



**CITY OF WALLED LAKE
ZONING BOARD OF APPEALS
MONDAY, DECEMBER 19, 2016**

The Meeting was called to order at 7:37 p.m.

ROLL CALL: Ackley, Easter, Gunther

ABSENT: DeCourcy, Stephan, Swett

OTHERS PRESENT: City Attorney Vanerian, Recording Secretary Joyce

The applicant was informed that there was a quorum but not a full board. There would have to be three affirmative approvals for the variance requests to be granted. Or the applicant can come back when there is a full board. The applicant agreed to move forward with the meeting.

REQUESTS FOR AGENDA CHANGES: None

APPROVAL OF MINUTES:

ZBA 12-01-16 APPROVAL OF THE OCTOBER 24, 2016, ZONING BOARD OF APPEALS MEETING MINUTES

Motion by Gunther, seconded Ackley, **CARRIED UNANIMOUSLY:** To approve the October 24, 2016, Zoning Board of Appeals meeting minutes

COMMUNICATION: Letter from George and Penny Hawkins of 123 Osprey stating they are in support of both variance requests.

AUDIENCE PARTICIPATION: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

1. Public Hearing

Open Public Hearing 7:40 p.m.

1. Case # 2016-3
Applicant: Ruth Langan
Location: 313 S. Pontiac Trail
Walled Lake, MI 48390

Request: Variance request for front yard setback & Impervious Surface Coverage

This matter relates to property located at 313 S. Pontiac Trail. The applicant is requesting an 8' variance from the 12.2' front yard setback requirement under Article 17, Section 17.02 of the Walled Lake Zoning Ordinance to construct an attached garage to the existing residence with a 4.2' front yard setback. Applicant further seeks a variance from Section 17.02 impervious surface in single family district requirement of coverage limitation of no more than 35% to permit coverage of 45% of the lot by impervious surface. ZBA Chairman Easter said the applicant is before the board for a variance for impervious surface and side yard setbacks to the detached and attached garage.

Tom Langan, son of Ruth Langan, was in attendance to speak on behalf of his mother Ruth Langan. There are handouts that Mr. Langan has distributed; the first is in response to Mr. Deem's letter. Mrs. Langan is a 79-year old widow and she wants to move into Walled Lake to be closer to her family and her church. All renovations have been completed to the home to create a single floor living space that will not allow her to climb up or down stairs.

They are asking for a front yard setback variance hardship is not self-created as she is 79 years old and would like to continue to live independently. She needs a single floor layout in order to live independently. Age and the desire to live independently are not self-created hardships.

The layout of the existing house would have required a variance for either to build a new garage or to put the bedroom, bathroom, and laundry room that have been placed in the former garage area behind the tri-level portion. Either way they would have been asking for a variance. Although they did not become aware of the need for a variance until the renovations were completed because it wasn't mentioned.

They chose to convert the old garage which is 10% larger than the space needed for the new garage which would be located behind the tri-level section. He requested variance is only 6 inches more with a four and a half-foot setback than the side yard variance that is required at 5 feet. In this situation, the front yard is actually the back yard as the lake front is the front yard. They will be over 100 feet away from their closest neighbor across the front yard. There will still be significant open space between both the new garage and Pontiac Trail. Even with the variance there will be 26-1/2 feet of open space between the lot and Pontiac Trail and 31 feet of open space between the garage and Pontiac Trail. Many of the buildings within the City are closer to the road than their proposed garage.

In regards to the impervious surface, Mr. Langan stated that most of the lots in Walled Lake are smaller than 1/3 acre and most planners will not develop lots less than half acre lots. They are asking for less impervious surface that would be allowed if they had a 1/3 acre but less than 5082 square feet for a 1/3- acre lot. They are on lot that is smaller than a 1/4-acre lot which is sub-standard by modern standards. Without the variance, Mrs. Langan would not have a paved driveway to safely deal with both access the need to turn around to drive out on to Pontiac Trail and the need to get adequate snow removal.

Tom Langan felt that Mr. Deems's analysis was incorrect on all five points. Mr. Langan stated that a two-car garage is a minimum sized garage for a single-family home. Upon completion of the home with the renovations this is now a home without a garage. This was not an issue that was not a qualification or raised as a potential problem when plans were submitted or when they received final approval. The failure to issue this variance would be unnecessarily burdensome to Mrs. Langan.

The variance will provide substantial justice to the applicant as well as to other property owners. Granting the request will not affect anyone else adversely since the variance is to the front yard setback only and the yard faces Pontiac Trail. Mr. and Mrs. Hawkins, the closest neighbor, are in support of the variances.

The variance requested is the minimum possible for the construction of a two-car garage. If she had chosen to keep the existing garage and build a first floor bedroom and bath, she would have been asking for at least the same variance.

The unique circumstances to the property are that the property is small -- less than a ¼ acre. There is a significant elevation change from the front to the back. The only place that a garage can be placed is where they are proposing to put it. The front yard for this property is on a main road where front yards are not in a neighborhood but on a main road.

