

CITY OF SYLVAN LAKE
ZONING BOARD OF APPEALS
APRIL 15, 2015

A Meeting of the Zoning Board of Appeals was held on Wednesday, April 15, 2015, opening at 6:00 p.m. at the Sylvan Lake Community Center, 2456 Pontiac Drive, with Chairman Galacz presiding over the Pledge of Allegiance.

Present: Ash, Galacz, Kirsbaum, MacGillis, Menuck,
Absent: None
Also Present: City Manager Martin and Clerk Dryden

APPROVAL OF AGENDA

Moved by MacGillis, seconded Ash, to approve the Zoning Board of Appeals Agenda for April 15, 2015, as submitted.

Yes: All
No: None

MOTION CARRIED

VARIANCE REQUEST

Z-001-15

Property: 1569 Lakeview Parcel: 18-01-203-009
Petitioner: Matthew & Megan Clark
Zoning Ordinance Sections: 78-297(a) Rear Yard Setback, 78-297(a) Side Yard Setback, 78-297(a) Front Yard Setback, 78-610(b)(1) Canopy of Front Door, and 78-297(a)(j) Maximum Lot Coverage

In accordance with the provisions of the Zoning Ordinance, a Public Hearing was held by the Zoning Board of Appeals at the request of the petitioners, to grant five variances from the zoning. One variance is required to allow the construction of an attached garage at the rear of the house, and an additional four (4) variances are required to construct a patio at the front of the house, including a canopy over the front door, at 1569 Lakeview..

All property owners within 300 feet of the parcel in question having been duly notified of the hearing and the hearing published as required by PA 110 of 2006; Chairman Galacz opened the hearing. Proof of mailings and required proof of application are in the file.

Martin stated this is the second submittal by the applicant; the original request was withdrawn because they decided to ask for larger variances for the proposed garage. He reviewed and explained each of the variance requests. He noted the house is an existing non-conforming structure with the side yard setback of the existing house only

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3.4qfrom the left-hand lot line and the front of the house encroaches five feet into the required front yard setback.

For the proposed attached garage, the petitioner is proposing a rear yard setback of 23.75qrequiring a rear yard setback variance of 6.25 feet, and a maintaining the current side yard setback of 3.4qrequiring a side yard setback variance of 3.4 feet.

For the proposed front patio and steps, the petitioner is requesting to install a patio on the front of the house using the same side yard setback or 3.4qrequiring a left-hand side yard setback variance of 3.1q The petitioner is proposing a front yard setback of zero (0) feet requiring a front yard setback variance of 30q He further explained Section 78-610(b)(1) states a deck and open steps may encroach into the required front yard setback a maximum of 10 feet and 10% (150 square feet in this case) of the required front yard setback area. The existing house encroaches five (5) feet and 140 square feet into the required front yard setback and is an existing non-conforming structure.

The proposed canopy over the front door would require a variance as covered structures are not allowed to encroach into the required front yard setback. Martin explained the ordinance was amended in 1991 to allow an overhang to encroach 5qinto the required front yard setback with a maximum area of 25 square feet, over an existing porch or deck. However, it was limited to only those houses that had a porch or deck that were built prior to 1991. The existing house encroaches 5qinto the required front yard setback, so there is no room for a roof or canopy.

The last variance is for maximum lot coverage. The total lot coverage of the existing house, proposed garage, and proposed patio and steps would be approximately 40.5% of the total lot area, requiring a variance for the maximum total lot coverage of 6.6% (approximately 427 square feet).

Martin also reviewed the history with the house being rebuilt in 1995 and was granted a five-foot front yard setback variance to allow them to use the existing foundation which was from the late 1920q.

Petitioner Matt Clark explained with the existing detached garage they are getting flooding from both neighbors (rear and side) and his driveway angles to the garage so water is coming down his driveway. All this has ruined the garage and they need to tear it down. Now they will fix the grade of their driveway and they would like to attached the garage to the back of the house and allow that open space so the rear neighbor can see the lake.

Clark explained the front porch is the same footprint as the old one but expanding it all the way across the front. They front door is 6qabove grade and would need 6 steps to get to

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the front door. They didn't want it commercial looking so they smoothed out the look by making two tiers with three steps each. They didn't want railings which they would have needed with six steps.

