the neighbors to receive sunlight into their window. Because of Yale Place, the setbacks off this street make it difficult to add onto this house. At this point, they have abandoned the idea to move the garage and instead put in a car port that is covered.

Mr. Mize indicated that they notified the neighbors however they did not receive a written letter from the neighbors to the south, but did get one from the neighbors to the southeast. He was unable to speak to the neighbors to the east, but was informed by the Schmidt's that they also approved. Mr. Mize provided a copy of the letter from the Schmidt's.

Ms. Mize stated that they own two vehicles and Wauwatosa does not allow parking on the street. While they cannot get a two car garage, the current garage and covered space will accommodate the vehicles.

Mr. Acevedo spoke to the neighbors and advised them of the revisions and indicated that the Board would like neighbors to respond. The only concern he received was the window. They took this concern into account and altered this portion of the plan. The new proposal takes the addition and moves it over and keeps to the six foot setback to the story and a half. The only thing that would face the neighbor's house would be the first story portion of the addition.

Mr. Pennoyer asked if the altered plans have been seen by the objecting neighbors. Mr. and Mrs. Wyatt sent a letter firmly objecting to this project. Ms. Ferguson responded that Mr. Wyatt came in to her office to review the first plans before the March meeting, however, he has not come in to review the altered plans. Mr. Weissmann responded that the original plans would have blocked the neighbor's window, however the altered plans took this concern into consideration and has been adjusted to a one story until they clear the window area so as not to block sunlight.

Mr. Weissmann stated that the garage is consistent with the rest of the house in that it is a wood frame with siding and the interior dry walled. Mr. McGuan pointed out that it would need to have a one hour fire rating.

Present in opposition: Anne Marie Thomas, 1802 N. 72nd Street, Wauwatosa, WI

Ms. Thomas expressed concern of approving variances and felt that the City has rules and regulations for a reason. She recently removed her garage and rebuilt but followed the zoning and setback requirements. Wauwatosa has small lots and it is kept that way for curb appeal. The proposal is inconsistent with the integrity of the neighborhood.

Mr. Pennoyer asked if there will be two curb cuts, one to accommodate the garage and one to accommodate the car port. Mr. Weissmann indicated that they will be closing the entrance on 72nd Street and requesting a curb cut on Yale Place. Ms. Ferguson stated that the curb cut will need to be approved by the Board of Public Works which will review for snow plowing standards and congestion.

Mr. Weissmann commented that with the removal of the driveway in the front of the house the curb appeal would increase. All vehicles would be parked in the back of the property and the front would have more green space.

Mr. Bittner commented that looking at the plans, it appears that the design will improve the circumstances from what they currently have but is also concerned about the neighbor to the south.

Responding to Mr. Kerns' questions, Mr. Acevedo indicated that the current living space is 1800 square feet and the proposed living space will be 3200 square feet, adding 1386 square feet which includes renovated basement space.

Mr. Randall asked why there is a request for a car port versus a parking slab. Mr. Weissmann explained that the roof would protect the vehicles from weather conditions. Mr. Weissmann responded to Ms. Kristoff stating that the measurement for the car port was 17.5 feet by 12 feet. The car port would be located in the rear yard to provide better aesthetic view of the property with the vehicles in the back of the house.

Moved by Mr. Pennoyer, seconded by Mr. Subotich to approve the request for a Variance to the side yard setback along Yale Place which would encroach two and a half feet into the setback in order to construct a carport.

1. Exceptional circumstances do exist pertaining to this lot. It is a narrow lot and the city does not allow for overnight parking on the street; there is an indent from Yale Place that complicates placement and does not present a standard depth for a garage which facilitates the car port design.
2. That the variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity. This will remove vehicles off a driveway which is visible from the front of the home and place vehicles in the rear of the property.
3. That the variance will not create 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. There are no other adjacent structures for view impairment.
4. That the difficulty of hardship was not created by the property owner. The property is very narrow and already existed when the applicants' purchased the property.

Based upon these findings, I move that the variance be approved.

Roll call vote taken: Ayes: 3 Nos: 2 (Bittner, McGuan)

Ms. Ferguson indicated that this variance would need to go to Board of Public Works for their approval of the curb cut.

Moved by Mr. Bittner, seconded by Mr. Pennoyer to approve the request for a Variance to the rear yard setback. The addition has been moved back approximately ten inches from the rear lot line to ensure the roof overhang does not cross the property line.

1. Exceptional circumstances do exist pertaining to this lot. It is a flag lot with Yale Place running directly up to the property.

2. That the variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity. By removing the driveway on 72nd Street it improves the aesthetics of the area.
3. That the variance will not create 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. It is improving upon an already non-compliant structure.
4. That the difficulty of hardship was not created by the property owner. The property is very narrow and the lot configuration already existed when the applicants' purchased the property.

Based upon these findings, I move that the variance be approved.

Roll call vote taken: Ayes: 5

Mr. Pennoyer indicated that the proposal for the side yard setback measurement is for 2.7 feet. The area in which the neighbor looks into the yard is actually a 6 foot setback, however if they look to the east, the structure is only 2.7 feet from the lot line. Mr. McGuan pointed out if they kept it at a 6 foot setback for the entire garage, the vehicle would still fit. Mr. Weissmann indicated that the owners would not have any room for storage such as mowers, garbage containers, etc. Mr. Pennoyer commented that this neighbor is objecting to the variance for the view from their windows and if the applicants brought the entire structure back 6 feet, the variance would not be needed. Mr. Acevedo clarified that the projecting piece of the proposed structure is where the existing garage is already but there will be a one story within the neighbors window view. Mr. McGuan recommended moving the side yard setback to the six feet to fall within the ordinance and zoning.

Moved by Mr. Randall, seconded by Mr. Pennoyer to approve the request for a Variance to the side yard setback. In order to construct an addition for the house

1. Exceptional circumstances do exist pertaining to this lot. Yale Place creates a flag pole condition for the lot.
2. That the variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity. It will eliminate a driveway in the front and any parking of vehicles in the front yard area which will preserve values of the area and will result in lower storm water runoff in the area.
3. That the variance will not create 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. It will eliminate a driveway in the front and any parking of vehicles in the front yard area which will preserve values of the area. The applicants are pulling the area of encroachment back to be even with the neighbor's garage and will not overlap with the neighbor's house.
4. That the difficulty of hardship was not created by the property owner. The property is very narrow and the lot configuration already existed when the applicants' purchased the property. Yale Place creates a flag pole

condition for the lot. If it would be a typical lot, the applicants would have an entire corner of property to do other configurations.

Based upon these findings, I move that the variance be approved with the following conditions:

- The applicants' plans be modified so that the area of encroachment begins at point even with the neighbor's garage and goes to the east so that the setback encroachment is a portion of what they applied for; consistent with the plan that was marked for the architect.
- The applicants install a one hour fire rating wall not only for the living spaces but on the exterior wall to the south and to the roof structure.
- The applicant would provide an as built survey stamp to guarantee the set back requirement after the foundation and footings are set.

Roll call vote taken: Ayes: 3 Nos: 2 (Bittner, McGuan)

Meeting adjourned at 8:55.

Jennifer Ferguson

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