



**VILLAGE OF SHOREWOOD
BOARD OF APPEALS MINUTES**

April 12, 2016

1. Call to Order

Mr. Schmeckpeper called the meeting to order at 5:30 p.m.

2. Roll Call

Members present: Jeff Schmeckpeper, David Drews, and Gregg Shaffer. A quorum was noted present.

Others present: Village Attorney Nathan Bayer, Planning and Development Director Ericka Lang, and Village Clerk Tanya O'Malley.

3. Statement of Public Notice

Planning and Development Director Lang stated that the meeting had been posted and noticed according to law.

4. Approval of Minutes of October 13, 2015

Mr. Schaeffer moved, seconded by Mr. Drews to approve the Board of Appeals minutes of October 13, 2015. Motion carried 3 – 0.

5. Attorney to Review the Standards by which the Board of Appeals must Abide

Attorney Bayer stated that items 6 and 7 were requests for variances before the Board. Attorney Bayer read Zoning Code Section 535-55(2), which states "Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purpose of this chapter shall be observed and the public safety, welfare and justice secured." Attorney Bayer read Zoning Code Section 535-58, which states, "No variance to the provisions of this chapter shall be granted by the Board unless it finds that all of the following facts and conditions exist and so indicates in the minutes of its proceedings: (a) Exceptional circumstances. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot, parcel or structure that do not apply generally to other properties in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed. (b) Absence of detriment. The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and the spirit of this chapter or the public interest."

Schmeckpeper outline procedures for the meeting.

6. Appeal of denial of application for construction of two air conditioning units in the rear yard setback for residential property 1914 E. Newton Ave

Planning and Development Director Ericka Lang was sworn and stated that the request was for a variance from property owners Aaron and Mandy Krueger for the installation of two air conditioner units in the rear yard setback at 1914 E Newton Ave. The property is located in the R-6 Zoning District and the Zoning for that district indicates that no structure can be placed within three feet of the rear setback. The placement of the units would be 1.7 feet into the 3foot rear setback. The application explains that there is a hardship because of the unique lot shape and size which would not allow for placement of the AC units at either side yards. The 3 foot setback would apply to the thin strip of land as well, which was 10 feet wide

Steve Krentz, representing homeowners, was sworn and indicated that there would be two air conditioner units; one which will serves the existing home and one which will serve the addition. If the units were placed on the side, they would be seen and heard by the neighbors and there would be potential risk due to the closeness of the driveway. The only conforming area on the property was the thin extended strip of land but that is the only green space for the family to use. It is a unique lot in that it is not rectangular and is 15 feet total from side to side. The proposed placement is the farthest distance from the houses.

Mr. Drews stated that it was clearly a unique property. The units could be put in the middle of the strip but that may be more detrimental to the neighbors as it would be more visible and the sound may bounce around more. It would not improve anything to place it there.

Mr. Schmeckpeper indicated that on the drawing the units were separated from the garage wall.

Mr. Krentz indicated that there was approximately a 1 foot separation from the wall to allow for air movement.

Ms. Lang indicated that there was 4 feet from the building face to the property line.

Mr. Schmeckpeper agreed that the shape of the lot was exceptional and that in granting the request, there would be an absence of detriment.

Mr. Shaffer agreed.

Mr. Schmeckpeper moved to grant the variance as requested since there are exceptional circumstances with regard to the lot and there is an absence of detriment and that granting the variance will not violate the purpose of the code. Mr. Drews seconded.

Roll Call Vote:

David Drews –Aye

Gregg Shaffer – Aye

Jeff Schmeckpeper - Aye

7. Appeal of denial of building application to construct a detached garage that exceeds allowable height for residential property 2212 E. Menlo Blvd

Planning and Development Director Ericka Lang was sworn and stated that the request was for a variance from property owner Daniel Wycklendt to reconstruct a detached garage at property 2212 E. Menlo Blvd. The property is in the R-6 Zoning District and section 535-32B(1) indicates that accessory structures cannot exceed 15 feet in height. The proposed garage exceeds that height by 2.5 feet.

Daniel Wycklendt, 2212 E Menlo Blvd, reviewed the materials that he submitted. He stated that his grandfather built the existing garage in 1958 and it was no longer practical. The basement has water issues and is not able to be used for storage. Originally, the plan was to do an attached garage, which would not have a height restriction but the neighbor to the east would be strongly impacted. After rainfalls, there is a 3-4 inch buildup of rainwater in the yard. Contractors have indicated that they can't include a breezeway because of the water issues. The property is unique because it is the lowest lying house in the area; the home to the west is 18 inches higher, the home to the east is 6 inches higher and the homes to the north are 6 and 7 feet higher. The water from surrounding properties comes to the backyard. The garage would allow for storage that cannot be done in the basement. The request is for the height to be just over 17 feet. He has spoken with the neighbors and there were no concerns. The property is unique because of how low lying it is and the water issues that would not allow for an attached structure.

There was some discussion on how the mean height of the garage was calculated and if the dormer was included in the calculation. Ms. Lang indicated that the height is measured from the top of the roofline to the eave.