MacGillis stated it looks like a patio was out there before. Clark confirmed there was but he had to put drain tile in because the basement was flooding. He added the existing patio was so small you couldn't put a table on it. Megan Clark added the setback is already five feet, a preexisting condition, so whatever they were going to do they would have to come before the Zoning Board.

Menuck asked if there was any consideration before the work started, any direction from city. Megan Clark stated she did speak with the city and whatever they proposed was going to need a variance. She further explained when they bought the house they had to escrow \$60,000 to take care of the flooding issues before they could close on the house. Menuck question if the door at the back of the house only goes to the proposed garage or into the house also. Matt Clark explained the grade here is messed up also. So they will need to raise the grade. The door only goes to the garage. Menuck asked what the current size of the existing garage is. Martin replied 22x24 for the existing and the proposed is 22x29. The majority of the increased lot coverage is the front patio and steps.

The board discussed with them the front yard steps. MacGillis informed them having the patio and steps going all the way across the front of the house were more of a variance. Megan Clark felt they wanted to keep it more pleasing and welcoming for the neighbors. Having six steps going straight up and closed in wasn't a look they wanted. She didn't want it to look heavy on one side and not the other. Kirsbaum understands they had to tear up the current patio because it damaged and flooding issues, but this plan is for aesthetics. Megan Clark stated she wanted to avoid railings so that is why they did the two tiers of steps, to avoid the commercial look. They looked at five proposals but this looked the best to them.

Menuck questioned the patio two doors down and why it is allowed. She asked if the right-of-way changes on Lakeview. Martin agreed it does a little bit. He reminded the board you can extend 10 feet and have 10% of the required front yard covered, so with it being smaller and rounded it doesn't take up the area.

Megan Clark stated they wanted to maximize the current footprint and widen it to create an open feeling. MacGillis informed her the front was already maximized.

Ash doesn't like the side yard with extending the encroachment with the garage and extending the steps across the front out and towards the street. It is excessive. Matt Clark stated all the neighbors have the attached garage at the back of the house and they

liked this idea.

Martin explained the neighbor next door did get a variance for their attached garage. Ash asked if it was for only the rear and not side yard. Martin confirmed only the rear because it was new construction of the house with an attached garage and they met the side yard setbacks. Galacz asked if there is living space above the garage at the neighbors. Martin stated it was stipulated that they could not have living space above the garage.

Galacz opened the hearing to the public.

Jim Smith expressed his appreciation for their work, thoughts and cost they have put into this and welcomed them. He feels the two car attached garage is a good idea. The front patio is where he has concerns. It encroaches into the front and detracts the line of site along with the retaining walls on both sides with the distance they come into the front yard. They are leaving no green space and it is a real concern for him.

MaryAnn Smith shared she spoke with Gerry Quin who backs up to this property, and he has no problem with the encroaching setback in the back. Smith appreciates moving the garage because it allows air flow. She feels the deck is too big visually and is too much.

Gerry Nechal stated the practical difficulty is the issue. He is fine with the back, it is justifiable. The front is aesthetics and has no practical difficulty. Nichols doesn't understand the house two doors down and how it is ok.

Rick Vanker understands the practical difficulty in the front with having to get in the front door. He appreciates their work on this property. The old house had a lot of problems. He does feel there is too much brick though they need enough room for a table. His opinion is what is proposed is too big but it should be functional for them. Megan Clark responded they wanted a subtle and gentle look to the front. They have to have a 3' wall on the patio.

MacGillis explained they need to look at the minimum amount of variances necessary. He feels they need to come back and minimize the request. The back can be within the setback too. Ash agreed with MacGillis.

Ash's issue is still with the side yard at the front and with the garage. She understands they can't push the garage in.

Menuck questioned about the square footage. If they just rebuilt the garage at the same location and size as it is now, how much square footage would that give them for the front yard and still be within the ordinance. Martin stated the proposed patio and steps are

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700 square feet. If they kept the garage the same size as it currently is they would have 413 square feet to work with. They would still be over the maximum allowable by almost 300 square feet.

Galacz understands the rear yard. The drainage and flooding in the rear needs to be fixed and he feels the attached garage is a good idea with the elevation issues and they are making the neighbors behind happy because they won't be obstructing the site and helping with the air flow. He does have issues with the front and patio wall. He would like to see it reduced.

