

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, AUGUST 8, 2011

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13-222497

PRESENT: Mmes. Maddox, Bogen, Porter and Morton; Messrs. Ward, and Wilson of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Vincent Courtney*, Tienne Linden*
*Excused

The meeting was chaired by Joyce Maddox, Chair.

Paul Ormseth (#11-253290) 1075 Lombard Avenue: A variance of the required rear yard setback in order to build a new garage attached to the back of the house by a deck and arbor. A rear yard setback of 25 feet is required and a setback of 8 feet is proposed for a variance of 17 feet.

Mr. Diatta showed slides of the site and reviewed the staff report with a recommendation for approval, subject to the conditions that: 1) The exterior finish of the proposed new garage matches the exterior finish of the house. 2) The existing tuck-under garage is not used as a living space or for commercial purposes. 3) The existing driveway and curb cut in the front yard must be completely removed and replaced with a new curb and gutter. All work on curbs, driveways, and sidewalks within the public right of way must be done to City Standards and Specifications by a licensed and bonded contractor under a permit from Public Works Sidewalk Section (651-266-6120). The front yard must then be sodded with grass.

One phone call was received from a neighbor requesting a copy of the application documents, no other correspondence was received about the variance request.

One letter was received from District 16 supporting the variance request, but there were some concerns that were raised. One concern was the future use of the property by a future purchaser.

Ms. Bogen asked if there were any issue with the height of the proposed garage as it is going to be a two story building? Mr. Diatta replied no there is no height issue.

The applicant **PAUL ORMSETH**, Architect for the owner, 75 - 5th Street West Suite 403, Suite 423, was present, with the owner David King, 1075 Lombard Avenue. Mr. King stated that this is a unique property in that the back yard drops about 10 feet or so from the alley. The current tuck under garage is quite small and he wants to add a powder room under the eave and because of this he would lose the garage because the area will need to be heated with the waste pipes and what have you; so the remainder of the existing garage will be converted into storage space. The connecting deck will come straight off the very small sun room back to the garage. The big part of this is to try to avoid going downstairs in order to go upstairs into the house. The proposed plans will allow driving straight into the garage and walking right over the deck into the back of the house. It will have an appearance of a two-story garage from his back yard, but what you will see along the alley is just one story, so it is very much in keeping with the historic character of the other garages on the alley. Most of the garages are right on the alley. Mr. King continued that he plans to put painted shingles on the side and plans on trying to duplicate the stone with a stone fascia on the lower section of the building to duplicate the foundation on the house. The roof on the present structure is tile and that will be duplicated on the garage. It will have separate doors to try to maintain the character of the

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other garages in the area. Mr. King stated that the only consideration that he has is about the front drive. Lombard is unique it is only two blocks long and on the south side all those houses butt up against an open space, natural area, and the train goes through there so none of the houses along that side have an alley. The street itself is very narrow and there is only parking on one side of the street, he stated that both of his parents are about 80 and it is very difficult to find a parking space on the street. Mr. King stated that in Mr. Larson's book this house was built in 1922 and was lived in by the Architect (Neidmeyer?) for about 50 years and this house was presented as one of the first tuck-under garages so he does have certain qualms about taking the front driveway out. Mr. King stated the plans are to actually level the driveway but still have the illusion that there is a garage door there, they would masonry the door up, take the grade down on the side and then have just a short driveway using pavers so there would not be any runoff. Just because it is so hard to find parking, there are about 10 driveways on this street and there are drives on all the south side homes.

Ms. Bogen stated that she sees that the second floor of the building will be the garage, she asked what Mr. King planned to do with the lower level of the garage, and about the possibility of enclosing the lower level and making it a solid room extension to the house. Mr. King stated that is not what it would be designed for. Ms. Bogen further asked what Mr. King was planning to do with the bottom level. Mr. King stated depending on the cost he would like to put an exercise pool in, one of the endless pools, so the room would be just an exercise area. Ms. Bogen asked whether Mr. King had any intention of putting walls on the lower level? Mr. King replied he had absolutely no intent to add walls.

