

**BOARD OF ZONING APPEALS  
CITY OF PRAIRIE VILLAGE, KANSAS  
MINUTES  
TUESDAY, DECEMBER 4, 2018**

**ROLL CALL**

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, December 4, 2018 in the Council Chambers of the Municipal Building at 7700 Mission Road. Chairman Gregory Wolf called the meeting to order at 6:30 p.m. with the following members present: Jonathan Birkel, Melissa Brown, Jeffrey Valentino, Patrick Lenahan, James Breneman and Nancy Wallerstein. Also present in their advisory capacity to the Board of Zoning Appeals were: Chris Brewster, Planning Consultant; Jamie Robichaud, Deputy City Administrator; Mitch Dringman, Building Official, and Joyce Hagen Mundy, Board Secretary.

**APPROVAL OF MINUTES**

Patrick Lenahan moved for the approval of the minutes of the July 10, 2018 meeting as submitted. The motion was seconded by Melissa Brown and passed 5 to 0 with Mr. Breneman and Mr. Wolf abstaining.

**BZA2018-04    Variance from Section 19.08.025 "Side Yard" to reduce the east side yard setback from 6 feet to 4.7 feet  
2020 West 73<sup>rd</sup> Street**

David Joiner, with Integral Design Architecture, 8836 Reeds Road, presented the application for a variance from Section 19.08.025 to allow an addition to the existing building that would extend up to 1.25 feet into the required 6 feet side yard setback on the east side. The addition would be approximately 2 feet closer to the east lot line than the existing structure.

Chris Brewster noted other than the addition and expansion on the east lot line, all other portions of the proposed addition meet the zoning requirements. The existing home is 6.7 feet from the east property line, and 4.7 feet from the west property line. (This met the previous 4 feet setback and building separation requirements, and standards in place at the time the structure was built, so the west portion of the home is legally non-conforming). Other lots on this block are of comparable size with two larger lots (80 feet and 100 feet wide) and some larger and smaller variations at the corners. The area was originally platted in 40 foot increments, so most lots have variations of those increments with halves of other lots that result in 60 feet wide lots.

Jeffrey Valentino asked Mr. Joiner to review how this application met the criteria for a variance. Mr. Joiner replied that the existing property conditions (while not entirely unique to this tract) are very limiting in terms of accommodating more than one vehicle. The existing garage is very narrow and will not accommodate the width of most vehicles. The owner has two vehicles, one of which is a large truck which must be stored outside, subject to weather, theft, and other damage.

Nancy Wallerstein asked if the neighbors and the homes association had been notified of the requested variance. Mr. Joiner responded there is not an active homes association, and neighbors were notified of the application by certified mail as required and with a second hand-delivered notice. The owner personally contacted the neighbor to the west, which is a rental property, and the neighbor to the east.

Board members confirmed the requested setback and questioned the dimensions of the proposed garage and garage door to the existing garage. Mr. Joiner reviewed the elevations for the proposed project. Mrs. Wallerstein confirmed the roof on the addition will be slightly higher than the existing roofline. Mr. Birkel confirmed with Mr. Dringman that a one-hour fire wall would be required.

Chairman Gregory Wolf opened the public hearing on the application. With no one present to address the Board, the public hearing was closed at 6:56 p.m.

Mr. Wolf led the Board through discussion of the following criteria required for approval of a variance:

**A. Uniqueness**

**That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.**

**In order for the property to meet the condition of uniqueness, it must have some peculiar physical surroundings, shape, or topographical condition that would result in a practical difficulty as distinguished from a mere inconvenience to utilize the property without granting the variance.**

This lot is the minimum width required for lots in the R-1B zoning (60', with a margin of .2 feet narrower from the surveyor's measurements). Thus, it is the narrowest lot allowed in Prairie Village. Most lots on this block are a similar dimension, with the exception of a few wider (3) and a few narrower (4). Therefore, most homes built on this block have a similar configuration with single-car, front-loaded garages, and a few have configurations with driveways to the side and garages to the rear. This home has a smaller overall footprint than many homes on the block.

