MEETING MINUTES
ZONING BOARD OF APPEALS
Tuesday, January 21, 2020
7:00 PM
Civic Center, 2100 Ridge Avenue, G300

Members Present: Violetta Cullen, Myrna Arevalo, Kiril Mirintchev, Jill Zordan

Members Absent: Lisa Dziekan, Max Puchtel, Mary McAuley

Staff Present: Cade Sterling

Presiding Member: Violetta Cullen

_______________________________________________________________

Declaration of Quorum
With a quorum present, Chair Cullen called the meeting to order at 7:12 p.m.

Minutes
Ms. Arevalo motioned to approve the meeting minutes of November 19, 2019 and December 3, 2019. Seconded by Mr. Mirintchev and approved 4-0.

Old Business

1224 Oak Ave.  
Donna Lee Floeter, architect, applies for major zoning relief to construct an attached garage, deck, and attic addition, in the R3 Two-Family Residential District and Ridge Historic District. The applicant requests a 3’ rear yard setback where 30’ is required (Zoning Code Section 6-8-4-7), a 3.2’ north interior side yard setback where 5’ is required (Zoning Code Section 6-8-4-7 (A) 3.), a 1’ south interior side yard setback for an accessory structure (deck) where 5’ is required (Zoning Code Sections 6-8-4-7 (C) 3. and 6-4-6-3), and building lot coverage of 51% where 45% is required (Zoning Code Section 6-8-4-6). The Zoning Board of Appeals is the determining body for this case.

Donna Lee Floeter, architect, restated that at the preceding meeting, revisions were made to slightly reduce the degree of the variance request and asked why the description had not been changed.

Mr. Sterling explained that the description needed to remain as noticed and a summary of the revisions in question was included in the staff memo.

Donna Lee Floeter, stated that the requested north interior side-yard setback was 3.5 feet rather than the 3.2’ included in the agenda. The 3.2’ is measured from the existing chimney.

Mr. Sterling stated that this would be corrected.
Ms. Edwards Metz, property owner, presented a revised powerpoint and provided additional information regarding the project and her intent to downsize and allow for an age-friendly home and allow for their daughter to inhabit the first floor of the residence. Ms. Edwards Metz continued to address the standards for approval.

- Described the four variations requested including the first floor residences deck, the three-car garage at the rear-volume of the residence, and the screen porch on the north side of the residence above the garage.
- Explained that the three parking spaces are a code requirement and that the proposal is compliant with the impervious surface requirements.
- Explained the need for the requested north interior side-yard setback to allow for an elevator.
- Described that the building lot coverage requested would be a minor variation and that the garage and elevator were necessary in order to age in place and plan for their future.
- Described that the rear-yard setback, although a major variation, is appropriate because it’s the only location a garage can be located.
- Described comments made by other board members at the preceding meeting as recorded in the December 3 meeting minutes.
- Explained that previous concerns about the impact on the neighboring residence were unfounded because redevelopment of that property was unlikely due to the cost of the property, cost of demolition, and cost of construction not providing an adequate return.

Ms. Edwards Metz presented a rough schematic of a theoretical development on the lot to the north and explained her belief that it would not be obstructed by the development at 1224 Oak including that the proposal would not obstruct sunlight into the property to the north.

- Described that the residence was constructed prior to the invention of the car and explained that the existing residence already obstructs the property to the north since it already consumes the rear-yard.
- Described comments previously made by Mr. Mirintchev regarding the aesthetics of the property to the north and stated that the proposal is in-part intended to obstruct their view of the north property due to its unsightly appearance.
- Stated that previous ZBA members concerns over the bulk of the proposal, particularly the screen-porch, are unfounded and reiterated revisions they made previously to the roof-line in order to reduce bulk.

Ms. Edwards Metz briefly discussed the City’s many planning documents and ordinances which help steer decision making on nonconforming lots and uses, of which the City has many.

Ms. Edwards Metz stated that they are prepared to invest significantly in the property, and without that investment, the property would continue to deteriorate.
Ms. Edwards Metz stated the financial and psychological burden that her and her family have been forced to endure due to the various boards and committees they’ve attended has been a hardship in and of itself.

- Stated that no members of the public have objected to the project and Preservation and DAPR have recommended approval. Delaying a decision has cost them money each month. Ms. Edwards Metz urged members to vote to approve the proposal as presented.

**Deliberation:**

Chair Cullen asked if the conditions of DAPR had been met.

Mr. Sterling clarified the previously explained error in the staff memo that stated basement excavation would not be allowed - the clarification is that basement excavation is allowed but a sump pump is not allowed below the water table and would be reviewed at the time of permit submission.

Mr. Mirintchev stated concern with the proposed bulk and height of the proposal, particularly the roofed deck on the garage which creates a solid two-story wall from the front of the building to the back. This, he could not be supportive of as it would, despite arguments to the contrary, greatly impact the property to the north.

Mr. Mirintchev stated that the three-car garage was too large, but the argument for it's necessity seems appropriate.

Ms. Arvelalo inquired if the deck were open and only the elevator shaft were roofed, would Mr. Mirintchev feel it met the standards

Mr. Mirintchev stated that he could support the proposal with an open deck and railing and roofed screen-porch removed.

Mr. Metz asked members to reiterate that they would support the proposal without the roofed screen porch and replacement with an open deck and railing with roofed elevator shaft.

Ms. Zordan stated that even with removal of the screen porch she could not support the proposal stating concern that you would be overlooking the neighboring property, minimizing privacy.

