



Zoning Board of Adjustment Meeting
Monday, October 1, 2018 7:00 PM
City Hall Council Chambers

MINUTES
Approved 11/5/2018

Mr. Hurd called the meeting to order and asked for a roll call.

I. Attendance/Roll Call

Present & Participating: Richard Collins, Michael Hurd, Carolyn Towle, James Petrin, Tracy Pope, Patrick Howe

Absent: Abigail Kier

City Staff: Michael McCrory, City Planner

Mr. Hurd asked Mr. Howe to sit in for Mrs. Kier.

II. Minutes of Previous Meeting - September 4, 2018

Motion: To approve

Made by: Mr. Petrin **Second:** Mrs. Pope

Vote: 5 in favor, 1 abstention

III. Old Business

IV. New Business

A. Public Hearing

- **(ZO 2018-00010) Roger Lord, 16 Dane Avenue** – Application for a variance to construct a garage within the side setback at 16 Dane Avenue. Tax Map 133, Lot 20. Zone: R2

Mr. Hurd read the public notice and asked for an abutters' roll call. No abutters were present.

Planner's Report

Mr. McCrory said the applicant seeks to replace an older garage with a new larger one. The existing garage is already within the front and side yards. The new garage will be one foot longer and one foot wider. There will be eight feet to the side line. The new garage will not be any closer to the road than the existing garage.

The abutter on the side of the encroachment has submitted a letter in support of the application.

There was concern regarding the location of the property line without a survey to confirm it.

Applicant's Presentation

Mr. Lord said the garage was built in the 1950's. He felt the new garage would increase the value of his property and those around him. He said his neighbor, Mr. Paige, knows where the front corner pin is located.

Mr. McCrory said there was a lot line annexation on the adjacent property with a survey that may provide the location of the side property line. He suggested making a conditional approval so he could work with Mr. Lord to establish the required dimensions.

Mr. Hurd closed the public hearing.

Motion: I move that we approve the application for a Variance from Section 22-229, Yards in the Residential Two District, to permit reconstruction of a garage that will encroach in the front and side yard setbacks at 16 Dane Avenue (Tax Map 133, Lot 20) with the following recommended conditions for the approval:

1. The proposed garage shall be constructed in accordance with the information provided by the applicant in the Application for a Variance for ZBA Case No. ZO 2018-00010 and testimony during the public hearing.
2. The applicant shall obtain and receive all necessary permits and approvals to complete the work.
3. This variance shall be recorded in the chain of title.
4. The City Planner shall receive verification of boundary lines and noted encroachments before proceeding.

Made by: Mrs. Pope **Second:** Mr. Petrin

Discussion:

Mr. Hurd said:

- the new garage would not diminish anyone's property values;
- the new garage would increase Mr. Lord's property values;
- the new garage would not burden the city services;
- it's a fair use;
- there's no public interest because no one was at the hearing;
- it's not detrimental to the public interest

Mr. Collins said there was nowhere else to put the new garage.

Mr. Howe said the neighbor was okay with the new garage.

Vote on the motion: Unanimous in favor

B. Public Meeting

- **Request to Extend Variance – Claremont Speedway (#ZO-2016-00015)**

The board received an email from Claremont Speedway requesting an extension of their variance. Mr. McCrory equated the email to a written request.

Mr. McCrory said the applicant's attorney had prepared a statement for the board, but it had not been included in the meeting packet. He asked the board if they would like to receive it.

Motion: To accept it

Made by: Mrs. Pope **Second:** Mr. Collins

Vote: Unanimous in favor

Mr. McCrory said reasons given by the applicant for not exercising the variance included:

- Mr. Ambrose had heart surgery
- The track operations were in worse shape than expected so they had no extra money to put into developing the campground
- The variance cost more than they expected.

The one-year extension would benefit the owners in developing their site plan application.

The letter from the attorney reiterated the same facts. The question for the board was did the reasons stated constitute just cause for granting the extension.

The board agreed that Mr. Ambrose's health was the most compelling reason to extend the variance.

Motion: To grant a one-year extension

Made by: Mr. Petrin **Second:** Mr. Howe

Vote: Unanimous in favor

The extension is granted to October 3, 2019.

• **Request for Rehearing – Christopher Anastaspoulos (#ZO 2018-00005)**

Mrs. Pope recused herself from the discussion on the grounds that she wasn't involved in the original decision. Mr. Hurd appointed Mrs. Towle to sit in for Mrs. Pope.

Mr. McCrory said anyone with standing can file a request for a rehearing within 30 days of the board's decision. Mr. Anastaspoulos filed his request on day 30. The board had a copy of his letter in their meeting packets.

Mr. McCrory instructed the board to review the letter and the basis for the request.

There are certain criteria that must be all in the positive to warrant a rehearing:

- Motion filed on time (established by Mr. McCrory above)
- The appellant has standing (confirmed by Mr. McCrory)
- Whether the board committed a technical error in its procedure and/or there is new information not available at the time of the original decision.

Mr. McCrory stated that the third criteria is what the board needed to discuss.

The board reviewed the information contained in Mr. Anastopoulos' letter and said they didn't see any new information, except that the school bus stop had been moved across the street.

Mr. McCrory said the appellant has the right to appeal to superior court within 30 days of a board's denial of a rehearing request.

Mr. McCrory asked the board to focus its discussion on the request for a rehearing and away from whether or not the business is being conducted without a permit.

Motion: To have a rehearing with a site visit prior to the rehearing.

Made by: Mrs. Towle

Point of Order: Mr. McCrory doubted that a site visit could be done without a hearing being open. Mrs. Towle suggested coming to City Hall first, opening the hearing then conducting the site visit. Mr. McCrory agreed to that.

Second: Mr. Collins

Vote: 3 in favor, 2 opposed

Mr. McCrory said the applicant is willing to waive the 30-day time frame so as to have the hearing on a regularly scheduled meeting night (November 5).

There was much discussion about the site visit. Mrs. Towle wanted it to take place before the hearing, but it will be dark at that time. She also wanted to be able to see the interior space used by the business as well as the exterior, but Mr. Anastopoulos objected to allowing board members into his home. It was ultimately agreed that the board will open the public hearing on November 5th and immediately continue it so as to have a site visit, the date and time of which will be worked out by Mr. McCrory and the applicant. The remainder of the hearing will take place at the December meeting.

V. Communications

A. Notices of Decision

- #ZO 2018-00009 David & Erika Osgood

VI. Other Business

There was no other business.

VII. Adjournment

Motion: To adjourn the meeting

Made by: Mr. Howe **Second:** Mr. Collins

Vote: Unanimous in favor

Respectfully submitted,

deForest Bearse