

Oakwood, Ohio
September 14, 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.....PRESENT
MR. NICK ENDSLEYPRESENT
MR. DONALD O'CONNORPRESENT

The following officers of the city were present:

Mr. Robert F. Jacques, City Attorney
Mr. Ethan M. Kroger, Planning and Zoning Manager
Ms. Lori Stacel, Clerk of Council

The following visitors registered:

Dr. Alex Kobzik, Applicant, 1030 Runnymede Road
Mr. David Beyerle, Architect
Mr. Vinny Kang, 138 Greenmount Boulevard
Mrs. Emily Speelman, 50 Walnut Lane
Mrs. Lori Flannery, 1100 Runnymede Road
Mo Zahedi, 708 Harman Avenue

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 #23-2 to consider a variance approval for an interior side yard setback for a new home at 1030 Runnymede 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 #23-2 was filed by Dr. Alex Kobzik and Dr. Cathy Layba to vary an interior side yard setback for a new home at 1030 Runnymede Road. The vacant lot is located 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 side yard setback requirements for the R-1 Zoning District. The side yard setback requires 20 feet for any structure and requires 40 feet between homes. The Applicant is proposing a 13 foot side yard setback which is a difference of 7 feet. The neighboring property at 1040 Runnymede Road has an approximate setback of 20 feet which would result in an approximate distance of 23 feet between homes.

Mr. Kroger displayed renderings of a property location map, and multiple site plan views showing the proposed home elevations.

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. Final landscape plan to be submitted to the city for review to effectively screen the home at 1040 Runnymede Road;
2. The property owner must obtain appropriate building permits through the city of Kettering;
3. Any drainage pattern disruption resulting from the new home must be addressed by the applicant so that there is no resulting negative effect on neighboring or city-owned property.

Mr. Bohachek thanked Mr. Kroger for his presentation and asked Mr. Jacques to administer an oath to those who wish to testify.

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

Mr. Bohachek opened the public hearing.

Dr. Alex Kobzik, Applicant, 1030 Runnymede Road, shared that he and his wife are hoping to build a home on their recently purchased lot at 1030 Runnymede Road. The proposed home will contain two floors and a small loft. The variance being requested is intended to maintain a relatively low profile for the house overall. Many of the trees in the backyard are estimated to be 100 –150 years old. The significant elevation difference will be maintained with a retaining wall structure. The hill, the wall, and the elevation will continue to provide a barrier to the line of sight in both directions. Oakwood is home to many unique and interesting houses. And they're largely integrated nicely with nature surrounding it. Dr. Kobzik shared that his hope is that this home will provide both beauty and value, not only to the neighborhood but also Oakwood as a whole.

Delia McMullen, 1040 Runnymede Road, shared that she opposes this request to be built within 13 feet of her property line instead of the required 20 feet. Granting this variance has direct adverse effects on her adjacent property. According to Title 10, Section 10006.2 of the city of Oakwood Zoning Ordinance the purpose of this hearing is to afford the property owner the opportunity for relief from particular hardship or difficulty that the regulation of this ordinance imposes on a particular parcel of land. She fails to see how this application demonstrates this to be the case. This site can be successfully developed without asking for an encroachment variance and adversely affecting her adjacent property. She referenced the decision standards for variances outlined in Section 1006.7 C of the Oakwood Zoning Code. This application does not warrant or meet enough of the factors determining practical difficulties existing to warrant a variance. Simply this is a created personal preference and choosing how to develop the site. She said that when she moved to Oakwood in 2009, she selected her property because of the larger lot size. She realizes that asking to encroach 7 feet out of the required 20 feet does not sound like much, but it is given the

location of her house and outdoor living space to the proposed structure. Mrs. McMullen closed her comments by stating that Any argument about positioning of the proposed structure on the lot to avoid tree removal should be not considered valid. The trees and landscaping are temporary and a structure is more permanent in nature.

Mrs. Lori Flannery, 1100 Runnymede Road, stated that the Zoning Ordinances were put into effect back in 2001 with great thought and nothing has chance since then. She said that she has heard that several Oakwood residents have moved over time because they were not able to build additions to their property under the current Zoning Code.

Mrs. Emily Speelman, 50 Walnut Lane, shared that the private structure could be built without asking the property owners to rewrite their project plans and without cutting down dominant trees. She believes that a retaining wall is insufficient and suggested that the Board stick with the 20 foot setback requirement.

Mo Zahedi, 708 Harman Avenue, shared that Oakwood is a very historic and beautiful neighborhood. He noted that he does not believe that either of his neighbors is over 10 feet from his existing structure and it has not had an adverse effect on his home. If anything, he believes it provides a closer sense of community. He opined that the Board of Zoning Appeals meetings are held to give people a chance to do something different. He believes that the Applicant should be given a chance to build something beautiful on the vacant lot.

Mr. Vinny Kang, 138 Greenmount Boulevard, shared that he has known Dr. Kobzik professionally for a few months and he supports his plans to build the home.

