

Oakwood, Ohio
December 9, 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 Co-chair, Mr. Kevin Hill, presided and the Clerk, 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
- MRS. LINDA WEPRIN PRESENT
- MR. NICK ENDSLEY ABSENT
- MR. DONALD O’CONNOR PRESENT

The following officers of the city were present:

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

The following visitors registered:

- Mr. Ryan Nichols, Applicant, 1520 Ridgeway Road

Mr. Hill 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 was made available via the City website.

There were no visitors attending via Zoom.

Mr. Hill called the meeting to order and shared that Mr. Bohachek and Mr. Endsley were unable to attend the meeting and asked to be excused. Motion to excuse was made by Mrs. Weprin; second by Mr. O’Connor. Upon viva voce vote, the motion passed and the absences were excused.

Mr. Hill asked the members of the Board if any discussion was warranted regarding the minutes from the October 14, 2021 meeting which were slated for approval. There being no discussion, Mr. O’Connor moved that the aforementioned minutes be approved as written and the reading thereof at this session be dispensed with. Mrs. Weprin seconded the motion. Upon a viva voce vote, the motion passed and the minutes were approved.

Mr. Hill 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 #21-3 was filed by Ryan and Amanda Nichols to modify and expand an existing deck located in the rear yard of the property at 1520 Ridgeway Road. The current deck is nonconforming as to the rear yard setback. The Applicants’ proposal to increase the size of the deck would slightly increase the nonconformity.

The property at 1520 Ridgeway Road was built in 1984 on 0.69 acres. The property is in the R-1 (single family) Zoning District which is intended to preserve those residential areas which are best suited for large-sized lot development and to maintain the character of existing low-density, single family developments.

Mr. Kroger reviewed the rear yard setback requirements for the R-1 Zoning District. The rear yard setback requires 60 feet. The home at 1520 Ridgeway Road has an existing deck that is 30 feet in width and extends 11 feet 6 inches from the rear of the home, for a total area of 345 square feet. The existing deck setback is approximately 20 feet 6 inches from the rear property line, which is nonconforming because the required rear yard setback is 60 feet. The Applicants are requesting to expand the existing deck by making it both wider and deeper, enlarging the area to 630 square feet. Most of this increase comes from expanding the width from 30 feet to 45 feet, which is permitted under the Zoning Code and is not the subject of this application. However, the depth would also be expanded from 11 feet 6 inches to 14 feet. This is an extension of just 2 feet 6 inches, but would reduce the already-nonconforming setback from approximately 20 feet 6 inches to 18 feet. For that reason, the additional depth requires a rear yard setback variance. This variance request is made in the context of a larger project to convert the existing deck to a screened-in porch with a roof.

Mr. Kroger displayed renderings of a property location map, and multiple site plan views showing the proposed expansion of the existing rear yard deck to convert it into a screened-in porch with a roof. He noted that the area between the Nichols' deck and the nearest neighbor is heavily wooded, and adjacent to a city-owned natural area.

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/mature vegetation should be maintained to limit the impact on neighboring properties.
3. The property owner must obtain appropriate building permits through the city of Kettering.
4. Any drainage pattern disruption resulting from the installation of the addition must be addressed by the applicant so that there is no resulting negative affect on neighboring or city-owned property.

Mr. Hill opened the public hearing.

Mr. Nichols, Applicant at 1520 Ridgeway Road, shared that he is requesting to expand the existing deck so his family can enjoy dinner and family events outside. He stated that he spoke with the neighbors to the rear of his property, and they do not have any concerns with this project.

Mr. O'Connor asked if there is adequate distance between the Applicant's house and the house behind their property.

Mr. Nichols confirmed that there is adequate distance between the two properties. In addition, there are several mature trees as well as brush and honeysuckle.

Mr. O'Connor also asked about the topography and elevation changes between the properties.

Mr. Nichols described the area, which is hilly and separated by a stream or ravine-like area.

Mrs. Weprin stated that the proposed work is not being done on the ground level so it does not impact the topography.

Mr. Hill asked if the Applicant has engaged a contractor.

Mr. Nichols confirmed that he has engaged a contractor, and has discussed the means and methods to get the site work done.

Mr. Hill asked if there will be any trees removed with this project.

Mr. Nichols confirmed that they are not removing any of the trees.

Mr. Hill commented on the original stone on the house and asked when the house was built.

Mr. Nichols stated that the home was built in 1984.

Mr. O'Connor asked if there have been any prior issues with meeting the 60' setback requirement.

Mr. Kroger shared that there have been requests to vary the rear yard setback. The homes in Oakwood are older and predate the Oakwood Zoning Code that was updated in the early 2000's.

