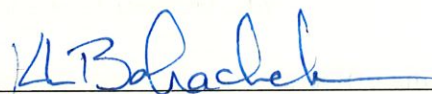


There being four (4) YEA votes, thereon, said motion carried.

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

Oakwood, Ohio
October 14, 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 Acting Clerk, Mrs. Jennifer Wilder recorded.

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

MR. KIP BOHACHEKPRESENT
MR. KEVIN HILLPRESENT
MRS. LINDA WEPRINPRESENT
MR. NICK ENDSLEYPRESENT
MR. DONALD O'CONNORPRESENT

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

The following visitors registered:

Mr. Tim Clark, 518 Walnut Springs
Ms. Lindsey Clark, 512 Walnut Springs

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 asked the members of the Board if any discussion was warranted regarding the minutes from the February 11, 2021 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 #21-2 was filed by Tim Clark of 518 Walnut Springs to seek variance approval for a side yard setback in conjunction with a two-story addition to the principal structure which includes an attached garage and living space above the garage.

The property at 518 Walnut Springs was built in 1953 on 0.94 acres. The property is in the R-1 (single family) Zoning District and the home was built in 1953. The R-3 Zoning District 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 side yard setback requirements for the R-1 Zoning District. The side yard setback requires 20 feet. The proposed two-story addition setback is 5 feet for the side yard setback, a difference of 15 feet.

Mr. Kroger displayed renderings of a property location map, and multiple site plan views showing the proposed two-story addition, existing screening, and existing driveway and garage.

Mr. Kroger went on to explain that the existing driveway is currently conforming with a 5-foot setback. The two-story addition will be constructed within the footprint of the existing driveway. No new impervious surface will be added to the property. The proposed height of the addition will not exceed the height of the existing principal structure. The proposed balcony shown on the rendering is front-yard facing, and does not wrap around to the side of the addition. The addition, including the eaves/overhang varies from 5 to 9 feet from the side property line, thus the request for a 5-foot setback where 20 is required. Mr. Kroger noted that the addition would be approximately 40 feet from the attached garage of the neighboring home at 512 Walnut Springs.

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 and maintained 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 addition must be addressed by the applicant so that there is no resulting negative effect on neighboring or city-owned property.

Mr. Bohachek opened the public hearing.

Mr. Tim Clark thanked Code Enforcement Officer Ethan Kroger for all of his help with this application. Mr. Clark explained that his residence is a midcentury home that was updated in the 1980's. He described the existing garage located at grade under the kitchen with a ceiling height of 7 feet, which prohibits parking any sort of SUV within. Mr. Clark proposes to use the existing driveway space for a garage with standard ceilings. He stated that the home is only a 2-bedroom home and with the addition he proposes over the garage, will add a master bedroom and bathroom, making the home a 3-bedroom house which is more comparable with other homes on Walnut Springs.

Mr. Bohachek asked the current square footage of the home, with Mr. Clark responding 2100.

Mr. Hill asked if there will be any updates to the brick veneer, with Mr. Clark responding that he plans to paint the existing brick white. He also plans to update the exterior siding as part of this project.

Mr. Endsley asked if there will be any new excavation required for the addition, with Mr. Clark responding that the project includes replacing the retaining wall that surrounds the area of the driveway that is proposed to be covered by the addition.

Ms. Weprin stated that she liked the design and that the addition added balance to the home.

Mr. Hill asked if the new retaining wall would match the existing stone wall elsewhere on the property, with Mr. Clark responding that the final materials have not been selected.

Mr. O'Connor inquired if there would be any windows on the new addition that face south, with Mr. Clark responding there would be windows for the new bathroom and master closet, but would be higher up and smaller.

