

ZONING BOARD OF APPEALS
TUESDAY, JUNE 17, 2014 @ 7:00P.M.

CALL TO ORDER: 7:04 p.m.

COMMISSIONERS: Chairman - Mr. Lee Todd
Mr. Ahmad Taylor
Mr. Sam Anderson, Jr.
Ms. Patricia Hollis
Ms. Elcine Kirkendolph
Mr. Joseph Sinclair
Mr. Carlos Bueno
Mr. William Carrington – Alternate

CHAIRMAN TODD: I will call the meeting to order. Roll call, please.

MR. SABO: Anderson?

MR. ANDERSON: Here.

MR. SABO: Chairman Todd.

MR. TODD: Here.

MR. SABO: Taylor?

MR. TAYLOR: Here.

MR. SABO: Kirkendolph?

MS. KIRKENDOLPH: (Arrived at 7:25 p.m.)

MR. SABO: Carrington?

MR. CARRINGTON: Here.

MR. SABO: Sinclair?

MR. SINCLAIR: Present.

MR.SABO: Bueno?

MR. BUENO: Here.

EXCUSED: None.

ABSENT: None.

ALSO PRESENT: Mr. James Sabo, Professional Planner
Mr. Gordan Bowdell, Associate Planner

COMMUNICATIONS: Mr. Sabo indicated that Comm. Hollis has resigned from the ZBA as well as the Planning Commission effective immediately. Comm. Carrington will carry on until a member from the Planning Commission volunteers for the vacancy.

ADOPTION OF MINUTES: May 20, 2014.

COMM. TAYLOR MADE A MOTION FOR APPROVAL OF THE MINUTES FOR May 20, 2014 AND COMM. CARRINGTON SUPPORTED.

CHAIRMAN TODD: Roll call, please.

VOTE: AYES: Taylor, Carrington, Anderson, Sinclair, Chairman Todd.
NAYS: None.
ABSTAIN: Bueno.

Motion passes 5-0-1 for approval of the May 20, 2014 Minutes.

OLD BUSINESS:

PUBLIC HEARING NUMBER: ZBA-14-04 (POSTPONED FROM MARCH 18, 2014)

Finding of facts presented by Mr. Bowdell.

Property Description: 105 Pinegrove; Parcel Number: 14-29-104-015
Applicant/Property Owner: LaRhonda Ford

Dimensional Variance Request:

Section 2.305(F)(2) – Accessory Building Area: The aggregated area of accessory buildings on any lot shall not exceed the littlest of fifteen percent (15%) of the total lot area, the floor area

of the first floor of the principal dwelling, or 660 square feet per dwelling units, whichever is least.

The applicant has an existing 384sq. ft. detached garage. The applicant is proposing a 748 sq. ft. (22' x 34') addition to the rear of the existing garage. **A 472 sq. ft. variance is requested.**

Claimed Practical Difficulty:

The applicant stated:

“I have many collector cars and because of the area I can’t park on the street, and when I do park on the street, because of the narrow space my cars get dinged up, which is very costly.”

Staff Findings:

1. Request was originally requested on March 18, 2014 Zoning Board of Appeals meeting.
 - a. Request was postponed to allow applicant to reduce the size to a three-car garage.
2. The property is zoned R-2, Two-Family Dwelling District.
3. Accessory Buildings located in an R-2 zoning district shall not exceed 15 percent of the total lot area, the floor area of the first floor of the principle dwelling, or 660 sq. ft., whichever is less.
4. The existing detached garage has an area of 384 sq. ft.
 - a. The proposed 748 sq. ft. garage addition exceeds the maximum area permitted. **(472 sq. ft. variance request)**
 - b. Proposed request is for a three-car garage addition.
 - i. The original variance requested (March 18, 2014) was for 1,216.6 sq. ft. garage addition (940.6 sq. ft. variance).
 - ii. New request is approximately 38.5 percent smaller than original request.
5. Fifteen percent of the total lot area is 2,250 sq. ft.
6. The proposed detached garage/accessory building complies with all other high, bulk, and setback requirements.
7. The lot is 50’ wide and has an area of 15,000 sq. ft.

AUTHORIZATION: Section 6.407 Dimensional Variance

Authority – The Zoning Board of Appeals may grant a dimensional (nonuse) variance to provide relief from a specific standard in this Ordinance relating to an area, a dimension or a construction requirement or limitation, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

Practical Difficulty – A nonuse variance shall not be granted unless the Zoning Board of Appeals finds that there is a practical difficulty in the way of carrying out the strict letter of this ordinance. In determining whether a practical difficulty exists, the Zoning Board of Appeals must find that:

1. Compliance with strict letter of the restrictions governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.

May/May not meet this standard. – The restrictions of this ordinance do not prevent the owner from using the property as a permitted purpose. The ordinance allows the owner/applicant to have an accessory structure; however, it restricts the size. Due to the large size of the residential lot, to conform to the 660 sq. ft. requirement may be unnecessarily burdensome to the owner of the property.

