

Oakwood, Ohio
February 11, 2021

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 Chair, Mr. Kip Bohachek, 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.....PRESENT
MR. KEVIN HILL.....PRESENT
MRS. LINDA WEPRIN.....PRESENT
MR. NICK ENDSLEYPRESENT

The following officers of the city were present:

Mr. Robert F. Jacques, City Attorney
Mrs. Jennifer S. Wilder, Personnel and Properties Director
Mr. Ethan M. Kroger, Code Enforcement Officer
Ms. Lori Stacel, Clerk of Council

The following visitors registered:

Mr. Ben Bayer, Site Group Landscaping
Mr. Matt and Mrs. Tara Cavo, 270 E. Schantz Avenue

Mr. Bohachek reviewed the meeting procedure with all in attendance. He explained that the meeting is also being conducted using the Zoom meeting platform. The Zoom meeting information is available via the City website.

There were no visitors attending via Zoom.

Mr. Bohachek noted that since this is the first meeting of the Board of Zoning Appeals in 2021, the Board will need to appoint a Chair and Vice Chair. Mr. Hill made a motion, second by Mr. Endsley, to reappoint Mr. Bohachek as Chair. Mr. Bohachek made a motion, second by Mrs. Weprin, to reappoint Mr. Hill as Vice Chair. The motions passed unanimously.

Mr. Bohachek asked the members of the Board if any discussion was warranted regarding the minutes from the November 14, 2019 meeting which were slated for approval. There being no discussion, Mr. Hill moved that the aforementioned minutes be approved as written and the reading thereof at this session be dispensed with. Mr. Endsley seconded the motion. Upon a viva voce vote, motion passed and the minutes were approved.

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

Mr. Kroger referenced a PowerPoint presentation and provided the following information.

Application #21-1 was filed by Ben Bayer with Site Group Landscaping, on behalf of Matt and Tara Cavo, to seek variance approval for a side yard and rear yard setback in conjunction with an outdoor patio pavilion structure to be added onto the existing single family residence located at 270 E. Schantz Avenue, a corner lot.

The property at 270 E. Schantz Avenue was built in 1915 on 0.3466 acres. The property is in the R-3 (single family) Zoning District. The R-3 Zoning District is intended to preserve those residential areas which are best suited for medium sized lot developments and to maintain the character of existing low-density, single family developments.

Mr. Kroger reviewed the rear yard and side yard setback requirements for the R-3 Zoning District. The rear yard setback requires 40 feet. The proposed outdoor pavilion structure would require approximately 26 feet 6 inches for the rear yard setback, a difference of 13 feet 6 inches. The side yard setback requires 10 feet. The proposed outdoor pavilion structure would require approximately 5 feet for the side yard setback, a difference of 5 feet.

Mr. Kroger displayed renderings of a property location map, and multiple site plan views showing the proposed outdoor patio pavilion structure and landscape plans.

Green space requirements do not apply to the proposed building addition due to the outdoor patio pavilion's connection to the home, which deems it to be part of the principal structure. The outdoor patio pavilion structure will complement the existing principal and accessory structures, and additional landscaping will be installed to minimize the impact to surrounding/adjacent properties.

Mr. Kroger closed his presentation by stating that if the Board of Zoning Appeals is inclined to grant this setback variance, staff requests that the property owner/contractor comply with the following conditions: 1) the materials and finishes for the proposed additions should match or complement the existing home; 2) landscape screening should be installed to limit the impact on neighboring properties; 3) the property owner must obtain a structural permit through the city of Kettering; 4) any drainage pattern disruption resulting from the installation of the pavilion must be addressed by the applicant so that there is no resulting negative affect on neighboring or city-owned property. Furthermore, the applicant must install a trench drain to mitigate excess water runoff; and 5) the outdoor pavilion structure must remain attached to the principal structure.

Mr. Bohachek opened the public hearing.

Mr. Jacques proceeded to swear in, en masse, the visitors that plan to testify.

Mr. Ben Bayer, contractor for 270 E. Schantz Avenue, thanked Code Enforcement Officer Ethan Kroger for all of his help with this application. Mr. Bayer explained that he works for Site Group Landscaping and he will be doing all of the work associated with the project. He shared that the applicants are open to suggestions and are willing to do whatever the Board recommends.

Mr. Cavo stated that he appreciates the Board's consideration of their application. He shared that the changes to their outdoor space will give them an opportunity to safely entertain family outdoors, especially during the COVID-19 pandemic. The updates will also allow them to get more use out of their side yard. He closed his comments by saying that they want to do the project right and get as close to the original home materials as possible.

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

Mr. Endsley asked about the proposed pavilion and if it was deemed to be attached to the home. Mr. Kroger confirmed it would be attached.

Mr. Hill asked if city staff anticipates any type of drainage issues with the project.

Mr. Kroger explained that the applicants, along with their contractor, will work with the city engineer to properly evaluate the drainage and to prevent any possible issues.

Mr. Endsley asked if the adjacent homeowner voiced any concerns with the project.

Mr. Kroger reported that city staff has not received any feedback or concerns from direct neighbors or other surrounding property owners.

Mr. Bohachek noticed that the roof appears to be overhanging the structure in the renderings. He asked how the setback was measured.