The problems are not self-created. Mrs. Langan's age, her desire to maintain her independence, and seeking the means to do so, are not self-created hardships. Neither is the conversion of the garage that was previously there and converted into living space as the Cof O has been issued for the renovation. Therefore, the former garage does not exist anymore.

Chairman Easter stated that he went to the property did an overview. In order to convert the garage into single floor living space and to not have a garage is not something they would want to see happen. Under this circumstance, a garage would be needed. Variance will provide substantial justice as it will provide a sight block for the neighbor for the lights coming along Pontiac Trail.

It allows for reasonable use of the property where the garage was converted to single floor living space. The space was needed for improvement and creation of single floor living space.

The variance request is the minimum possible.

The applicant has proposed to turn the existing two car garage into improved taxable living space and seeks a variance for the new two car garage. A variance is required for taxable and senior living for the development of this property for use by a 79-year old applicant. Unique circumstances to the property are that it sits on Pontiac Trail and they are in the line of sight with all of the other houses with the same situation in the area. The problem is not self-created in that it is not due to the needs of the homeowner's space but it is required for single story living and usable space to make the home with a covered porch and two-car garage. It improves the property and its value and is a benefit to Walled Lake.

Board member Ackley stated that at the Planning Commission Meeting she thought they were proposing to tear the house down. Tom Langan stated that was true. She was then informed of the variance requests. She asked if the garage was on the plans when they were submitted. Mr. Langan stated No, but closing the old garage was. Was there a reason the garage was not put on the original plans? Mr. Langan stated no but they felt they would rebuild the garage after the renovation of the home. The home was renovated because the building of a new home became very expensive and take too much time. They wanted to get their mother into the home. They decided to renovate and get their mother moved in. They came in with plans to build the garage and that is when they were told they would need a variance.

Mr. Langan was originally told that the property didn't have the correct zoning to build a new house. They got the rezoning, had the plans drawn up and brought them in. At the first meeting, it was obvious that it was not going to work. The new building ordinances and energy codes were going to cost a fortune. They decided to renovate.

AUDIENCE PARTICIPATION:

Close Public Hearing 8:01 p.m.

ZBA 12-02-16 MOTION TO APPROVE THE FRONT YARD SETBACK FOR THE REQUESTED VARIANCE 8.0 FOOT SETBACK FROM THE 12.2 FOOT FRONT YARD SETBACK REQUIREMENT UNDER ARTICLE 17. SECTION 17.02. FOR THE FIVE REASONS CHAIRMAN EASTER STATED PREVIOUSLY.

COMPLIANCE WITH THE ORDINANCE WOULD BE BURDENSOME, VARIANCE WILL PROVIDE SUBSTANTIAL JUSTICE TO THE NEIGHBOR'S PROPERTIES, THE VARIANCE REQUEST IS FOR CLEARLY AS MINIMUM AS POSSIBLE, AND THE VARIANCE REQUEST IS DUE TO THE UNIQUES CIRCUMSTANCES OF THE PROPERTY ALONG PONTIAC TRAIL, AND VARIANCE IS NOT SELF-CREATED AS THE CITY ALLOWED THE GARAGE TO DISAPPEAR AND IT CLEARLY NEEDS A GARAGE.

Motion by Gunther, seconded by Ackley

Roll Call Vote:

Yes: (3) Gunther, Ackley, Easter,
No: (0)
Absent: (3) DeCourcy, Stephan
Abstain: (0)

(3-0) MOTION CARRIED

ZBA 12-03-16 MOTION TO APPROVE THE VARIANCE FOR IMPERVIOUS SURFACE FROM 35% TO 45% COVERAGE FOR THE FIVE REASONS CHAIRMAN EASTER STATED PREVIOUSLY.

COMPLIANCE WITH THE ORDINANCE WOULD BE BURDENSOME, VARIANCE WILL PROVIDE SUBSTANTIAL JUSTICE TO THE NEIGHBOR'S PROPERTIES, THE VARIANCE REQUEST IS FOR CLEARLY AS MINIMUM AS POSSIBLE, AND THE VARIANCE REQUEST IS DUE TO THE UNIQUE CIRCUMSTANCES OF THE PROPERTY ALONG PONTIAC TRAIL, AND VARIANCE IS NOT SELF-CREATED AS THE CITY ALLOWED THE GARAGE TO DISAPPEAR AND IT CLEARLY NEEDS A GARAGE AND DRIVEWAY.

Motion by Gunther, seconded by Ackley, CARRIED UNANIMOUSLY:

Roll Call Vote:

Yes: (3) Gunther, Ackley, Easter,
No: (0)
Absent: (3) DeCourcy, Stephan
Abstain: (0)

(3-0) MOTION CARRIED

DISCUSSION:

ZBA 12-04-16 ADJOURNMENT

Motion by Ackley, seconded by Gunther, CARRIED UNANIMOUSLY: To adjourn the meeting at 8:10 p.m.

Janell Joyce
Recording Secretary

Jason Easter
Chairman