

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
NOVEMBER 14, 2019

Members Present: Wolf, Wright, Brandt, Christ, Pempus

Presence Noted: Raymond Reich, Building Commissioner
Andrew Bemer, Law Director
James Moran, City Council President

Mr. Pempus opened the November 14, 2019 Meeting of the Board of Zoning and Building Appeals at 7:00 p.m. in Council Chambers of Rocky River City Hall.

1. STEVEN FRICANO – 223 Elmwood Rd. – PUBLIC HEARING – Variance to construct a 160 sq. ft. storage shed vs. 120 sq. ft. maximum permitted for storage sheds (Section 1153.15(c)) and a Variance to retain an outside unenclosed stairway vs. outside unenclosed stairways are prohibited (Section 1341.02)). Mr. Steven Fricano, homeowner, came forward to present his variance requests.

Mr. Christ read the meeting notice that lists the names of the parties who received it. The applicant was sworn in. Mr. Fricano explain that his home had a 3-car attached garage when he purchased it and he removed the third bay. He now realizes that he needs more storage because his garage space is not adequate. His house is a contemporary style and he does not see any sheds available on the market that suits his style. He has done all of his own improvements to his home and he is tired and would like to have a storage shed as soon as possible without having to build it. He is proposing to use an 8 x 20 shipping container, which is 9.5' tall that he plans to clad with cedar plank siding. He will leave the roof unfinished so that the container will maintain its current height. He does not want it to be an eyesore for anyone. It is made of steel and will withstand the elements, so it won't rot or need to be maintained, other than the need to spray something on the cedar siding occasionally.

Mr. Wolf said that his concern is that the future maintenance and whether the cladding will be maintained for future owners. Building Commissioner Reich said that research should be done regarding the best way to add flashing between the structure and the cladding to keep moisture and debris from entering between those things. He has no problem as long as the roof sheds the water past the cladding. He has seen shipping containers and they can look nice. Mr. Wright asked if the supplier of the container has detailing regarding how to apply the cedar. Mr. Fricano explained how he plans to attach the cladding. Mr. Wright is concerned about the edge line of the roof and how the doors will be detailed. He would like the details of exactly how the cladding will be attached to be submitted to the Building Department for review. Mr. Fricano said that he will submit the necessary details.

More concerns about the method of construction were voiced by Mr. Christ and the difficulty of doing it correctly and Mr. Fricano responded to the comments. Mr. Fricano said that he does not have the container yet but that Mr. Christ's points are well taken. He is comfortable that he can adapt to the necessary steps to have it be done well. Mr. Wolf

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suggested that the applicant go over those techniques that can be used to finish this container before he actually purchases it.

Mr. Pempus said that they were shown a picture of the former garage that was demolished and that the applicant mentioned that they need the storage space for equipment, so he is having difficulty with this application. Mr. Fricano said that the garage was there for a very long time but it was not built well and it leaked in multiple places. Mr. Pempus said that it seems to him that the amount of time and money that will be put into this proposed shed could have been used to repair the garage that was demolished instead. Mr. Fricano said that he did not originally think he needed the extra space, but he has come to find out that he does need it. Mr. Pempus asked whether it would just be easier to buy a shed from Home Depot or Lowes since the applicant stated he does not want to do any construction. Mr. Fricano responded that the shed wouldn't look right because it would not be the same style as the exterior of the house he has worked so hard on. Mr. Pempus said that a contractor could custom build the shed they want and Mr. Fricano responded that it will cost him more. Mr. Pempus said that this Board cannot be concerned about the cost to the applicant.

Mr. Christ said that he usually relies on the fact it is the neighbor's responsibility to come to City Hall to look at something. Since both of the items are unusual because of the fact that he is using a container and that there is an outside stairway, he asked the applicant if he has spoken to the neighbors, and Mr. Fricano responded that he has spoken to them. Mr. Christ asked about the fact that this container can also be viewed through the section of the Code that regulates temporary structures, such as a POD. He asked if the fact that this is a permanent structure eliminates that section from consideration for this proposal. Law Director Bemer said that this structure is required to be anchored and made to be a permanent structure in order to avoid that interpretation. Mr. Christ said that the stair serves as a secondary means of egress like a fire escape and he wonders if this is even applicable. Mr. Bemer responded that the Code provision is intended to access multiple stories, in excess of one story and this is providing access to a roof deck patio and not directly to a building. He is not sure that the Code provision applies and the conservative approach would be to recognize the Code provision. However, this is an exception to the use as intended by that provision and therefore, a variance would be appropriate. Mr. Christ said that this is outside of the normal types of shed that they see and he would like it to be reviewed by the Design and Construction Board of Review from an aesthetic and construction standpoint. Mr. Brandt agreed with Mr. Christ and said that if this were a legal shed in size and location on the back of the property, then the permit could be issued. He also feels that the aesthetics needs to be sorted out by the Design Board.