Mr. David Beyerle, Architect, shared that there should not be any visual impact to the neighbors given the grade differences.

Mrs. Flannery asked for clarification on the 40 foot requirement between homes.

Mr. Kroger explained that the R-1 Zoning District requires a 20 foot side yard setback on each side of the home.

Mr. Jacques explained that the existing home at 1040 Runnymede Road has a prior non-conforming side yard setback of 10 feet. The lot was built before the Zoning Code. If approved, the new home would then also be non-conforming with a 13 foot setback. There would only be 23 feet between the two homes.

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

Mr. Hill asked if a front yard setback would also need to be considered for this application. He also asked about the height of the proposed home. He noted that the architectural elevation drawing has a dimension of around 10 feet. If extrapolated, it looks like 29 feet tall on the front elevation, which would trigger the maximum principal building height provision requiring an additional 2 foot setback.

Mr. Jacques stated that there is a provision that allows for what is called setback averaging. In this case, they are building it in line with what is already there.

Mr. Hill stated that the height of the structure is unknown. He then asked if the Zoning Ordinance requires the setback to be measured to the building face or to the roof edge.

Mr. Kroger stated that it is from the furthest protruding point of the structure which would be the

roof edge.

Mr. Hill asked if the setbacks shown on the renderings are to the building face or to the roof edge.

Mr. Byerly answered that renderings are to the edge of the building.

Mr. Hill shared concerns about the accuracy of the renderings, measurements and topography provided. He explained that there are some side shots with great elevation shown that are not coordinated. There also appears to be something wrong with either the elevations and/or the topography shown which makes it hard to assess the application.

Mr. Byerly explained that the large trees are the high part of the lot. There is a side dip on the west side, but the house is on a hill dipping down to the front. The topography was taken off of the Montgomery County Auditor's website.

Mr. Hill noted that there are different perceptions of the site. Mr. Hill then asked if the retaining walls are considered side yard appurtenances.

Mr. Kroger explained that retaining walls are covered in a section of the Zoning Code for fences, walls and hedges. The Code states that these items be placed on the property line.

Mr. Bohachek asked about the plans showing a 5 foot dimension on the east property line.

Mr. Kroger explained that the Zoning Code requires driveways to be set back at least 5 feet from any property line.

Mr. Bohachek asked if there were easements on the property.

Mr. Kroger confirmed that the only easement is in the rear yard.

Mr. Jacques noted that he believes the easement is for the sanitary line.

Mr. Bohachek shared that one of his concerns is the proximity of the homes to the property line creating quite a difference in elevation between the homes. He also believes the house will appear lofty from the street view. He asked what prevented the Applicant from building in a front to back direction versus left to right.

Mr. Byerly answered that the home was designed on the lot originally with the required 20 foot setback, but it started encroaching on all the trees in the backyard.

Mr. Endsley shared that he believes that the idea of preserving the trees is a false premise. The house was designed with the variance requirement in mind. The home could have been designed differently.

Mr. Byerly explained that that the homeowner liked the plan, but wanted to save the trees. They decided to keep the original design, but move the home forward on the lot.

Mr. O'Connor asked about the condition of the trees and if the home could be flipped and still save the trees.

Mr. Byerly said that they would need to look into that further.

Mr. Hill asked about the elevation of the basement slab.

Mr. Byerly answered that the elevation is 115 feet above street level.

Mr. O'Connor mentioned that the 44 feet for the building width seems very narrow.

Mr. Kroger noted that the R-1 Zoning District has many lots that are unique.

Mr. Jacques stated that this is a buildable lot by the Zoning Code.


Mr. Hill commented on the ground elevation for the retaining wall on the west property line. He suggested that the Board table the request and ask for additional information so a diligent assessment can be made.

The Board agreed.

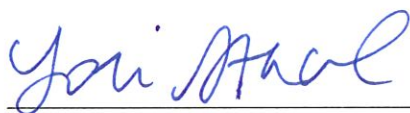
Therefore, it was moved by Mr. Hill and seconded by Mr. O'Connor that application #23-2, a request by Dr. Alex Kobzik and Dr. Cathy Layba to vary the interior side yard setback for a new home at 1030 Runnymede Road, be tabled pending submission of the following information:

- Coordinated drawings (architectural and site-plan) that document both existing and proposed topography;
- Basement and first floor elevations;
- Dimensions on all architectural elevations and building height (measured per the Zoning Code methodology);
- Information as to proposed architectural materials;
- Details and accurate depictions of the retaining wall;
- Revised assessment of existing and proposed setbacks based on roof overhangs (NOTE: Per Zoning Code, eaves and overhangs are permitted to encroach not more than 3 feet into a required front yard and not more than 13 inches into an interior side or rear yard); and
- Any additional information related to the practical difficulty(ies) specific to this site that would warrant the granting of a variance.

There being no further business, the Board of Zoning Appeals adjourned. The public meeting concluded at 5:27 p.m.


CHAIR

ATTEST:


CLERK