

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
NOVEMBER 12, 2020

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

Presence Noted: Andrew Bemer, Law Director
Raymond Reich, Building Commissioner
Kate Straub, Planning and Zoning Coordinator

Mr. Pempus opened the November 12, 2020 Virtual Meeting of the Board of Zoning and Building Appeals at 6:00 p.m. via ZOOM and explained the meeting protocol to those in attendance. He said that all of the Board members have had the opportunity to visit the sites associated with tonight's agenda and review the Variance applications and other submittal pieces for each of the agenda items.

1. KEVIN AND LINDA LANGE – 21716 Kenwood Ave. – PUBLIC HEARING – Variance to locate an air conditioner condenser in the side yard with an 8' – 2" side yard setback vs. 10' side yard setback required (Section 1153.1(k)(1)). Homeowner, Linda Lange is present with Patrick Hurst, General Contractor, to discuss the variance request.

Mr. Christ said that he would like to identify that he received a notice for this item and he believes he can remain impartial. He asked if there are any other neighbors present for this request because he may then need to recuse himself. Because there are no neighbors present and no objection by the homeowner, Mr. Christ will hear this variance request.

The parties were sworn in by Chairman Pempus. Mr. Hurst explained that the proposed location for the condenser is behind a fence that is pretty well covered with landscaping. The main air conditioner condenser is also on that side just a few feet away. The unit they are installing is a small mini-split system, which is a heat pump condenser for the third floor heating and cooling. The unit will be tucked behind the chimney and this is probably the best location for it, in that they can easily run the lines down to it from the third floor.

Mr. Pempus said that he would like the record to reflect that a neighbor, Meg Bruder, wrote an email in support of this request. Ms. Lange said that Meg is her next door neighbor immediately adjacent to the condenser.

Mr. Farrell said that he has no questions regarding the submittal. Mr. Christ said that the Building Department will work with the applicant regarding evergreen screening so that it cannot be seen from the street and Ms. Lange acknowledged that. Mr. Brandt said that another way to do this would be to install a PTAC unit, which does not have a condenser on the ground at all, but he is not troubled by what has been presented. Mr. Wright said that he has nothing to add except that the chimney itself will be a good screening element, which works in the applicant's favor.

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

5 Ayes – 0 Nays
Passed

Mr. Christ applied the practical difficulties test aloud. Regarding special conditions or circumstances that exist, Mr. Christ said that the existing air conditioner condenser is also located here and there is a fence and a chimney that will screen it. Whether the property in question will yield a reasonable return does not apply in this case. He does not believe that the variance is substantial because it is only a minor difference from the 10' requirement. The essential character of the neighborhood will not be altered because of this proposal, and the applicant will provide additional evergreen screening as required. This variance will not adversely affect the delivery of governmental services. Regarding whether the property owner purchased the property with knowledge of the zoning restrictions, he does not believe that to be the case. There are no special circumstances that exist as a result of the actions of the owner. He said that it is not possible to obviate the property owner's predicament feasibly through some method other than a variance. The spirit and intent of the Code would be observed by granting a variance and the granting of this variance will not confer any special privilege on the applicant. The literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties.

Mr. Christ moved to grant a variance to Kevin and Linda Lange, 21716 Kenwood Ave., to locate an air conditioner condenser in the side yard with an 8' – 2" side yard setback vs. 10' side yard setback required. The applicants have listed their practical difficulties and this is a minimal difference from the Code requirement. Mr. Farrell seconded.

5 Ayes – 0 Nays
GRANTED

2. THE GOURMET GUY – 20253 Lake Rd. – PUBLIC HEARING – Variance to install a 16.29 sq. ft. projecting sign vs. maximum 6 sq. ft. permitted for projecting signs (Section 1193.07(a)(3)); a Variance to install a projecting sign that is mounted directly to the building wall and extends 5' – 2" beyond the face of the building wall vs. a projecting sign shall be at least 6" from the wall and extend no more than 3' beyond the face of the building wall (Section 1193.07(d)(1)); and a Variance to install a projecting sign on a building with a 10' – 6" setback from the public right-of-way (sidewalk) vs. A projecting sign may be displayed only if the building is located within 6' of the public right-of-way (sidewalk). (Section 1193.07(d)(2)). Mr. Matt Barnes, Business Owner, is present to discuss the variance requests.