Mr. Kroger confirmed that the setback was measured from the gutters to the property lines, which is the furthest point of the structure.

Mr. Bohachek noted that while this is not something that the Board of Zoning Appeals evaluates, there could be some fire-related concerns with the roof being so close to the property line.

Mr. Hill asked if the meeting packet provided information on the plant species being used.

Mr. Kroger shared that the applicants plan to place arborvitae to provide screening.

Mr. Jacques commented that a property at the end of Park Avenue currently has arborvitae similar to what the applicant is proposing. He suggested that Board members walk out front of the city building to observe the proposed screening if needed.

Mr. Endsley asked if the landscape screening will provide full screening immediately or if it will take time to grow.

Mr. Bayer confirmed that the landscape screening will be 5-6 ft installed. There may be some gaps but he anticipates that it will be 80% screened.

Mrs. Weprin asked what is currently where the screening will be installed.

Mr. Cavo confirmed that there are low bushes currently in this location.

Mr. Endsley asked if the pavilion would be feasible if the regular setback was preserved.

Mr. Bayer stated that they really need to open up some space because the yard is pretty tight.

Mr. Endsley noted that the Board needs to consider that someone else may live next door in the future. He added that he has no concerns with the project as long as the area has proper screening.

Mr. Bohachek commented that the proposed pavilion looks like a well-designed structure. He believes that the setback request makes sense. He reiterated his concerns of the 5-foot side yard setback.

Mr. Hill commented that architecturally, the material palette will match what is currently there. He opined that the connection of the patio pavilion structure to the house could be more structured and more elegant so it does not look like an afterthought. He shared a concern that the structure is too large for the space and then echoed Mr. Bohachek's comment that it is too prominent on the west lot line. He said that there is no reason that the setback could not be preserved and he believes that the dimensions are more prominent than what was provided in the staff report.

Mr. Endsley asked for clarification on the standards of connections to principal structures.

Mr. Jacques shared that the Oakwood Zoning Code states that the connection would need to be structural in some way with a clear structural purpose. He shared a recent project involving playground equipment where the building was tied to an underground footer, providing a clear structural purpose.

Mr. Bohachek agreed with Mr. Hill's comments about the proposed pavilion, but the project satisfies the zoning code. He stated that the proposed location does not affect the nature of the project and is not visible to neighboring properties.

Mrs. Weprin opined that the pavilion looks similar to a pergola. She commented that the structure would not be seen unless you were directly in the backyard.

Mr. Endsley asked what would happen if the arborvitae screening is removed several years from now by a new owner.

Mr. Jacques explained that if approved, the arborvitae screening would be a required condition of this project. If the screening is removed, it would be a direct violation of a condition in this variance request and appropriate screening would need to be added.

Mr. Endsley commented that it would be better if the structure was smaller and if there was more of a substantial structured connection, but given all of the circumstances, the project is very well thought out and will add value to the home.

Therefore, it was moved by Mr. Endsley and seconded by Mrs. Weprin that the preliminary staff findings be adopted, and application #21-1, to vary for a side yard and rear yard setback in conjunction with an outdoor patio pavilion structure to be added onto the existing single family residence located at 270 E. Schantz Avenue be approved under the conditions that: 1) the materials and finishes for the proposed additions should match or complement the existing home; 2) landscape screening should be installed to limit the impact on neighboring properties; 3) the property owner must obtain a structural permit through the city of Kettering; 4) any drainage pattern disruption resulting from the installation of the pavilion must be addressed by the applicant so that there is no resulting negative affect on neighboring or city-owned property. Furthermore, the applicant must install a trench drain to mitigate excess water runoff; and 5) the outdoor pavilion structure must remain attached to the principal structure.

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 somewhat substantial in nature due to the location being a corner lot that abuts a public alley way, and the proximity of the outdoor patio pavilion structure to the existing detached garage. However, the outdoor patio pavilion structure will complement the existing principal and accessory structures, and additional landscaping will be installed to minimize the impact to surrounding/adjacent properties.

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. (See attached comment forms.)

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.

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

PRELIMINARY STAFF FINDINGS:

- Due to existing layout of the lot and the nature of the outdoor patio pavilion structure, it would be difficult for the applicant to complete the proposed project without a variance. The applicant could reduce the overall size of the structure, but it is likely that setback variances would still be required.

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.
- The outdoor patio pavilion structure will be situated in between the existing principal structure and the detached garage. The topography of the rear yard area will make it easy to screen and add landscaping to shield the immediate neighboring views. It is staff's opinion that the applicants have chosen the most logical location on this corner lot for the proposed outdoor patio pavilion structure.

H. Any other relevant factors.

PRELIMINARY STAFF FINDINGS:

- None.

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

MR. KIP BOHACHEKYEA
MR. KEVIN HILLYEA
MRS. LINDA WEPRIN.....YEA
MR. NICK ENDSLEYYEA

There being four (4) YEA votes, thereon, said motion carried.

Mr. Hill shared that he appreciates the work of city staff on preparing the staff report. He also appreciates Mr. Bohachek facilitating the Board meetings.

Mr. Bohachek shared his appreciation for city staff as well as the other Board members.

There being no further business, the meeting concluded at 5:05 p.m.

CHAIR

ATTEST:

RECORDING SECRETARY