

Oakwood, Ohio  
August 8, 2019

The Board of Zoning Appeals of the city of Oakwood met in regular session at 4:30 p.m., in the council chambers of the City of Oakwood, 30 Park Avenue, Oakwood, Ohio 45419. The Vice Chair, Mr. Kevin Hill, presided and the Recording Secretary, Ms. Lori Stacel recorded.

Upon call of the roll, the following members of the Board responded to their names:

MR. KIP BOHACHEK .....	ABSENT
MR. KEVIN HILL .....	PRESENT
MR. DAN DEITZ.....	ABSENT
MRS. LINDA WEPRIN .....	PRESENT
MR. NICK ENDSLEY .....	PRESENT

The following officers of the city were present:

Mr. Robert F. Jacques, City Attorney  
Mr. Ethan M. Kroger, Code Enforcement Officer

The following visitors registered:

Melissa Theis, 407 Runnymede Road  
Ross Alt, Contractor for 704 Runnymede Road

Mr. Hill called the meeting to order. He shared that Mr. Bohachek and Mr. Deitz were unable to attend the meeting and asked to be excused. Upon a viva voce vote on the question of the absence approval, same passed unanimously and it was so ordered.

Mr. Hill then reviewed the meeting procedure with all in attendance.

Mr. Hill asked the members of the Board if any discussion was warranted regarding the minutes from the June 6, 2019 meeting which were slated for approval. There being no discussion, Mrs. Weprin moved that the minutes from the June 6, 2019 meeting be approved. Mr. Endsley seconded the motion. Upon a viva voce vote, motion passed and the minutes were approved.

Mr. Hill asked Mr. Kroger to present a staff report before opening the public hearing.

Mr. Kroger presented the staff report. He referenced a PowerPoint presentation and provided the following information.

Application #19-4 was filed by Melissa Theis to request a variance to the northeast rear yard setback for a proposed attached accessory structure/pergola at 704 Runnymede Road.

The property at 704 Runnymede Road was built in 1927 on 0.434 acres. The property is in the R-4 (single family) Zoning District. The R-4 Zoning District is intended to preserve those residential areas which are best suited for small sized lot developments and to maintain the character of existing low-density single family developments.

Mr. Kroger reviewed yard setback requirements for the R-4 Zoning District. This project follows the standard setback requirements because the pergola would be attached to the primary structure. The standard setback requirements are: the front yard setback requirement is 25 feet; the interior side yard setback requirement is 6 feet; the corner side yard setback requirement is 15 feet; and the rear yard setback requirement is 40 feet. He explained that normally the required rear yard setback would be 40 feet, but in this case, the existing home is roughly 16 feet from the lot line. That 16 foot setback is grandfathered as a prior nonconformity. This variance would change the setback from 16 feet to 0 feet, a difference of 16 feet.

Mr. Kroger displayed renderings of a property location map, existing home, and multiple site plan views, showing the unusual configuration of the lot.

Mr. Endsley asked if the pool and fence displayed on the renderings are existing structures on the property.

Mr. Kroger confirmed that they currently exist on the property. The only new structure with this application is the pergola.

Mr. Kroger closed his presentation by stating that if the Board of Zoning Appeals is inclined to grant this setback variance, staff requires that: 1) the applicant obtain all necessary building permits; 2) the applicant bears responsibility for any drainage issues that may arise from the project; and 3) the variance applies to the pergola only and all other future building projects must comply with the grandfathered 16 foot setback.

Mr. Endsley asked if the City owns the alley to the east side of the property.

Mr. Kroger confirmed yes.

Mr. Jacques explained that the condition about the variance applying to the pergola only was proposed from a legal standpoint. The R-4 zoning district setback requirements prevent further home extensions to the setback line.

Mrs. Weprin asked if the two garages shown on the renderings are accessible from the alley.

Mrs. Theis, property owner at 704 Runnymede Road, shared that the neighbors behind her come in and out through the alley without any problems. The retaining wall was installed two years ago and the fence was installed by previous owners.

Before opening the public hearing, Mr. Hill explained that with two members absent, a unanimous vote is required from the three board members in attendance for approval.

Mrs. Theis wished to proceed with the hearing.

Mr. Ross Alt, contractor for 704 Runnymede Road, provided brochures that included pictures of the pergola to the Board for reference.