2. A grant of the variance will do substantial justice to the applicant as well as to the other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.

Appears to meet this standard – The proposed accessory structure addition will provide substantial justice to the applicant. The lot size of the property is much larger than a ‘typical’ Two-Family Dwelling district lot, the proposed accessory structure addition appears to be reasonable in size compared to the lot. The proposed accessory structure addition appears to be designed and placed in a way not to be detrimental to surrounding properties.

3. The plight of the applicant is due to the unique circumstances of the property.

May meet this standard – The property is very large. The total area of the property is 15,000 sq. ft. The lot well exceeds the minimum lot requirements for a property in an R-2 zoning district. This large lot appears to be able to accommodate a garage larger than 660 sq. ft.

4. The problem is not self-created.

May/May not meet this standard - The problem is self-created from the standpoint that the applicant is seeking a larger accessory structure (garage). However, the oversized lot is unique to the property and is not self-created.

5. The spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.

Appears to meet this standard – The spirit/intent of the ordinance for accessory structures in an R-2 zoning district is to provide reasonable sized structure(s) that are intended to be used in a manner that is “clearly incidental” to the principal use to which it is exclusively related. The proposed garage addition appears to be appropriate in size and location to the property and surrounding properties.

6. There is compliance with the standards set forth in *Sect 6.401.B*.

Appears to meet this standard – The proposed accessory building addition (garage) does not seem to impair light or air to the property, nor does the proposed produce increase in traffic congestion.

7. Compliance with standards for discretionary decisions contained in *Sec 6.303*.

Not applicable.

RECOMMENDATION:

To approve the proposed variance request (ZBA-14-04) for 105 Pinegrove to increase the maximum square foot requirement for accessory structures from 660 sq. ft. to 1,132 sq. ft., as the request appears to meet the standards for approval from Section 6.407 of the Zoning Ordinance. **(472 sq. ft. variance)**

LaRhonda Ford was present with no additional comment.

Comm. Bueno asked if the height of the garage doors would be standard height.

The applicant stated that it would be standard height.

Mr. Bowdell also added that no interior floor plan was submitted so this variance **DOES NOT** allow for an upper level.

Comm. Bueno inquired as the entrance to the addition, would it still be entered through the alley.

The applicant stated that the entrance can be off the street or the alley but the alley will be the main point of entry.

Comm. Bueno asked if the renovations to the house are complete.

The applicant stated the renovation was almost complete.

CHAIRMAN TODD DECLARED PUBLIC HEARING OPEN.

None.

CHAIRMAN TODD DECLARED PUBLIC HEARING CLOSED.

COMM. TAYLOR MADE A MOTION TO APPROVE THE PROPOSED VARIANCE REQUEST (ZBA-14-04) 105 PINEGROVE TO INCREASE THE MAXIMUM SQUARE FOOT REQUIREMENT STRUCTURES FROM 660 SQ. FT. TO 1,132 SQ. FT., AS THE REQUEST APPEARS TO MEET THE STANDARDS FOR APPROVAL FROM SECTION 6.407 OF THE ZONING ORDINANCE. **(472 SQ. FT. VARIANCE)**

COMM. SINCLAIR SUPPORTED.

CHAIRMAN TODD: Roll call please.

VOTE: AYES: Taylor, Sinclair, Anderson, Carrington, Bueno, Chairman Todd.

NAYS: None.

ABSTAIN: None.

Vote 6-0-0 for approval of the variance request.

NEW BUSINESS:

**PUBLIC HEARING NUMBER: ZBA-14-10 DIMENSIONAL (NON-USE)
VARIANCE REQUEST**

Finding of facts presented by Mr. Sabo.

Property Description: 119 E. Judson Street;
Sidwell # 14-33-101-022
Owner/Applicant – Rick Ramirez

Dimensional Variance Request:

The dimensional variance related to proposed construction and expansion of an existing non-conforming second driveway into the existing rear yard area. Variance for Dimension requested as follows:

Section 4.302(c)(3) - Single Family Residential Off-Street Parking: The maximum number of allowable driveway access to strips for a single family residential is one (1). The applicant is requesting to expand the non-conforming driveway an additional 182.5 square feet. The proposed expansion is on both sides of the existing backyard driveway. The variance request is 182.5 square feet.

Claimed Practical Difficulty:

(Dimensional Variance) Currently the site is an existing residential house on E. Judson Street. The applicant has stated that the variance request is based on practical difficulty related to the property owner's pet dogs digging holes in the rear yard and compromising the grass lawn area. The applicant stated that the rear yard looks bad. No other practical difficulty information has been provided.

