

BOARD OF ZONING APPEALS

MAY 28, 1992

A. ROLL CALL

Mr. Feigley  
Mr. Ripley  
Mr. Giedd  
Mr. Carr  
Ms. James

ABSENT:

Others Present:

Bernard M. Farmer, Jr. Zoning Administrator

B. MINUTES

The minutes of the April meeting were deferred until the next meeting.

C. OLD BUSINESS

Mr. Feigley deferred until time for Special Priviledge for the discussion on University Square.

D. NEW BUSINESS

ZA-4-92. Edward Blanks

Mr. Farmer presented the staff report stating that Mr. and Mrs. Blanks desire to construct a detached garage with a roof heighth 4 feet higher than the principal structure on the property. The dwelling is located at 103 Kingspoint Drive in the Kingpoint Subdivision. Mr. Blanks has prepared plans to construct a detached garage on his property to provide for additional storage space and a recreation room for the family. The height of the structure as planned, according to the applicant, will be 4 feet higher than the existing one story dwelling. The detached garage is planned to be situated along the slope at the rear of the house and have a walkout basement level, garage level, and a storage attic.

Section 20-156 of the Zoning Ordinance states in part that "all accessory buildings shall be less than the main building in height". There are provisions to allow the accessory building to be taller, provided that it is situated at a spot lower on the property so that the top of the accessory structure is no higher than the main building. In this case the applicant desires to have the garage higher than the dwelling, though the plans supplied do not state finished floor elevations or elevations of finish grade

to determine precisely how much higher, nor is there any indication of the height of the main dwelling other than an undimensioned elevation drawing. There is a substantial flat area on the property presently occupied by the driveway which could be used, as well as other area adjacent to the house. The lot is steeply sloped to the rear and side. It is the staff recommendation that this variance be denied as no undue hardship has been demonstrated. Substantial buildable area exists on the 3/4 acre lot, sufficient to accommodate construction of a storage space. Granting this variance would amount to a special privilege which is otherwise denied like zoned property, and would not be consistent with the intent of the ordinance. Sufficient alternatives exist which would not require issuance of any variance.

Several persons have contacted the Code Compliance Office stating their opposition to the desired variance. As noted in the file, the Kingspoint review committee has no objection to the proposal.

Ms. James asked if this property had been before the BZA previously.

Mr. Farmer answered no.

Mr. Feigley opened the public hearing.

Mr. Ed Blanks addressed the Board and stated that moving the proposed structure on the property in his opinion would be detrimental to the environment. He further stated he wanted to take advantage of the existing drive and moving the structure would necessitate removing more trees.

Ms. James asked if the structure would be 3 stories high.

Mr. Blanks answered yes.

Mr. Carr asked if the structure would be two storys on the front and three on the rear.

Mr. Blanks answered yes.

Mr. Carr asked why a three story structure was necessary.

Mr. Blanks explained that his dwelling was constructed without an attic and storage space was needed.

Mr. Blanks stated the proposed structure would be lower than the adjacent dwelling.

Ms. James asked the height of the structure when completed.

Mr. Blanks stated 31 feet in the rear.

Mr. Carr asked if there was a dwelling behind Mr. Blanks house.

Mr. Blanks stated his property is separated by a green space from the closest rear property.

Ms. James asked why he could not use lower level for parking and upper space for storage.

Mr. Blanks stated that he could not get cars to the lower level.

Mr. Giedd asked the square footage of one floor, and asked if he could increase the footage for storage eliminating the third story.

Mr. Blanks stated with the current design it would not be possible.

Mr. Giedd asked if he could use a single story garage at driveway level.

Mr. Blanks explained his full plans for the remodeling of his dwelling.

Mr. Ripley made several suggestions for constructing a garage without the need for a variance.

Mr. Blanks stated that his plan was the most economical and most environmentally safe plan.

Mr. Blanks stated he thought the BZA was for evaluations of plans and wishes of property owners.