Ms. Zordan stated concern with the presentation about a theoretical house at the north property, stating that she had concerns with the proposal in relation to the existing property to the north.

Mr. Sterling stated that the record had been closed and asked the applicants to allow members to deliberate without interjection.

Chair Cullen stated agreement and reminded the applicant that they had their time to present. If they wish to continue discussion, the record would need to be reopened.
Chair Cullen made a motion to reopen the record with unanimous approval.

Mr. Metz inquired about giving up the elevator altogether, shifting the garage 1.5 feet to the south and allowing for more separation between properties. Mr. Mirintchev inquired if they would agree to keeping the elevator and have a single, semi-transparent "green wall" on the north side of the deck.

Ms. Floeter asked if Mr. Mirintchev would be ok with an open pergola to which Mr. Mirintchev stated he would be although it was a stretch

Ms. Edwards Metz stated she would rather remove the elevator than not have the screen porch and asked if a retractable awning would be acceptable

Ms. Arvelalo asked if they would consider an impermanent green wall

Ms. Edwards Metz stated that she was looking forward to the screen porch and wasn’t comfortable with its removal.

Ms. Arvelalo stated that if you want a decision tonight, you need to give a little to get a little to which Ms. Edwards Metz stated that they had three votes at the last meeting in favor of the proposal with the screen porch.

Chair Cullen stated that she understood that no vote had been taken

Mr. Sterling stated that no vote had been taken at the previous meeting.

Chair Cullen stated that if they want a decision tonight, they need to make accommodations to get the four votes. Otherwise, it would be continued to the next meeting.

Mr. Mirintchev inquired if the board could make two separate motions, one with, and one without conditions.

Mr. Sterling stated that they could take a vote on two separate motions if desired. If a motion included conditions, it would be recommended to make said condition as specific as possible.

Mr. Metz stated that it was already specific, stating they would agree to removing the screen porch, with an elevator, and a railing around an open deck.

Final Deliberation:
A majority of ZBA Members present found the proposal, including removal of the screen porch, appropriate. Ms. Zordan stated that she had already voiced her concern with any activity above the garage impacting privacy whether the space was enclosed or unenclosed.

Standards:
1. Yes (JZ, No; KM Only without screen porch)
2. Yes
3. Yes
4. Yes
5. Yes
6. Yes
7. Yes
8. Yes
9. Yes (JZ, No)

Mr. Mirintchev motioned to recommend approval of the request, which was seconded by Ms. Arevalo with the following conditions:

1. Removal of the second floor roofed screen porch above the proposed garage and replacement with an open rooftop deck and railing. A roofed elevator shaft shall be permitted.
2. The applicant shall develop the subject property in substantial compliance with the testimony and representations of the Applicant to the Zoning Board of Appeals, and the plans and documents on file in this case.

The motion failed to reach four concurrent votes (3-1) and will be considered, with testimony closed, at the following meeting by members not present at the January 21 meeting.

**New Business**

**1327 Chicago Ave./528 Greenwood St.** 19ZMJV-0074

Richard A. Shapiro, applicant, submits for a special use for an Office, for Richard Shapiro Attorney At Law, in the R5 General Residential District (Zoning Code Section 6-8-7-3). The Zoning Board of Appeals makes a recommendation to City Council, the determining body for this case.

Ms. Arevalo motioned to continue the case without discussion to the February 18, 2020 ZBA hearing, which was seconded by Mr. Mirintchev and unanimously continued.

**1201 Grant Street** 19ZMJV-0104

Mark Benner, applicant, applies for major zoning relief to construct an addition in the R1 Single-Family Residential District. The applicant requests a 2.8’ west interior side-yard setback where 5’ is required (Zoning Code Section 6-8-2-8. (A) 3.) and minor zoning relief was previously granted to permit 3.3’ (Minor Variation case number 16ZMNV-0064). The Zoning Board of Appeals is the determining body for this case.

Mr. Sterling read the case into the record.

Applicant briefly discussed the request stating discrepancies in the plat of survey and the spot survey which resulted in inaccurate measurements

Applicant stated that the project is nearly complete and denial of the requested relief would cause a severe economic hardship as it would result in tearing down and reconstructing the addition
Ms. Arevalo questioned if the request was for 2.8’ or 2.5’ from the property line where 5’ is required.

Applicant stated it was 2.8’

Mr. Sterling affirmed the request was for 2.8’ and that the existing principal structure was 2.5’ from the property line.

Mr. Mirintchev stated he was supportive of the project but wanted the applicant to understand that other communities are not so understanding and a mistake like this is serious.

Applicant stated that this has never happened before and the angle of the lot-line as well as discrepancies in the surveys created a unique situation.

Mr. Mirintchev asked if any neighbors had objected.

Mr. Sterling stated that they had received no comments for or against the project.

Homeowner stated that many neighbors have complimented the design.

**Deliberation:**
The ZBA Members present found the proposed zoning relief to be appropriate.

**Standards:**
1. Yes
2. Yes
3. Yes
4. Yes
5. Yes
6. Yes
7. Yes
8. Yes
9. Yes

Ms. Arevalo motioned to recommend approval of the requested zoning relief to permit construction of an addition with a 2.8’ west interior side-yard setback where 5’ is required, which was seconded by Ms. Zordan with the following condition.

1. The applicant shall develop the subject property in substantial compliance with the testimony and representations of the Applicant to the Zoning Board of Appeals, and the plans and documents on file in this case.

Adjourned 8:15pm