Mr. Shaffer stated that the elevation of the other properties does create a unique situation. The original plan of an attached garage could not be done because of the water problem. The elevation of the other properties also provides an illusion that the garage is not as tall so there would be no detriment.

Mr. Schmeckpeper agreed and indicated that the 3-4 surrounding neighbors were in support of the project which is evidence that there would be no detriment to their properties.

Mr. Shaffer moved to grant the variance based on the uniqueness of the property and the surrounding elevations and the absence of detriment to the neighboring properties and support of neighbors. Mr. Schmeckpeper seconded.

Roll Call Vote:

David Drews – Aye

Gregg Shaffer – Aye

Jeff Schmeckpeper – Aye

- 8. Appeal of denial to expand nonconforming structure of commercial property 4144 N. Oakland Ave**
- Attorney Bayer stated that this was a request for a special exception. The property exists as non-conforming structure. The Board of Appeals has the power to grant a special exception anytime there is a request to change an existing non-conforming structure and changes will not lead to compliance with the Code. He read section 535-34(E), which states, “Special exceptions. (1) Subject to the provisions of applicable state law, the Board of Appeals, upon application as required herein, may grant a special exception to the provisions of Subsection A hereof after considering: (a) The effect the granting of the exception will have on the appearance and character of applicant's property, adjacent properties and neighboring properties; (b) The effect the granting of the exception will have on the value of applicant's property, adjacent properties and neighboring properties; (c) Whether the granting of the exception will serve the public interest in improving and preserving the value of the property; (d) Such other matters as the Board of Appeals deems relevant and material.” The Board does not need to make findings on each of these items but does need to consider them.

Planning and Development Director Ericka Lang was sworn and stated that the request was for a special exception from Colectivo Coffee Roasters for a new restaurant at commercial property 4144 N Oakland Avenue. The proposed use of the building is permitted by the Zoning Code. The Code requires commercial buildings set at the front property boundary, be a minimum of two-stories high and set back from the rear boundary not less than five feet. The proposed building is set back 37 feet from the front boundary, 1.77 feet from the rear boundary and is one-story. The multi-family property to the back is also located within the setback. If the building were to be changed to two-stories, it would be very close to the building to the rear. The proposed improvement is consistent with Shorewood’s Central District Master Plan.

Mr. Drews asked about the relationship between the existing building and the proposed building.

Ms. Land indicated that the east (rear) and south walls would remain, the north wall would be modified, and the west (front) wall would be pushed out.

Attorney Bayer, in answer to questions about existing non-conforming structures, indicated that section 535-34A states, “No such structure shall be expanded or enlarged if such expansion or enlargement will add to or increase the degree of nonconformity, unless such structure is made to conform to the regulations of the district in which it is located.”

Mr. Schmeckpeper stated that the proposal would bring in the building into greater conformity in that it increases the height and brings it closer to the street.

Mr. Drews indicated that there was an increase in non-conformity with the kitchen addition but overall was moving closer to the zoning intent.

Chris Socha, 4605 N Morris Blvd, wants to bring the site into greater conformity with Shorewood’s commercial district and create Shorewood’s next great gathering place. The proposal would amplify the volume of the building, pushing it toward Oakland Avenue. The addition would be 8 feet taller than the original building and would be set back from the neighboring property. The applicants were trying to claim the entire site, so even though the building does not go to the front property line, the landscaping and seating would. The applicants will be a model for how to take a difficult site and do a development with value.

Ms. Lang indicated that the building was built in 1952, prior to the existence of the Zoning Code.

Scott Schwebel, 4039 N Richland Court, stated that the applicants were putting a considerable investment into property that they did not own and were trying to be good neighbors.

Ronald Leggio, owner of the building to east, indicated that the project would be an improvement but was concerned about anything happening on the shared lot line. He was concerned about the location and noise level of the mechanicals.

The Board of Appeals took a brief recess to allow Mr. Leggio to speak with the applicants and get more information.

Following the recess, Mr. Leggio stated that he was relieved with what the applicants were attempting and does not see it impacting his property negatively.

Steve Martini, 1814-16 E Wood Place, stated that this would be an improvement on what is there but was concerned about the view at the back and would like it to be more attractive.

Mr. Drews indicated that it was clear that all the considerations of a special exception apply. The proposal was in the spirit of the Master Plan. With the uniqueness of the property, a two story building would be worse than a one story building. The proposal would improve the property value and would serve the public interest.

Mr. Drews moved to grant the special exception for the plans substantially as shown in that they do not include have a second story and that they do not bring the building out to the property line but other details of the design further the purposes of the Master Plan. Mr. Schmeckpeper seconded.

Roll Call Vote:

David Drews –Aye

Gregg Shaffer – Aye

Jeff Schmeckpeper - Aye

9. Adjournment

Mr. Drews moved, seconded by Mr. Shaffer to adjourn at 6:39 p.m. Motion carried 3-0.

Respectfully submitted,

Tanya O'Malley, WCPC
Village Clerk/Treasurer