Mr. Breneman, Mrs. Brown, and Mrs. Wallerstein felt the criteria for uniqueness had not been met.

**B. Adjacent Property**

**That the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residents.**

The existing home is approximately 13 to 14 feet from the home to the west (with a 4.9 feet setback from that property line), and approximately 14 to 15.5 feet from the home to the east, where the variance is proposed (with an approximately 6.7 feet setback from the property line). Granting the variance would allow the east elevation to be located approximately 12.5 to 14 feet from the home to the east, and extend for approximately 45 feet. The applicant has not provided an elevation for this side, but it appears that this will be a single-story elevation. This can be contrasted with the 29' height limit that can be

built according to the current zoning standards at the 6' to 7' setback from the property line, where the existing home is.

Mrs. Wallerstein noted the current rental property to the west may not remain a rental property. Mr. Lenahan stated his objection to a project on one property negatively impacting future expansion on the adjacent property. Mr. Wolf stated he would be more comfortable if the applicant had presented a signed statement from the impacted property owner stating that they were aware of and accepted the potential limitation to expansion on their property.

#### **C. Hardship**

**That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.**

The lot meets the R-1B minimum area standards, and the existing home is within all of the setback and area coverage requirements. Due to the narrowness of the lot and the plans to maintain the existing home through the addition, the options for a garage expansion are limited. As an addition to an existing structure, the location of the garage is fixed by the current garage and driveway. The two additional feet are proposed to make the pass-through portion of the tandem garage more practical than the current garage width.

Several Board members did not feel the criteria of hardship had been met.

#### **D. Public Interest**

**That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.**

The majority of the addition is setback substantially from the public streetscape and behind the front elevation of the home, and it will have very little impact on the broader neighborhood. The investment in maintaining the current structure preserves the scale and character of the neighborhood as perceived from the streetscape.

Board members agreed the criteria had been met.

#### **E. Spirit and Intent of the Regulation**

**That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.**

The intent of the R-1B zoning side setback is to manage the relationship of adjacent buildings and to permit building footprints in scale with the lot size. This section of the ordinance was amended in 2016 to deal with the scale and massing of additions and new homes which were being built to the extent of the previous side setback (4', 12' minimum between buildings), and near the extent of the 2-story height limit at the side setback. Provided the assumption that the addition is proposed as a 1-story elevation on the east property line, the requested deviation is small compared to the permitted building elevations and setback that could be built along the east lot line. The addition to the rear on the west side is set back from the existing west building (legally non-conforming) line and meets the current 6 feet setback for all portions of the proposed addition. In granting

the variance, the home would not meet the current required side setback on the east and the west sides (4.9 feet - existing legally non-conforming on the west, and 4.75 feet - proposed on the east), but would appear to maintain the required 12 foot building separation from the adjacent homes (approximately 12.5' to 14' from each side; is based on AIMS data which is not surveyed and is only approximate). However, if each of these homes were to build to the 6 feet line on each side, the building separation could be 10.9 feet on the west and 10.75 inches on the east.

Mr. Breneman felt that the limitation on the future expansion of the adjacent property is not within the spirit and intent of the regulations. Other Board members agreed.

Melissa Brown stated that she is appreciative of property owners attempting to expand existing homes to meet their needs; however, she believes that approving the variance would cause a negative impact on the neighboring property owner.

Jeffrey Valentino stated he wants applications to come as close as possible to meeting city codes and requesting the minimum variance required for the proposed project.

Patrick Lenahan moved based on the Board not finding the criteria for the granting of a variance to have been met that BZA2018-04 be denied. The motion was seconded by James Breneman and passed unanimously.

## **OLD BUSINESS**

There was no Old Business to come before the Board.

## **NEXT MEETING**

Friday is the filing deadline for the January 8<sup>th</sup> meeting. No applications have been received for consideration to date.

## **ADJOURNMENT**

Chairman Gregory Wolf adjourned the meeting of the Board of Zoning Appeals at 7:04 p.m.

Gregory Wolf  
Chairman