Mr. Fricano said that he is losing the view that this is a faster alternative to purchasing or building a shed and it will not be an easier option for him. Mr. Christ agreed that with all that would need to be done to modify the storage container and make the cladding work, he is not sure it is faster or more economical like Mr. Fricano thought it would be. He said that the applicant has not addressed the reason why he needs 160 sq. ft. and not 120 sq. ft.

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and he has not seen how the storage area will be laid out. Mr. Fricano responded that they have 2 sets of lawn furniture and they need the excess space to store the amount of stuff they have that is currently stored in the garage. He said he is confused on how this is bad for the community or for property values. He is respectful of the Code and the variance process, but he is trying to add utility and value to his property.

Mr. Wolf said that they need a rationale for why the variance should be granted. This is smaller than the garage bay that was there and smaller than the addition that could be attached to this house. With this proposal, there is still a lot of open rear yard left. People's storage requirements have changed in the last 100 years. Mr. Pempus asked if there are any issues with the outdoor stairway and there was no further comment about the stairway.

Mr. Christ moved to close the public hearing. Mr. Wolf seconded.

5 Ayes – 0 Nays
Passed

Regarding the practical difficulties considerations, Mr. Christ said that he does not believe that there are any special conditions or circumstances that exist, except for the fact that there is an existing pad for the shed; whether the property will yield a reasonable return is not applicable; the applicant has stated that they need the storage, which may or may not meet the minimum storage space necessary; the Design Board will review this application for the design and construction details to prevent an effect on the essential character of the neighborhood; this will not adversely affect government services; whether he purchased the property knowing the zoning restrictions does not come into play; the special conditions due to the actions of the owner in tearing down the garage have been mitigated by this; there are other storage methods as was discussed, so the predicament feasibly can be obviated through some means other than a variance; regarding spirit and intent, they have discussed how it can be brought into Code; granting the variance will not confer any special privilege on the applicant; and a literal interpretation of the Code would not deprive the applicants of rights commonly enjoyed by others in the community.

Mr. Christ moved to grant a variance to Steven Fricano, 223 Elmwood Rd., to construct a 160 sq. ft. storage shed vs. 120 sq. ft. maximum permitted for storage sheds. The applicant has indicated his practical difficulties. This shall be reviewed by the Design Board, it will be a permanent structure and will have design details submitted to the Building Commissioner prior to the permit being issued. The structure will only have lighting in it. Mr. Brandt seconded.

3 Ayes – 2 Nays (Wright, Pempus)
GRANTED

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Mr. Christ moved to grant a variance to Steven Fricano, 223 Elmwood Rd., to retain an outside unenclosed stairway vs. outside unenclosed stairways are prohibited. The applicant has indicated the practical difficulties and this is a secondary stair serving an outside deck only. Mr. Brandt seconded.

5 Ayes – 0 Nays
GRANTED

2. BRIAN EGAN – 20590 Morewood Pkwy – PUBLIC HEARING – Variance to construct a second story addition with a 3' – 7" side yard setback vs. 6.25' side yard setback required (Section 1153.07(f)(1)). Mr. John Faile, Architect, came forward to present the variance request.

Mr. Christ read the meeting notice that lists the names of the parties who received it. The applicant was sworn in. Mr. Pempus said that this is a proposal to have the second story addition along the same line of the existing first floor of the home, with no additional encroachment into the side setback. Mr. Faile confirmed that and added that there is a 300 sq. ft. single story family room on the back of the existing house and the homeowner wants to add a second floor bedroom/laundry room above it. They are still designing the interior floor plan.

Mr. Wolf said that he realizes he should have raised this at the beginning of this discussion, but he knows the applicant through work and he does not believe there is a conflict.

Mr. Wright said that he does not have any problem with the application. Mr. Wolf said that there is a good setback between this structure and the adjacent residence because of the driveway being on that side.

Discussion was had about the difference in setback between the front and back corner of the first floor footprint. Mr. Christ said that the fence is not a reliable way to determine property line, so there is some question as to what the setback actually is. Mr. Pempus said that not every applicant needs to have a survey and Mr. Christ said that the applicant should know where the property line is. Mr. Brandt said he thinks everyone is on board with going straight up with the addition on the existing footprint, but to formally record a motion for a dimension that may not be accurate. Law Director Bemer said that the motion can be to construct the addition exactly on the first floor structure.

