



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
AUGUST 26, 2014**

The hearing was called to order at 7:48 P.M. by Chairman Jones

PRESENT: Board Members Matthew Jones, Robert Swisher, Bryan Baesel
ABSENT: Jeff Neverman, Scott Fatzinger
ALSO PRESENT: Law Director John Wheeler and Clerk of Commissions Nicolette Sackman

Mr. Jones explained only three members were present and for any variance to be approved all three members would have to vote yes. Applicants were welcome to request to be tabled to a future meeting when a full board was present.

SELECTED CORRESPONDENCE

Docket 2014-17

8/18/14 letter from Barbara Goodin, 26873 Rose Road – no objections

DOCKETS

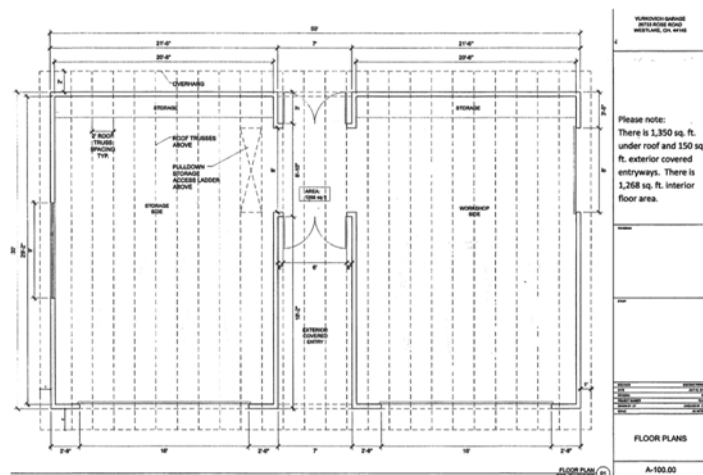
Docket 2014-17

Applicant: Dave Yorkovich

Premises: 26733 Rose, PP#215-15-001

Requesting to install a 1,500 sq. ft. detached garage 18'7" tall at variance with 1211.04(a)(2) which states on lots of single family uses private garages shall be limited to one garage area and on lots sized 40,000 sq. ft. or more, maximum garage area shall be 1,200 sq. ft. and detached garages shall not exceed 15' in height from the average grade to the peak of the gable. Mr. Yorkovich is requesting to construct this garage while maintaining an existing garage; this will require a variance to temporarily allow two garage areas; a variance for 300 sq. ft. in area; and, a 3'-7" height variance.

Mr. Dave Yorkovich and Mrs. Marianne Yorkovich, sworn in by Mr. Wheeler, explained per the zoning code they are permitted a 1,200 sq. ft. garage and they are seeking a variance for 68 sq. ft. for an additional 68 sq. ft. of garage area under roof. He explained there is any entry feature that is under the roof but it is not enclosed as well as a porch. He explained he has a truck with a ladder rack that he



needs to fit within the garage which is why he is requesting a height variance. They would like to keep the existing garage during construction as it is used for storage. The existing garage will be demolished once the new garage is constructed. Mr. Yorkovich stated that only an additional 68 sq. ft. under the roof is enclosed.

Members of the board discussed the proposal noting that the entire area under the garage roof (footprint) is part of the garage area so therefore the request is for 300 sq. ft. variance to allow a 1,500 sq. ft. garage, not a 68 sq. ft. variance. They reviewed the location of the windows and placement of the garage on the parcel. The roof will be designed to have a 5:12 pitch and will match in style to the house. It was questioned if the garage was a six car garage, which it can fit six cars but Mr. Yorkovich stated they did not have that many vehicles and wanted the extra space for storage. It was questioned why the garage could not be designed to comply with the code relative to area. Mr. Yorkovich stated he could reduce the depth so the 68 sq. ft. variance was not needed and could possibly redesign the garage so the entry is not covered and part of the garage to get to 1,200 sq. ft. Discussion ensued if the height would still be necessary and if Mr. Yorkovich's truck was a commercial vehicle. Mr. Wheeler advised that per the code a $\frac{3}{4}$ ton truck is permitted. Mr. Yorkovich advised the truck is his work vehicle that he drives back and forth to work. It was questioned if the garage is or would be used for a commercial use. Mr. Yorkovich stated it was not and it is just used to park his vehicle and storage. Discussion ensued if the garage was reduced in area if the same height variance would be needed with a 5:12 pitch and the members were not comfortable trying to redesign the proposal on the floor and felt maybe the matter should come back before the board once redesigned so the exact height was known. Mr. Wheeler noted that since the applicant is willing to reduce the area of the garage so a 300 sq. ft. variance is not needed it should be officially withdrawn. Mr. Yorkovich withdrew his request for the area variance.