The applicant was sworn in by Chairman Pempus. Mr. Barnes explained that he is requesting a projecting sign because when traveling on Lake Rd. around the corner from

the east, it is harder to see his storefront since the café sits back somewhat. They initially designed it where it had arms that extended the sign off of the wall, but they removed the extension in order to shrink the distance that the sign projected. This caused the need for the variance because the sign must be at least 6" from the wall.

Chairman Pempus said that he likes the graphics on the sign and it is a very nice design. He asked the Board members if they have any comments or questions. Mr. Farrell asked if the sign is about the same size as the banner that is up now and Mr. Barnes said that he believes the size of the proposed sign is the same or very close to the size of the banner. He would like to have this particular size so that it is more visible to people driving by. He said that his logo is longer and to make it smaller than what they are presenting, the letters would not be easily read from far away. To Mr. Farrell, the setback off of the sidewalk is better being farther back and as you are approaching from either side, it is difficult to see the banner now. Regarding the distance between the wall and the sign, he is not sure whether that is a structural necessity for the wind to go around the sign. He added that this Board is not approving the anchoring of the sign. Mr. Christ said that he speculates that it may be required to be able to maintain the sign independent of the maintenance of the wall. It could be that any visual distress that might occur would be more visible if it is separated from the wall and just 6" would provide that observation space and maintenance. Law Director Bemer said that he remembers when this was proposed. Projection signs were focused upon Old Detroit where there was very narrow space between the sidewalk and the building fronts. Projecting signs were looked upon as being consistent with the design and architectural structures of Old Detroit. He thinks Mr. Christ's supposition is probably as good as anybody's, as he has no recollection of why a minimum of 6" is required between the wall and the sign. Mr. Brandt said that just slightly to the east at the Masonic Lodge there is a tiny blade sign that is mounted above the entry. There is a 6" stand-off from the wall and he agrees that it is probably written this way to achieve some separation between the wall and the sign. What the applicant is proposing is actually smaller than the banner that is up now so he concurs with what Mr. Farrell is saying. It may be easier to install the sign with the 6" stand-off, but it doesn't matter to him either way. He thinks the sign looks very nice. It was confirmed that this sign will go before the Design and Construction Board of Review and Mr. Christ suggested that they could determine whether the sign should be off of the wall by 6" or whether it is fine the way it is presented. Mr. Brandt agreed and said that this Board can approve the size of the sign itself and Design Board can discuss whether a stand-off distance from the wall is necessary.

Mr. Wright said that his understanding is that a blade sign could be supplemental to a surface mounted sign. He has an objection to putting up a blade sign as the primary signage because if we allow a blade sign here, then he can see the adjacent businesses wanting one also because this may impede visibility of their signage. He is more inclined to grant a larger surface mounted sign than what is being presented because it would be more in keeping with what they are seeing at that property. Mr. Christ said that the curvature of Lake Rd. is contributing to the need for the requested sign because it reduces the visibility

of a flat wall sign and he believes that is a practical difficulty. Mr. Wright said that if the applicant wanted a 50 sq. ft. surface mounted sign and a much smaller blade sign that only has the logo, he would be receptive to allowing them to have 2 signs.

Discussion continued regarding the possibility of having a wall sign and a smaller blade sign, with suggestions made by some of the Board members. Mr. Barnes said that there is a cost involved in adding more signage and he wondered if they can approve what he is asking for and then he could go back to the sign company to find out the cost of what some of the Board members are suggesting. He said that simply having a wall sign flat to the wall would not be able to be seen very well.