Mr. Christ moved to close the public hearing. Mr. Wright seconded.

5 ayes – 0 Nays
Passed

Regarding the practical difficulties considerations, Mr. Christ said that the existing house is constructed within the current required setback and has a skewed property line; yielding a

reasonable return of the property is not applicable; the variance is not substantial in that it is maintaining the existing setback on the second floor; the essential character of the neighborhood will not be altered by adding the second floor; this will not adversely affect the delivery of government services; whether the applicant purchased the property with knowledge of the zoning regulations does not apply; no special conditions apply due to actions of the owner; to add this space any other way would mean increasing the footprint of the existing structure, so this option is the best; the spirit and intent of the Code will be observed; the granting of the variance will not confer special privileges upon the applicant; and the literal interpretation of the Code would deprive this applicant of rights commonly enjoyed by other properties.

Mr. Christ moved to grant a variance to Brian Egan, 20590 Morewood Pkwy., to construct a second story addition with a 3' – 7" side yard setback vs. 6.25' side yard setback required. The applicant has indicated the practical difficulties of the existing first floor setback, which will be confirmed with the building department. This addition will be constructed above the same floor plate of the first floor, and this is a reasonable request. Mr. Brandt seconded.

5 Ayes – 0 Nays
GRANTED

3. DENNIS AND SHARON DONNELLY – 2772 Country club Blvd. – PUBLIC HEARING – Variance to construct a garage addition with a 38' front setback vs. 50' minimum front setback required (Section 1153.07(a)), a Variance to construct a second curb cut for a circular driveway on a lot with a 38' front setback vs. 50' minimum front setback required for two curb cuts (Section 1187.31(d)(2)), and a variance to construct additions with 30.9% lot coverage vs. 28% maximum lot coverage permitted (Section 1153.05(c)(3)). Mr. and Mrs. Dennis and Sharon Donnelly, homeowners, came forward with their Architect, Jill Brandt to present the variance requests. Mr. Brandt recused himself from hearing these variance requests because of his relationship with the Architect.

Mr. Christ read the meeting notice that lists the names of the parties who received it. The parties were sworn in. Mr. Pempus explained that the applicant must get 3 votes of the 4 voting members since Mr. Brandt recused himself. The parties said that they are aware of that and they would like to move forward with the requests.

Mrs. Brandt explained that her clients moved into this house in July. The home is an older single-story 1950's home and they would like to enhance the first floor living space by adding on to it. There is no basement to this home and it has a very shallow roof pitch. The existing garage is 18' x 20', and there is no basement storage and very little storage in the garage and closets, so they are in need of more usable storage space. The applicant's father will be living with them and they need an accessible bathroom and reasonable sized bedroom to accommodate him. The front porch will be enhanced for a fuller gable look

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and the roof pitch will be raised above the garage to accommodate an office/storage space. There are two covered porches that are included in lot coverage and there is a small shed they are adding on the side of the garage. The lot front setback variance and second curb cut variance go hand in hand because they are requesting to lessen the front setback to 38' rather than the existing 50'. The lot coverage variance will accommodate the increased living and storage spaces that are needed.

Regarding practical difficulties, Mrs. Brandt said that from a design standpoint there is an intersection along the north side of the house where there is living space, the mudroom, the garage and the stairs that are located at the intersection of 2 roof lines. They are making sure there is optimal head height in space underneath that point. They will push the garage forward, and the distance from that bump out to the pantry on the front of the garage is 20'. The effective usable space of the proposed garage is 20' x 20', which is not overly large. Mrs. Brandt explained that they considered leaving the garage where it is and pushing the space out further into the rear yard, causing the need for a rear yard setback variance. Their house abuts Westwood Country Club and there are a lot of golf balls in their yard, so they decided that pushing it further back is not a good option. Pulling the garage forward helps with their aesthetic goal of adding more character to the house.

Regarding the character of the neighborhood, Mrs. Brandt said that this is a neighborhood in transition and to the south of this home there are new construction homes across the street and some additions and renovations that have been done on the homes closer to Hilliard Blvd. The street curves and the aerial view shows that some of the homes are already closer than the required 50' front setback. Regarding the need for a second curb cut, the aerial shows that they are at the intersection of 2 curved roads and there is a yield sign that barely controls the traffic, so it is hazardous.