Staff Findings:

1. The subject site is zoned R-1.
2. The proposed construction and expansion of a non-conforming second driveway does not meet all other zoning ordinance standards for setbacks, design and appearance.
3. The proposed construction and expansion of a non-conforming second driveway does not meet the zoning ordinance standards for number of driveway strips in a residential zone district.
4. There does not appear to be a practical difficulty related to the request for dimensional variance.

AUTHORIZATION: Section 6.407 Dimensional Variance

Authority – The Zoning Board of Appeals may grant a dimensional (nonuse) variance to provide relief from a specific standard in this Ordinance relating to an area, a dimension or a construction requirement or limitation, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

Practical Difficulty – A nonuse variance shall not be granted unless the Zoning Board of Appeals finds that there is a practical difficulty in the way of carrying out the strict letter of this ordinance. In determining whether a practical difficulty exists, the Zoning Board of Appeals must find that:

1. Compliance with strict letter of the restrictions governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.

Does not meet the standard - The property owner will not be prevented from utilizing the property for a permitted purpose with one driveway.

2. A grant of the variance will do substantial justice to the applicant as well as to the other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.

Does not meet the standard – The proposed driveway does not provide substantial justice to other property owners.

3. The plight of the applicant is due to the unique circumstances of the property.

Does not meet the standard – There are no specific or unique circumstances related to the property. It is a standard size residential lot with several alternative options available to the property owner.

4. The problem is not self-created.

Does not meet the standard – The problem is self-created. The applicant has proposed a driveway expansion that does not meet the zoning ordinance.

5. The spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.

Does not meet the standard.

6. There is compliance with the standards set forth in *Sect 6.401.B*.

Meets the standard for supply of light/air, traffic, safety, welfare.

7. Compliance with standards for discretionary decisions contained in *Sec 6.303*.

Not Applicable

RECOMMENDATION:

To deny the dimensional variance request for ZBA-14-10, 119 E. Judson for Section 4.302(c)(3) Single Residential Off-Street Parking; as the request does not meet the specific standards for practical difficulty from Section 6.407 of the Zoning Ordinance.

Rick Ramirez, applicant, stated that he has 2 Siberian huskies that constantly dig holes in his grass/yard. He would like to enhance the appearance of this backyard by expanding the driveway to cover the back portion for a deck area.

Comm. Sinclair needed clarification on the expansion of the concrete.

The applicant stated that the two driveways would not be combined but the expansion would take place in the backyard on the other side of the fence and around the garage.

Comm. Anderson asked Mr. Sabo if the objection was to the expansion. Mr. Sabo stated the ordinance was to the existing second driveway, its expansion of an existing non-conforming is what triggered the variance request.

Comm. Bueno and Comm. Todd had a question for staff. If the applicant put pavers for his patio, as long as he does not park on it, would it be permissible? Yes. If the curb-cut was eliminated, would the expansion be allowed? Yes.

Comm. Todd stated that he does not want to set a policy to allow for something to get bigger and worse, especially if it was not supposed to be there in the first place. The job of the Board is to keep uniformity.

The applicant can go ahead with his project without the variance if he decides to lay pavers instead of concrete or eliminate the curb-cut. The applicant can accomplish what he wants in a different way.

CHAIRMAN TODD DECLARED PUBLIC HEARING OPEN.

None.

CHAIRMAN TODD DECLARED PUBLIC HEARING CLOSED.

COMM. TAYLOR MADE A MOTION TO DENY THE DIMENSIONAL VARIANCE REQUEST FOR ZBA-14-10, 119 E. JUDSON FOR SECTION 4.302(c)(3) SINGLE RESIDENTIAL OFF-SET PARKING; AS THE REQUEST DOES NOT MEET THE SPECIFIC STANDARDS FOR PRACTICAL DIFFUCULTY FROM SECTION 6.407 OF THE ZONING ORDINANCE.

COMM. CARRINGTON SUPPORTED.

VOTE: AYES: Taylor, Carrington, Kirkendolph, Bueno, Sinclair, Anderson, Chairman Todd.

NAYS: None.

ABSTAIN: None.

Vote 7-0-0 for denial of the dimensional variance request.

PUBLIC COMMENT: None.

MISCELLANEOUS: Commissioner Bueno thanked Ms. Pat Hollis for her time on the board as well as the Planning Commission. She is already missed. Staff will look for another volunteer from the Planning Commission. A second alternate is also needed for the ZBA.

Mr. Sabo stated that there will be a short presentation on the distribution of the Master Plan on Thursday, June 26, 2014 at the City Council meeting.

Chairman Todd commented on the One Stop Ready seminar on June 25, 2014. It is required for board members to maintain their position. Board members are required to have 12 hours in 2 years.

Commissioner Kirkendolph apologized for her tardiness.

ADJOURNMENT: MOVED BY COMM. BUENO TO ADJOURN.

All in Favor: Ayes: All Nays: None Abstain: None

7:46 p.m.