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

5 Ayes – 0 Nays
Passed

Mr. Christ applied the practical difficulties test aloud. Regarding special conditions or circumstances that exist, Mr. Christ said that there is a curvature of the primary road along the front of the building and it puts him on the inside corner, limiting the direct views. Whether the property in question will yield a reasonable return does not apply in this case, although it is the argument being made by the applicant that this will improve visibility and potentially improve business. He does not believe that the variance is substantial and the applicant has indicated that he has provided a sign that is sufficient enough to be read and it is not as large as a permitted wall sign would be, so this could be considered a middle ground in terms of signage, except for the orientation. The essential character of the neighborhood will not be altered has been part of this Board's discussion and this should go to Design Board to continue that discussion. This variance will not adversely affect the delivery of governmental services. Regarding whether the property owner purchased the property with knowledge of the zoning restrictions, he does not believe that to be the case. There are no special circumstances that exist as a result of the actions of the owner. Whether it is possible to obviate the property owner's predicament feasibly through some method other than a variance is one of the points the Board is considering. The spirit and intent of the Code would be observed by granting a variance and he does not believe that the granting of this variance will confer any special privilege on the applicant. Whether the literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties, Mr. Christ said that is also part of the consideration of this Board.

Mr. Christ moved to grant a variance to The Gourmet Guy, 20253 Lake Rd., to install a 16.29 sq. ft. projecting sign vs. maximum 6 sq. ft. permitted for projecting signs. The applicant has presented the practical difficulties and this will go to the Design and Construction Board of Review and this is a minimal amount that will work reasonably. Mr. Brandt seconded.

4 Ayes – 1 Nay (Wright)
GRANTED

Mr. Christ moved to grant a variance to The Gourmet Guy, 20253 Lake Rd., to install a projecting sign that is mounted directly to the building wall and extends 5' – 2" beyond the face of the building wall vs. a projecting sign shall be at least 6" from the wall and extend no more than 3' beyond the face of the building wall. Alternatively, the applicant has indicated that he is willing to conform to the 6" projection from the wall, which would cause it to extend 5' – 8" from the wall and it will go to Design Board for final determination. Mr. Wright seconded.

5 Ayes – 0 Nays
GRANTED

Mr. Christ moved to grant a variance to The Gourmet Guy, 20253 Lake Rd. to install a projecting sign on a building with a 10' – 6" setback from the public right-of-way (sidewalk) vs. A projecting sign may be displayed only if the building is located within 6' of the public right-of-way (sidewalk). The applicant has indicated the practical difficulties and the distance from the road is not significantly larger than the permitted distance. Mr. Wright seconded.

5 Ayes – 0 Nays
GRANTED

Mr. Farrell would like the Design Board to consider the distance that a sign is considered readable as it relates to the size of the letters. Although he voted to approve the first variance, he hopes that they would at least discuss it and, if they decide that a sign can be a little bit smaller, he hopes that the applicant would consider it. Mr. Christ said that there are Federal Highway Standards relative to the size of letters on signs relative to the speed of traffic, etc.

3. JONATHAN SUNTALA – 19338 Telbir Ave. – PUBLIC HEARING – Variance to construct a 2-story addition with a 32.6% lot coverage vs. 28% maximum lot coverage permitted. Mr. John Faile, Architect, is in attendance along with homeowner, Jonathan Suntala who announced his presence after the discussion began.

The applicants were sworn in by Chairman Pempus. Mr. Faile said that he thinks that the request fits the site very well and pointed out that there is no need for a side yard setback. Mr. Wright said that a 13' x 20' room is not excessive and the biggest hardship the applicant has is that they have a 40' wide lot and he does not have an issue with what he is asking for. Mr. Christ said that the existing porch on the front occupies about 3.5% of the total area that is being requested. If that porch was removed, then it would put the house

and garage at about 29.1%. He thinks that this is a reasonable request because the 40' lot width is driving this need for a variance. The addition is very compact so that the mass of the building will be less reflective of the area and the volume used by it.

Mr. Farrell said that as always, he is concerned about the length of the home when this is done. Mr. Faile said that as the house next door is existing today, it is actually a little longer than this house including the addition.

Mr. Brandt said that without a real true depiction of what is in the footprint and why it has to be that big, there seems to be some arbitrariness to the 32.6% and why that big of a footprint. That being said, he is not troubled by this because these are small parcels in this part of Rocky River. It would be good to see why the addition needs to be there. Mr. Christ said that there is nothing showing any planned layout within those spaces. In order to give some substantiation to the practical difficulty that they need to look at, he asked the architect to explain what is going into those rooms. Mr. Faile said that the first floor is a 12' x 20' family room, which has traditionally been a typical family room size but they are a lot bigger now. The space above will be taking a small bedroom and turning it into a master bedroom with a master bath and a walk-in closet, which is what everybody is doing now, and it will greatly appreciate the value of the home.