Mr. Carr asked if Mr. Blanks knew of the Zoning Ordinance prior to his design work.

Mr. Blanks stated he did not know of the ordinance until his plans were complete.

Mr. Giedd stated if Mr. Blanks is going to change the pitch of the roof of the house it would appear that he could solve his problem with a design change.

Mr. Blanks stated it was not as simple as it would appear and referred to the difference of the roof heights in the County Complex.

Mr. Carr asked the square footage of Mr. Blanks home.

Mr. Blanks stated 1700 square feet at present, he further stated that the proposed garage would have more footage than the residence.

There were no further questions therefore, Mr. Feigley closed the public hearing.

Mr. Carr stated his opposition to the Ordinance.

Mr. Giedd stated his opposition to allowing the proposed garage to have more square footage and a higher roof line than the residence.

Mr. Carr asked Mr. Farmer for clarification of 20-156 Section D.

Mr. Farmer defined the terms of the requested Section for the Board.

Mr. Farmer briefed the Board on the calls to the Code Compliance office in reference to this case.

Mr. Feigley explained the guidelines used to grant a variance.

Mr. Feigley moved to deny the variance.

Ms. James seconded the motion.

The vote for denial was four to one with Mr. Carr casting the deciding vote.

ZA-5-92. Steve and David Weigley

Mr. Farmer presented the staff report stating that Mr. & Mrs. Wigley desire to construct an addition to the front of their existing home within 38 feet of the street right of way. The dwelling is located at 117 Barlow's Run in the North Cove Subdivision. The house was constructed in 1983 and was built consistent with the 35 foot setback required at the time. It became nonconforming with the adoption of changes to the zoning ordinance in 1989. Mr. and Mrs. Wigley desire to construct an addition which would be 38.8 feet from Barlow's Run. The ordinance allows nonconforming residential structures to be expanded, however the expansion itself must meet current ordinance requirements. The ordinance currently requires all structures be located a minimum of 50 feet from any street right of way in the A-1 zoning district. As proposed, the owners would need a variance of approximately 12 feet from the current ordinance requirements. There is other area on the property which is buildable, but the addition would not be compatible with the existing construction if placed elsewhere. There are topographical features and the septic system which restrict this property, yet it is placed into beneficial use. Since no demonstrable legal hardship has been shown to exist in this case, it is the staff's recommendation that the variance be denied. The property is presently in use and no unique condition exists which restricts the property any more than a like zoned similarly situated lot.

Mr. Feigley opened the public hearing.

Mrs. Wigley addressed the Board stating the reasons for the variance request.

Mr. Ripley asked the proposed use of the addition.

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Ms. Wigley stated a family room with a bedroom above.

Mr. Feigley asked if the Wigley's were the original owners.

Ms. Wigleys stated yes.

Ms. James asked if the proposed addition would extend further into the setback than the existing dwelling.

Ms. Wigley stated the proposed addition would not extend more than the residence into the setback.

Mr. Feigley closed the public hearing.

Mr. Feigley stated he felt this is a typical variance request in the A-1, Zoning District since the change.

Ms. James stated it is apparent that the owners have tried to comply and only have a problem due to the change in the Ordinance.

Mr. Giedd stated that granting the variance will not make the dwelling more nonconforming.

Mr. Ripley commented on the odd shape of the lot and stated the dwelling is located in the only space available on the lot and the addition is proposed for the only area available.

Mr. Carr moved to approved the variance as requested.

The vote for approval was unanimous.

Ms. James asked to amend the motion to state that the addition shall not extend further into the setback than does the existing dwelling.

The vote for approval of the amended variance was unanimous.

#### E. MATTERS OF SPECIAL PRIVILEGE

Mr. Farmer provided a brief update regarding actions pertaining to case ZA-12-91, University Square.

#### F. ADJOURNMENT

The meeting was adjourned at P.M.

  
Claude Feigley

  
Bernard M. Farmer, Jr.