Mr. Pempus said that there is an email from a neighbor, Rosemary Kearney, who lives on Devon Hill Rd. Ms. Kearney is objecting to the project because of the front setback. He said that the comment about the need for the second curb cut is very well taken because it is a safety issue and he feels that the new curb cut is a practical design solution. He said that the only variance request that he is really concerned about is the front setback variance request. Mr. Wolf thanked the applicants for their well done, thorough submission. He said that the threshold for him is plus or minus 20% of the setback of the houses on either side of this home. This request is 2' shy of the margin of that, which would be 40'. He does have difficulty with the garage being forward, which goes back to his early planning education, and the philosophy that the entry or another living space of the house should come forward, and the garage should be further back. Garages seem to dominate this street and garages are mostly what you see as you drive down it. Mrs. Brandt agreed with Mr. Wolf and said that many of the garages are either forward facing front loading garages or they are side load garages with an "L" shaped design, which would require an even greater variance than they are asking for. She feels that the dormer and the design elements actually lend some give and take to the exterior and make the front elevation very nice. Because of the curve of the street, she feels like this will not have a large impact on the

neighborhood. Mr. Donnelly said that the new porch will also extend further forward than the existing porch does and there will be a bay window as well.

Mr. Wright said that he does not have a problem with the garage being forward. His concern is the setbacks of the adjacent homes and the 12' request is what he is having a hard time with, because it amounts to a 24% variance request. Mr. Pempus agreed with Mr. Wright and said that Mr. Wolf's point is well taken also. Mr. Wolf said that he notes that the home to the south of this one has a 45' setback. Mr. Christ said that the curb cut could be done now if they did not move the garage any further forward or if they changed their sequence of construction so he doesn't see it as a big issue. He said that there has been no objection to any of the room sizes and the proposed garage size, which is relatively tight, so he is not objecting to the lot coverage request. He is echoing the sentiments about the 38' front setback request and he thinks that going 12' more forward is a concern. He is not sure that a rear yard variance will make much of a difference relating to damage by golf balls in the rear yard. He looked at the plans and he does not see why this cannot go back some distance, unless they can show him in a section that it knocks out the headroom, stair turn or something else. Mr. Wolf said that when he averages the 45' and 50' setbacks of the adjacent homes and subtracts 20%, it brings it to exactly a 38' setback. It would be a much different story if they were proposing to bring the entire front elevation to the 38' setback. He thinks this street is lacking variety in the setbacks and he thinks they will see a lot of similar change in this neighborhood in the future, which he feels will be beneficial.

Discussion was had relating to ways to compromise on the front setback requests and regarding the configuration of the street. It was decided that the Board can vote on a 40' front setback and if it can be shown that it doesn't work for some structural reason then they can return for the request for the additional 2' setback to make it 38'. The applicant agreed with that idea.

Mr. Christ moved to close the public hearing. Mr. Wright seconded.

5 Ayes – 0 Nays
Passed

Regarding the practical difficulties considerations, Mr. Christ said that the special conditions exist for this property due to the style of the house and the attempt to adjust it within the parameters of the Code; whether the property will yield a reasonable return without the variances does not apply in this situation; one of the requests is substantial, which is the front setback, but based on the discussion and presentation, all three requests are the minimum necessary to make a reasonable use of the property; the essential character could be considered substantially altered by the front setback request, but the other two variances do not substantially alter the character of the neighborhood; the variances will not affect the delivery of government services; the applicants purchased the property without the knowledge of the Code, but with the intent to make these improvements; special conditions do not exist due to actions of the owner; the property

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owners predicament cannot be obviated through some other measure because all three of these variances are the required solution for the property owners; the spirit and intent would be observed and substantial justice would be done by granting of the variances; granting the variances will not confer any special privileges to this homeowner that are denied to other properties in this district; whether the literal interpretation of the provisions will deprive the applicant of rights commonly enjoyed by other properties in this district is something they are looking at as they examine the reasonableness of the front setback request.

Mr. Wright moved to grant a variance to Dennis and Sharon Donnelly, 2772 Country Club Blvd., to construct a garage addition with a **40'** front setback vs. 50' minimum front setback required. Mr. Christ seconded.

4 Ayes – 0 Nays
GRANTED (as amended)

Mr. Wright moved to grant a variance to Dennis and Sharon Donnelly, 2772 Country Club Blvd., to construct a second curb cut for a circular driveway on a lot with a **40'** front setback vs. 50' minimum front setback required for two curb cuts. The applicant has indicated that the second curb cut request is primarily driven from a safety standpoint. Mr. Christ seconded.

4 Ayes – 0 Nays
GRANTED (as amended)

Mr. Wright moved to grant a variance to construct additions with 30.9% lot coverage vs. 28% maximum lot coverage permitted. The applicant has provided extensive documentation relating to why this is necessary. Mr. Christ seconded.

4 Ayes – 0 Nays
GRANTED

The meeting adjourned at 8:35 p.m.

Eric Pempus, Chairman

Richard Christ, Secretary

Date: _____