Ms. Mandy McClain, 26670 Rose Rd., sworn in by Mr. Wheeler, expressed and commented on the following: concerns with damage to the street and apron from truck and trailer usage and concerns with drainage and the flood plain from additional roof surface. She questioned the use of the property because currently there are commercial vehicles, trailers, grater and a fork lift on site. Deliveries are made where pallets of shingles are unloaded off flatbed trucks with a fork lift and materials are stored on the property. To her it seems as though this residential property is being used for a commercial use. Mr. Wheeler questioned Mr. Yorkovich if this was true and Mr. Yorkovich stated he has a home business. Mr. Wheeler explained that type of a use is a commercial business and not permitted as a home occupation. Materials cannot be stored in a residential district for use at another location. He read sections of the code, 1211.01(a)(4) and 1211.01(l) relative to home occupations and storage of vehicles. The size of Mr. Yorkovich's vehicle was questioned as only $\frac{3}{4}$ ton trucks are permitted in residential districts. Mr. Yorkovich stated his truck is a 3500 with a dump bed and weighs maybe 8,800 lbs and wishes for a variance to construct a new garage to store the vehicle. Mr. and Mrs. Yorkovich were unclear with the code as their business is a home improvement business and they only have delivery of shingles once a month that are stored until used. Discussion ensued on what is a commercial use and what is permitted as a home occupation. Mr. Wheeler reiterated the definitions per the code for a home occupation and vehicle storage. Mr. Yorkovich noted there is a landscape business down the street with vehicles and equipment stored outside, which Mr. Wheeler noted may also be in violation of the zoning codes.

Chairman Jones noted the possible violations relative to the use of the property are incidental to the variance request as the Board does not deal with those types of violations and they are handled by the building department. The building department can be made aware of the issue but the matter before the board is a height variance for the garage and to allow a second temporary garage. Relative to drainage any property is allowed to have a garage and what is being proposed is an area permitted by code. If there were any drainage issues they would be addressed by the engineering department.

After a careful review of the plans and testimony of the applicants the Board finds that:

1. The applicant's property is located on Rose Road in a residential district;
2. The applicant wishes to construct a detached garage 18'7" I height; Section 1211.04(a)(2) states that a detached garage shall not exceed 15' in height from average grade to peak of the gable;
3. The applicant states that his practical difficulty is that the height of the garage limits the storage of a vehicle he owns and must be stored; further, the applicant states that this vehicle does not otherwise violate the storage restrictions for trucks set forth in the City codified ordinances;
4. Applicant states that he will not use the garage or his premises for storage and/or maintenance of materials for any business and will comply with any and all City codes;
5. The Board found that the applicant has presented a practical difficulty in that the regulated height is not sufficient for storage of his vehicle and such practical difficulty is sufficient to justify the grant of the requested variance; further, the variance is in accordance with the standards for variances as set forth in the Westlake Codified Ordinances.
6. The applicant wishes to construct a detached garage 18'7" I height; Section 1211.04(a)(2) states that a detached garage shall not exceed 15' in height from average grade to peak of the gable; in order to store his vehicle the applicant wishes to maintain his existing garage while building a new garage and requests a temporary variance to do so;
7. The applicant states that his practical difficulty is that he will not be able to store his vehicle while constructing the new garage and will demolish the old garage upon completion of the new garage;
8. Applicant states that he will not use the garage or his premises for storage and/or maintenance of materials for any business and will comply with any and all City codes;
9. The Board found that the applicant has presented a practical difficulty in that it is necessary to temporarily store the vehicle in his old garage while constructing the new garage and that granting a temporary variance is justified by the need to store the vehicle; further, the temporary variance is in accordance with the standards for variances set forth in the Westlake Codified Ordinances.

Motion: Mr. Swisher moved, seconded by Mr. Baesel to approve a 3'-7" height variance with the restriction that the height is maximized by whatever is required to maintain a 5:12 pitch at the revised depth of the garage.

ROLL CALL:

Yeas: Jones, Swisher, Baesel

Nays: None, motion carried

Motion: Mr. Baesel moved, seconded by Mr. Swisher to approve a variance to temporarily allow

two garage areas during construction with the condition that the existing garage is demolished 30 days after completion of the second garage (the new garage).

ROLL CALL:

Yeas: Jones, Swisher, Baesel

Nays: None, motion carried

Docket 2014-18

Applicant: Buckingham Homes

Premises: 1758 Bur Oak, PP# 211-05-010

Requesting to install a single family home 14' 9" off of the side property at variance with 1211.09 which states minimum side yard dimensions in one family residential districts is 15', a 3" setback variance.

Since only three members were present the applicant wished to be tabled to the next meeting when more members would possibly be present.

Motion: Mr. Swisher moved, seconded by Mr. Baesel to table Docket 2014-18 to the next meeting.

ROLL CALL:

Yeas: Jones, Swisher, Baesel

Nays: None, motion carried

APPROVAL OF MINUTES

Motion: Mr. Baesel moved, seconded by Mr. Swisher to approve the minutes of July 29, 2014

ROLL CALL:

Yeas: Jones, Swisher, Baesel

Nays: none, motion carried

FINDINGS OF FACTS

Motion: Mr. Swisher moved, seconded by Mr. Baesel to approve the findings of fact for Docket 2014-15 Love

ROLL CALL:

Yeas: Jones, Swisher, Baesel

Nays: none, motion carried

Motion: Mr. Baesel moved, seconded by Mr. Swisher to approve the findings of fact for Docket 2014-16 Sanders

ROLL CALL:

Yeas: Jones, Swisher, Baesel

Nays: none, motion carried

MISCELLANEOUS - None

ADJOURNMENT

Chairman Jones adjourned the meeting at 8:22 P.M.

Matt Jones, Chairman

Nicolette Sackman, Clerk of Commissions

Approved: _____