Kirsbaum doesn't have a problem with the attached garage. Not because it will increase the value of the home, but for the neighbors allowing them the view of the lake. She feels they need to find a happy medium for the front deck that would be aesthetically pleasing.

Galacz feels the side yard setback should not encroach any more than what it already is. He suggested having a lower level patio where they can have a table and chairs with plenty of room for moving around.

Matt Clark said they looked at other designs but they looked lopsided with steps on one side and patio on the other.

Ash stated if they are putting in landscaping this will have a huge impact on the look so it will proportionately look equal.

Menuck shared back yard decks are restricted also. She has a lakefront lot and only has a small table area because that is all that was allowed. She chose to make her house bigger which reduced how big her deck could be. She reminded the board that aesthetics and an increase in value does not for them or their neighbors is not a reason to grant variances

Moved by MacGillis, seconded by Ash, to deny the petitioner at 1569 Lakeview for the front yard setback, Section 78-297(a) and 78-610(b)(1) and the canopy over the front door Section 78-610(d). The petitioner has not shown a practical and didn't minimize the variances requested.

Yes: Galacz, Kirsbaum, MacGillis, Menuck, Ash
No: None

MOTION CARRIED

Menuck discussed the footprint saying technically it was there prior to 1991. She asked if it is ok extending 5q into front yard making that the practically difficulty for the canopy or

something minimal.

Moved by MacGillis, seconded Ash, to deny the rear yard and side yard setbacks, Section 78-297(a), for the construction of an attached garage. They didn't show a practical difficulty and the garage can be built without a variance.

Yes: MacGillis, Ash

No: Kirsbaum, Menuck, Galacz

MOTION DENIED

Moved by Menuck, seconded Kirsbaum, to approve the construction of the attached garage giving a variance of 6.25 feet rear yard setback and 3.1 for the left-hand side yard setback, because the applicant has shown a practical difficulty for the following reasons:

1. Strict compliance with the specified dimensional standards would deprive rights commonly enjoyed by other property owners in the same district or that it would create an unnecessary burden on them or unreasonable prevent them from using the property for permitted purpose because of the drainage and grade issues.
2. The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant or be consistent with justice to other property owners because this will allow the petitioner to have the same use of his property as other properties in the area.
3. There are unique circumstances peculiar to the property that don't apply to other land or structures in the same district, specifically the grade of the property creating drainage issues.
4. The variance is necessary for the preservation and enjoyment of a substantial property right also possessed by other property owners in the same zoning district.
5. The requested variance can be in such a fashion that the spirit of the ordinance will be observed and public safety and welfare is secured. It will not have any negative impact on the neighboring properties.
6. The problem and resulting need for the variance has not been self-created by the applicant.
7. The alleged practical difficulty that will result from a failure to grant the variance includes substantially more than mere inconvenience.
8. Granting a lesser variance will not provide reasonable relief and substantial justice to the applicant. It will not increase the hazard of fire or otherwise endanger public safety. It will not unreasonably diminish or impair the value of surrounding properties because attached garages are safer, further from the property lines and by moving the garage from its current location will allow a significant amount of airflow to the properties to the rear.

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The variance is based on the drawings from McBride Studio Inc. last revised 3/17/15 and the side yard setback is only approved for the garage.

Yes: Menuck, Kirsbaum, Galacz
No: Ash, MacGillis

MOTION CARRIED

Menuck asked if the board would like to table the variance requests so the petitioner could save money and not reapply for a new variance. Martin confirmed if the petitioner is only reducing the size then they could table it. MacGillis was ok with rescinding his motion, but made it very clear he is not in favor of any ordinance variances. He feels they can live with what the rules are.

Moved by MacGillis, seconded Ash, to rescind the motion to deny the front yard setback, canopy of front door and maximum lot coverage, giving the petitioner a chance to reduce the variance request.

Yes: All
No: None

MOTION CARRIED

Moved by Menuck, seconded by MacGillis, to table the variance requests for the front yard setback, canopy over front door and maximum lot coverage, to 6:00 p.m., May 13, 2015, giving the petitioner time to revise plans.

ADJOURNMENT

Moved by Menuck, seconded MacGillis, to adjourn the meeting.

Yes: All
No: None

MOTION CARRIED

The meeting adjourned at 7:32 p.m.

Patty Harrop, Secretary

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Dennise Dryden, City Clerk