



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
MAY 26, 2015**

The hearing was called to order at 7:30 P.M. by Chairman Jones

PRESENT: Board Members Matthew Jones, Brad Lamb, Robert Swisher
ABSENT: Bryan Baesel, Jeff Neverman
ALSO PRESENT: Assistant Law Director Sean Kelleher and Clerk of Commissions
Nicolette Sackman

SELECTED CORRESPONDENCE

5/26/15 email from Frank Galizio, 27491 Dunford Road, with comments re: Docket 2015-09 Miller

DOCKETS

Docket 2015-09

Applicant: Mr. and Mrs. Gary Miller

Premises: 27503 Dunford Rd., PP# 215-03-030

Requesting to install an addition at variance with 1211.08(e) and 1211.16 which states: The width of either side yard of a lot shall be not less than the respective dimensions as set forth in §1211.09 {15'}. The total width of both side yards of a lot and the width of two adjoining side yards on adjoining lots shall not be less than the total width as set forth in §1211.09 {30'}... except as modified in ...§1211.17 and 1211.18. Additionally, 1211.16 states: the average setback of conforming buildings located within 300' on either side of a lot proposed for development shall be the minimum front yard setback required for that lot. Requesting to install the addition 6.67' off the side property line, an 8.33' setback variance. The total width of both side yards of this lot will be 23.67', a 6.33' setback variance. At the location where this project abuts an adjacent side yard, proposing an 18' setback, a 12' setback variance. Finally, there is a front addition proposed at 30.84' off the front right-of-way (average has been submitted at 51.73') this will require a 20.89' front yard variance.

Mr. Harvey Ofer, architect, and Mr. Gary Miller, sworn in by Mr. Kelleher. Mr. Ofer explained they would like to add a two car garage to the front of the house and convert the existing one car garage into an extension of the kitchen. The existing kitchen in the house is small and the Miller's would like to remodel the house with the addition of a two car garage, kitchen expansion, master bedroom addition and interior remodeling. The house was constructed in the 1950s and a one car garage and small kitchen are difficult to use. Mr. Ofer reviewed the site plan for the additions and the setback variances being requested. He stated the addition will not negatively impact the neighborhood. The neighborhood is an older neighborhood with a variety of front yard setbacks. The average front yard setback is 51.73' and they are proposing to add

the garage to the front of the house so that it will have 30.84' front yard setback. He noted there are houses outside of the 300' used to establish the setback that are closer to the street and similar to what they are proposing. Mr. Ofer did speak to surrounding neighbors who have no objections to proposal. The adjacent neighbor, Mr. Galizio, only requested that the addition is at least 3' off his property line.

Mr. Miller explained that they currently do not live in the house and are remodeling the home while they sell their other house. They hope to move in within the next six months once the remodel is complete.

Members of the board reviewed the proposal and had lengthy discussion that the variances being requested are substantial and will impact the character of the neighborhood. Mr. Miller noted that the master bedroom addition will not be done at this time but they would like to be able to have a two car garage and a larger kitchen in the house. Members of the board were understanding of the request but felt as designed and proposed the additions were larger, very close to the lot lines, much closer to the front right of way than the other houses in the neighborhood and they were not in support of the requests. The garage would be very visible setback closer in the front yard than the surrounding houses within 300' and members felt the variance was substantial. Lengthy discussion ensued on the proposal. Mr. Ofer did not think the front yard setback would impact the neighborhood and urged the board to grant the request.

Mr. Mark Mackson, 27810 Southbridge, sworn in by Mr. Kelleher, explained he lives behind the applicant's house and also felt the multiple variances being requested were substantial for the area and would have a negative impact on the neighborhood and his yard. He expressed concerns with safety as the garage so close in the front yard may block visibility for the school bus, and concerns that property values would drop. The proposed additions seemed very close to the property lines.

Chairman Jones noted that the rear master bedroom addition does not need any variances and is permitted. He disagreed that remodeling and improvements to the home would negatively impact property values but did agree what is being proposed is substantial and would not meet the intent of the zoning codes. Mr. Miller noted all the improvements he had done to his current house have only increased the value of the home and what he proposes to do in this house would do the same. He noted the house is a small two bedroom, one bathroom house which is close to his son and a nice location to downsize, but he would like to make some improvements. What he is proposing will be nice, add value to the house and they also plan to improve the landscape.