Mr. Farrell asked why they couldn't make it less than 20' long and go wider so that it shortens the wall. Mr. Faile said that the second floor space is what the owner wants and he believes they have a right to have what they want. Mr. Brandt said that the test of practical difficulties is not simply because, "I want it." Mr. Faile said that they would be interfering with an existing window on the first floor. He said that it is up to the owner and this is what they want. This is a small variance on a small lot. Mr. Farrell said that it is sometimes where the lot coverage is happening that makes the difference, which is why they discuss different configurations of the additions in order to lessen the impact of lot coverage. Many times there are better solutions and they don't just take variance requests and approve them without asking questions.

Mr. Jonathan Suntala announced his presence and he is the owner of the property. He said it sounds like there are questions that he can answer and Chairman Pempus swore Mr. Suntala in. Mr. Suntala said that the driveway widens into a 2-car driveway in the back and they want to keep the addition more narrow on that side so that it fits better on the lot. They plan on converting the existing living room into a dining space and they will open the kitchen to the existing dining space. The living space is on the rear of the house, which is more convenient for them as a family. On the second floor, they will be moving the master from the front of the home to the back, and they will be adding a second bathroom on the second floor to make it more livable for a growing family.

Law Director Bemer said that the Board learned more in the last 3 minutes than they did in the entire 30 minutes of the explanation by the architect. He encourages the architect to

always bring the homeowner to the meeting and wishes that the homeowner would have spoken up sooner. Mr. Farrell said that he reserves the right, as a professional, to make sure that all of the proper questions are answered and consideration is given to the design of a home that will be here for the next 100 years. In his opinion, this space is still a little bit out of proportion, but as far as the lot coverage is concerned, he does not have an issue with it.

Mr. Christ said that he disagrees with the architect's statement that 32.6% is not significant because he believes it is significant. If the front porch was enclosed, he would have a problem with the total volume on this lot. The explanation from the owner about the driveway helps quite a bit and the architect was not mentioning the issue of moving a bathroom on the first floor, which can be difficult, and he was only talking about the window. This Board needs to consider factual points as they review variances because they must consider the practical difficulties. Mr. Brandt thanked Mr. Suntala for speaking up because it was very helpful in explaining why the variance is needed.

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

5 Ayes – 0 Nays
Passed

Mr. Christ applied the practical difficulties test aloud. Regarding special conditions or circumstances that exist, Mr. Christ said that it has been noted that the narrowness of the lot is driving some of the configuration of the house. The applicant has indicated that the existing driveway is controlling part of their decision making, and they are accommodating the configuration of the existing house. Whether the property in question will yield a reasonable return does not apply in this case. The applicant is making the argument that the variance is not substantial and the Board is considering whether it is substantial. The essential character of the neighborhood will not be altered because the applicant has a narrow lot and there is no need for a side setback variance. This variance will not adversely affect the delivery of governmental services. Regarding whether the property owner purchased the property with knowledge of the zoning restrictions, he does not believe that to be the case. There are no special circumstances that exist as a result of the actions of the owner. Whether it is possible to obviate the property owner's predicament feasibly through some method other than a variance is one of the points the Board is considering. Whether the spirit and intent of the Code would be observed by granting a variance and whether the granting of this variance will confer any special privilege on the applicant will be made known based on the vote of the Board. Whether the literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties, Mr. Christ said that is also part of the consideration of this Board.

Mr. Christ moved to grant a variance to Jonathan Suntala, 19338 Telbir Ave., to construct a 2-story addition with a 32.6% lot coverage vs. 28% maximum lot coverage permitted. The applicant has indicated the practical difficulties with providing an addition that will add the spaces that they are looking for onto the house in light of the configuration of the existing driveway and house. Mr. Wright seconded.

5 Ayes – 0 Nays
GRANTED

The meeting adjourned at 7:25 p.m.

Eric Pempus, Chairman

Richard Christ, Secretary

Date: _____