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

Mrs. Weprin shared that the proposed addition is not significant and does not impact the ground space or 20% greenspace rule for rear yards. She does not have any concerns with this request.

Mr. O'Connor agreed. He commented that the patio is a reasonable use, and asked if the trees could remain intact to support the natural area screening.

Mr. Jacques noted that conditions can be imposed by the Board to include that the trees and screening be maintained.

Mr. Hill agreed with the comments from Mrs. Weprin and Mr. O'Connor, as well as staff recommendations.

Therefore, it was moved by Mrs. Weprin and seconded by Mr. O'Connor that the preliminary staff findings be adopted, and application #21-3, to vary the rear yard setback for a proposed screened-in porch and deck extension, 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/mature vegetation should be maintained to limit the impact on neighboring properties.
3. The property owner must obtain appropriate building permits through the city of Kettering.
4. Any drainage pattern disruption resulting from the installation of the addition must be addressed by the applicant so that there is no resulting negative affect on neighboring or city-owned property.

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:
 ➤ The variance would allow an 18' rear yard setback where the code requires 60', a difference of 42'. While this is not insignificant, the existing deck is already nonconforming with a setback of just 20' 6", so staff views this as a minor enlargement of the existing nonconformity.
- 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:
 ➤ Staff is not aware of any difficulties or issues that have been caused by the existing nonconformity, likely because the area is heavily wooded and secluded despite its proximity to the property line. Staff has no reason to believe that adjoining properties would suffer a substantial detriment as a result of the variance.
- 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 does not consider this to be a material/relevant factor, as the home was constructed before the Zoning Code was adopted in 2000.
- F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
 PRELIMINARY STAFF FINDINGS:
 ➤ Because the home is currently nonconforming, a variance is the only way to approve the project that increases the nonconformity of the rear yard setback requirement.
- 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 structures on neighboring properties. Staff believes the natural screening of this area serves that spirit and intent and the distance requirement need not be strictly applied. Staff would propose, as a condition of approval, that the Applicants be required to maintain the existing wooded character of the area between the deck and the rear property line.
- H. Any other relevant factors.
 PRELIMINARY STAFF FINDINGS:
 ➤ Not applicable.

STAFF RECOMMENDATIONS: None.


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

MR. KIP BOHACHEK	ABSENT
MR. KEVIN HILL	YEA
MRS. LINDA WEPRIN	YEA
MR. NICK ENDSLEY	ABSENT
MR. DON O'CONNOR	YEA

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

Mr. Hill closed the meeting by thanking city staff for preparing the report and for their assistance throughout the year. Mr. Hill then thanked the Board members for their service to the community.

There being no further business, the meeting concluded at 4:52 p.m.



 CHAIR

ATTEST:


 KEVIN HILL



 CLERK

Oakwood, Ohio
June 8, 2023

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 Clerk, 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.....	ABSENT
MR. NICK ENDSLEY	PRESENT
MR. DONALD O'CONNOR	PRESENT

The following officers of the city were present:

Mr. Ethan M. Kroger, Code Enforcement Officer
Ms. Lori Stacel, Clerk of Council

The following visitors registered:

Mrs. Lillie Walsh, Applicant, 205 Kramer Road

There were no Zoom visitors in attendance.

Mr. Bohachek called the meeting to order at 4:30 p.m. He shared that Mrs. Weprin was unable to attend the meeting and asked to be excused. It was moved by Mr. Bohachek and seconded by Mr. Endsley that her absence be excused; the motion was approved by viva voce vote.

Mr. Bohachek asked if there were any questions or concerns with the minutes from the December 9, 2021 meeting. There being none, it was moved by Mr. O'Connor and seconded by Mr. Endsley that the minutes be approved as submitted and the reading thereof be dispensed with at this session. Upon a viva voce vote on the question of the motion, the same passed unanimously and it was so ordered.

Mr. Bohachek explained that the only agenda item is Application #23-1 to consider a variance approval for a corner side yard setback structure in conjunction with a covered porch structure to be added onto the existing single family residence located at 205 Kramer Road.

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 #23-1 was filed by Lillie and Andrew Walsh requesting a variance approval to build a covered porch on their corner lot at 205 Kramer Road.

The property at 205 Kramer Road is in the R-3 (single family) Zoning District which is intended to preserve those residential areas which are best suited for medium-sized lot development and to maintain the character of existing low-density, single family developments.

Mr. Kroger reviewed the corner side yard setback requirements for the R-3 Zoning District. The R-3 Zoning District requires a 30-foot corner side yard setback for building additions to be added to the primary structure. However, the home is currently non-conforming and has a current setback of 26'.8" from the corner side yard. The applicant's proposal to add a new covered porch structure