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

1. The Applicant's property is located at 27503 Dunford Road.
2. The Applicant sought a total of 4 variances.
3. The Applicant sought 3 side yard variances for additions to his home that would put the addition less than seven feet from the side property line as well as less than 24 feet total in one area, and only 18 feet in another, from the neighboring home.
4. Lastly, the Applicant sought a variance to build a two car garage projecting 30 plus feet onto the front of his existing building line that would require an almost 21 foot variance.
5. As to the first requested variance, seeking to place the addition 6.67' off the side property line wherein 15' is required, the Board found that:

6. The reason for the variance could be solved in another manner;
7. The variance was substantial;
8. The adjoining property would suffer a substantial detriment and;
9. The spirit of the zoning code would be violated by the granting of the variance.
10. As to the second requested variance seeking to place the addition 24 feet from the existing neighboring side building line wherein 30' is required, the Board found that:
 11. The reason for the variance could be solved in another manner;
 12. The adjoining property would suffer a substantial detriment and;
 13. The spirit of the zoning code would be violated by the granting of the variance.
14. As to the third requested variance seeking to place the addition 18 feet from the existing neighboring side building line wherein 30' is required, the Board found that:
 15. The reason for the variance could be solved in another manner;
 16. The variance was substantial;
 17. The adjoining property would suffer a substantial detriment and;
 18. The spirit of the zoning code would be violated by the granting of the variance.
19. As to the fourth and final requested variance seeking to build a two car garage projecting 30.84 feet onto the front of the existing building line that would require a 20.89 foot variance, the Board found that:
 20. The reason for the variance could be solved in another manner;
 21. The variance was substantial;
 22. The proposed addition would affect neighbor's sightlines and have a negative effect on the character of the neighborhood;
 23. The adjoining property would suffer a substantial detriment and;
 24. The spirit of the zoning code would be violated by the granting of the variance.

Motion: Mr. Swisher moved, seconded by Mr. Lamb to approve an 8.33' side yard setback variance for Docket 2015-09

ROLL CALL:

Yea: None

Nay: Neverman, Fatzinger, Swisher, Jones, motion failed

Motion: Mr. Swisher moved, seconded by Mr. Lamb to approve a 6.33' setback variance for the width of both side yards for Docket 2015-09

ROLL CALL:

Yea: None

Nay: Lamb, Swisher, Jones, motion failed

Motion: Mr. Swisher moved, seconded by Mr. Lamb to approve a 12' setback variance between houses for Docket 2015-09

ROLL CALL:

Yea: None

Nay: Lamb, Swisher, Jones, motion failed

Motion: Mr. Swisher moved, seconded by Mr. Lamb to approve a 20.89' front yard setback variance for Docket 2015-09

ROLL CALL:

Yea: None

Nays: Lamb, Swisher, Jones, motion failed

Docket 2015-10

Applicant: Mr. William Winter

Premises: 26775 Maple Dr. 213-16-053

Requesting to install a 160 sq. ft. utility building 12' in height at variance with 1211.04(k) which states a utility building shall be permitted in a rear yard provided that the maximum building size on lots under 20,000 square feet shall be 120 sq. ft. in area and no higher than 11'; a variance for 40 sq. ft. in area and a height variance of 1'.

Mr. William Winter, sworn in by Mr. Kelleher, explained he is seeking a 40 sq. ft. variance for additional area in a shed and a 1' height variance. His house is constructed on a slab with no basement, crawl space and he has California ceilings so the only storage space in the house are the closets. He would like more room for storage. The pre-fabricated shed he is looking to install is 10' x 16', at a height of 12'.

Members questioned why he could not use a 120 sq. ft. shed and what size is his garage. Mr. Winter explained he has a three car detached garage, which has three cars inside, so he has limited storage area. In the future he may need more storage as he has a limited amount in his ranch home. With a three car detached garage Chairman Jones did not see that there was a practical difficulty as the applicants has a substantial size garage to use for storage. Regarding a 1' height variance the board did not see any issues with allowing a shed that is 12' in height.