Mrs. Theis, 704 Runnymede Road, shared that she takes pride in the improvements that have been made to her home. It is important to her that the updates keep with the integrity of the home and neighborhood.

Mr. Hill asked what pergola building materials and colors will be used.

Mrs. Theis explained that the plan is to reconstruct the existing fence to incorporate the pergola's vertical posts. The vertical posts will match the deep bronze color of the fence. The top frame of the pergola will be white to match the house.

Mrs. Weprin asked if the pergola will only consist of the top frame and posts.

Mrs. Theis said yes and explained that the pergola will be placed over an existing area that has a stone kitchen area and fireplace.



Mr. Endsley asked if those accessory structures also require a variance.

Mr. Jacques explained that the existing accessory structures would have already received zoning approval. He added that accessory structures that are not attached to the house have different setback requirements.

Mr. Endsley commented that the pergola matches the character of the house and the neighborhood. He does not have any concerns with this project.

Mrs. Weprin agreed with Mr. Endsley. She added that the fence already exists and the pergola would not cause access issues for the rear neighbors

Mr. Hill closed the public hearing and the Board began their deliberations.

Mrs. Weprin commented that she does not have any issues with adding a pergola to an area that already exists.

Mr. Hill shared that he does not have any concerns and is in favor of approving this application. He shared concerns about the pergola frame matching the color of the house. With both being white, it may cause a problem with differentiating between the two.

Therefore, it was moved by Mrs. Weprin and seconded by Mr. Hill that the preliminary staff findings be adopted, and application #19 – 4, to vary the rear yard setback for an attached accessory structure (pergola) at 704 Runnymede Road be approved under the conditions that: 1) the applicant obtain all necessary building permits; 2) the applicant bears responsibility for any drainage issues that may arise from the project; and 3) the variance applies to the pergola only and all other future building projects must comply with the grandfathered 16 foot setback of the house.

For purposes of the minutes, the preliminary staff findings as stated in the staff report were as follows:

#### VARIANCE FACTORS

- A. Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;  
 PRELIMINARY STAFF FINDINGS:
  - The property can yield a reasonable return with or without the variance.
- B. Whether the variance is substantial;  
 PRELIMINARY STAFF FINDINGS:
  - Staff believes this variance request is not insignificant. However, the home is situated towards the rear of the lot making it difficult to complete any building projects in the rear yard without the need of variance.
- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;  
 PRELIMINARY STAFF FINDINGS:
  - It is the opinion of staff that the essential character of the neighborhood would remain intact should the BZA be inclined to grant this variance request.

D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, refuse, police/fire);

PRELIMINARY STAFF FINDINGS:

- There is no reason to believe governmental services would be adversely affected due to the granting of the variance.

E. Whether the property owner purchased the property with knowledge of the zoning restriction;

PRELIMINARY STAFF FINDINGS:

- Staff has no information as to the owner's knowledge at the time of purchase, but does not consider this to be a material/relevant factor.

F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;

PRELIMINARY STAFF FINDINGS:

- Due to the existing nonconformity of the home, staff believes that a variance is the only way the homeowners will be able to make improvements to the rear yard area.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;

PRELIMINARY STAFF FINDINGS:

- The spirit and intent of the setback requirement is to ensure a reasonable distance between the principal structure and the property line, and to align houses with other homes in the block for aesthetic purposes. Staff has concerns with placing an accessory structure so close to the property line, but this is somewhat mitigated by the fact that the adjacent land is a public alley rather than a neighboring residential property.

H. Any other relevant factors.

PRELIMINARY STAFF FINDINGS:

- As mentioned above, the existing home is currently nonconforming as the principal structure is setback roughly 16 feet from the rear yard property line where the code requires 40 feet in the R-4 zoning district, a difference of 24 feet.

Upon call of the roll on the question of the motion, the following vote was recorded:

MR. KEVIN HILL ..... YEA  
 MRS. LINDA WEPRIN ..... YEA  
 MR. NICK ENDSLEY ..... YEA

There being three (3) YEA votes, thereon, said motion carried.

There being no further business, the meeting concluded at 4:49 p.m.

  
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 VICE CHAIR KEVIN HILL

ATTEST:

  
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 RECORDING SECRETARY