Ms. Lindsey Clark (no relation to the applicant) of 512 Walnut Springs stated that she thought the design of the addition was nice and inquired if there was going to be a poured concrete wall on the

south end of the driveway since the existing retaining wall is currently holding back a large hill that continues on to her property. Mr. Clark responded that the wall would be poured concrete. Ms. Clark requested that Mr. Clark check the property lines before constructing to make sure he abides by the 5-foot requirement. She stated that her gardens and driveway are very close to the area of the addition.

Ms. Clark asked what hours construction can occur, with Mr. Jacques responding weekdays 7 am – 10 pm, and weekends 9 am – 10 pm. Ms. Clark asked if they are allowed to work on Sundays, with Mr. Jacques confirming so.

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

Mr. Endsley stated that there is no doubt that the applicant is requesting a significant variance from the code, but depending on lot sizes and layout of principal structures, the variance would not look out of place. He asked that there be a plan for continuing vegetative screening.

Mr. Bohachek stated that the current house is undersized for the neighborhood and the proposed addition fits the scale of the property.

Mr. O'Connor stated that he liked the design but acknowledged the significance of the variance. He asked if there was precedent for this significant of a variance. Mr. Kroger stated that yes other variances exist with similar measurements, but reminded the Board that each variance is considered on its own merits and circumstances. Mr. O'Connor stated that if the neighbor at 512 Walnut Springs obtained the same variance, the structures would be just 10 feet apart.

Mr. Hill stated that he liked the layout but architecturally he felt that the new addition stood out proud, which distracts from the front door. However, with no house directly facing across the street, it probably does not matter.

Therefore, it was moved by Mr. Hill and seconded by Ms. Weprin that the preliminary staff findings be adopted, and application #21-2, to vary for a side yard setback in conjunction with a two-story addition to the residence located at 518 Walnut Springs Drive be approved adopting the preliminary staff findings and recommendations, and 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.

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

STANDARDS FOR VARIANCES

1. 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 FINDING: The property can yield a reasonable return regardless of whether the side yard setback variance is granted.

2. Whether the variance is substantial;

PRELIMINARY STAFF FINDING: Varying the side yard setback from 20 feet to 5 feet is a difference of 15 feet, which is substantial. However, staff notes that the existing driveway is already located 5 feet from the property line. Also, based on the siting of the existing home and existing driveway, this is likely the only way to enlarge the home and create a front-facing garage while making use of the existing driveway.

3. 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 FINDING: Due to the topography of the existing driveway and the proposed design of the addition, which matches the current home's building height, a portion of the addition would be below the finished grade of the home. To the extent that it would not increase the height of the home and would complement the existing architecture, the view from the right-of-way would be similar to the existing view and would not substantially alter the character of the neighborhood.

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

PRELIMINARY STAFF FINDING: Staff has no reason to believe this variance would adversely affect the delivery of governmental services.

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

PRELIMINARY STAFF FINDINGS: The siting of the home existed prior to the applicant's acquisition of the property and the existing driveway is within 5 feet of the property line. Staff has no reason to believe that the applicant knew the home's siting would preclude expansion to the south.

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

PRELIMINARY STAFF FINDING: As previously stated, based on the siting of the existing home and existing driveway, this is likely the only way to enlarge the home and create a front-facing garage while making use of the existing driveway.

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

PRELIMINARY STAFF FINDING: The intent of setback requirements is to provide appropriate and proportional spacing between adjacent structures. This variance would certainly decrease the existing buffer between 518 Walnut Springs and the neighboring property to the south (512 Walnut Springs). However, staff notes that 512 Walnut Springs is set back approximately 40 feet from property line, with approximately 28 feet of that paved in driveway. There is currently mature vegetation on both properties that will contribute to landscape screening. This may be sufficient in terms of appropriate and proportional spacing between the neighboring structures.

8. Any other relevant factor.

PRELIMINARY STAFF FINDING: N/A.

STAFF RECOMMENDATIONS: None.

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

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

There being five (5) YEA votes, thereon, said motion carried.

There being no further business, the meeting concluded at 4:55 p.m.



 CHAIR

ATTEST:



 ACTING CLERK