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

1. The Applicant's property is located at 26775 Maple Drive.
2. The Applicant sought a variance to install a 160 sq. ft. utility building wherein 120 sq. ft. is the maximum allowable under the code for properties of that size. Applicant also sought a 1' height variance from the 11' allowable by WCO 1211.04.
3. As to the first variance seeking a 40sq. ft. variance, the Board found that:
4. The reason for the variance could be solved in another manner;
5. The variance was substantial;
6. The spirit of the zoning code would be violated by the granting of the variance.
7. As to the second variance seeking a 1' height variance the Board found that:
8. The variance was not substantial;
9. The adjoining property would not suffer a substantial detriment and;
10. The spirit of the zoning code would not be violated by the granting of the variance.

Motion: Mr. Swisher moved, seconded by Mr. Lamb to grant a 40 sq. ft. area variance for a shed for Docket 2015-10

ROLL CALL:

Yea: None

Nays: Lamb, Swisher, Jones, motion failed

Motion: Mr. Swisher moved, seconded by Mr. Lamb to grant a 1' height variance for a 12' tall shed for Docket 2015-10

ROLL CALL:

Yea: Lamb, Swisher, Jones

Nays: None, motion carried

Docket 2015-11

Applicant: Buckingham Homes

Premises: 1856 Bur Oak, PP# 211-07-030

Requesting to install a single family home with two attached garages, at variance with 1211.04(a)(2) which states on lots of single family uses private garages shall be limited to one garage area; a variance for two garage areas.

Mr. Danny McMahon (contractor), sworn in by Mr. Kelleher, explained they are proposed to construct a model home and would like to build the garage with a split garage area. Rather than a single three car garage they would like to build the garage so it is "L" shaped with one garage area being a two car garage and the other area being a one car garage. The two areas do touch but are considered two separate garages. There are no issues with setback and this design is trending and desired by many homeowners.

Members of the board discussed that the two areas do touch and are almost adjacent to one another. Mr. McMahon explained in some cases they have constructed the garages spaces so there is an interior connection and a variance was not required. They have built many homes in Westlake and elsewhere like this. Members noted this proposal has a wall between the garages and appear to be one garage area from the exterior so they did not oppose the proposal.

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

1. The Applicant's proposed property will be located at 1856 Bur Oak Drive;
2. That the Applicant sought a variance from requirements found in WCO 1211.04(A)(2) in order to incorporate into the building two distinct, attached, two car garage areas that are contiguous to each other;
3. That the lot is a corner lot and the homes orientation to the street is canted to create privacy for the back yard;
4. That there is a practical difficulty presented by the shape of the lot;
5. That the variances requested do not upset the character of the neighborhood or make the home appear "overly garaged," and that the plans do a good job of meeting the intent of the code.
6. That the adjoining properties would not suffer a substantial detriment and;
7. That the spirit of the code would not be violated by the granting of a variance.

Motion: Mr. Swisher moved, seconded by Mr. Lamb to grant a variance for two garage areas for Docket 2015-11.

ROLL CALL:

Yea: Lamb, Swisher, Jones

Nays: None, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Mr. Swisher moved, seconded by Mr. Lamb to approve the minutes of April 14, 2015

ROLL CALL:

Yea: Lamb, Swisher, Jones

Nays: None, motion carried

FINDINGS OF FACTS

Motion: Mr. Swisher moved, seconded by Mr. Lamb to approve the findings of fact for Docket 2015-06 Cozad

ROLL CALL:

Yea: Swisher, Jones, Lamb

Nays: None, motion carried

Motion: Mr. Swisher moved, seconded by Mr. Lamb to approve the findings of fact for Docket 2015-07 Huesken

ROLL CALL:

Yea: Swisher, Jones, Lamb

Nays: None, motion carried

Motion: Mr. Swisher moved, seconded by Mr. Lamb to approve the findings of fact for Docket 2015-08 Gallagher

ROLL CALL:

Yea: Swisher, Jones, Lamb

Nays: None, motion carried

ADJOURNMENT

Chairman Jones adjourned the meeting at 8:23 P.M.

Matt Jones, Chairman

Nicolette Sackman, Clerk of Commissions

Approved: _____