Ms. Porter asked Mr. King if the basement area was what they saw on the plans? Mr. King replied yes. He stated that originally he thought that they would build a foundation and then just fill it in but as they worked on it more came to light and there was this big space underneath that is on an equal level with the back yard so it just seemed nice to have that so we intend to have some French doors with hopefully a pool and exercise area.

Mr. Ward asked Mr. Diatta if there isn't something in the current code stating that an accessory structure like a garage cannot have any kind of water? A pool would need water and would also need to be heated, how could that be dealt with if at all? Mr. Diatta replied that this pool area was a surprise to him, he did not know anything about a pool, it was not part of the application documents, he does not know for a fact that it is not permitted in an accessory building, being that the accessory structure and the main building are now becoming one. Mr. Diatta stated that he can look into it, he is not sure right now.

Mr. Warner stated that the City can always as a condition of granting a variance, have the applicant draft a restrictive covenant that would restrict the use of accessory structures. The Board has done that in the past with large garages with second stories and had the applicant draft a restrictive covenant that the City reviews, that states that they won't put a commercial use, or if they have plumbing out there that they won't convert it into residential use. There are ways to work with that so if the applicant ever gets to that you could plan the requirement now as to have him put in a restrictive covenant that the space would not be used for anything that is not allowed by the code.

Mr. Ward stated that the restrictive covenant would go with the property rather than the owner so that if the building is sold the restrictive covenant is still in force so it could not be converted, is that correct? Mr. Ward replied yes.

Harvey Jaeger, 1069 Lombard Avenue, stated that he lives east of the property in question. He is in support of Mr. King and what he is trying to achieve. Mr. Jaeger stated that the site is a very difficult site

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to try to satisfy modern day parking needs, he thinks it is a very sensible solution and is very pleased with the appearance of it. When he spoke with Mr. Diatta he was a little puzzled why Mr. King needed a variance for his project. Mr. Jaeger continued that Mr. Diatta explained that placing the deck between the house and the garage makes it an attached garage and part of the house. Mr. Jaeger then asked if there were any height restrictions on the building, because the request is just for a setback variance? Mr. Diatta then told Mr. Jaeger no there really would not be any height restrictions, especially not the 15 feet maximum height required for detached structures. Mr. Jaeger then asked what is to stop a future owner from building up on the structure since it is part of the house? Mr. Diatta informed Mr. Jaeger that the garage could go up to two stories, the height of the house. Mr. Jaeger stated that is a concern if someone in the future decides that they need a bigger house, instead of being an open extension it becomes an enclosed extension we could end up with quite an imposing addition to the house. Mr. Jaeger stated that he lives to the east but the neighbor on the west could be affected drastically. He requested if this is granted that there be some limits to what is being presented, so that someone in the future cannot take this to something much larger than it is currently.

Mr. Ward questioned that Mr. Jaeger whether he is in support of this with some limitations? Mr. Jaeger replied as this is presented he thinks it is great, but he does not hear that there is any way to put any restriction on it for the future.

Ms. Maddox asked Mr. Diatta whether that would be a condition that it is only one story that they are doing? Mr. Diatta stated that the garage now being part of the main structure, it now becomes house so the height limitation would be the height of the principal structure as opposed to detached garages, which is 15 feet measured to the mid point between the peak and the eave. So if a future buyer gets the house he could possibly elevate it to the same height as the main building there is nothing that would stop them from doing that. Although the lot coverage requirement would kick in allowing only 35% of the lot for any building and anything beyond that would require a variance.

Mr. Ward asked Mr. Diatta given the 35% lot coverage allowed, the deck would not qualify as an attached structure it is just a deck, but not part of the primary structure, is that correct? Mr. Diatta stated that the deck would qualify and it would be included in the lot coverage calculations. Mr. Ward asked right now does it meets that requirement of 35%? Mr. Diatta replied yes.

Jeff Roy, District 16 Community Council, stated that as an organization they are very excited about this proposed project it would be an improvement on the property. Overall the District Council approves of this project, however, they have the same concern Mr. Jaeger brought up about what protections there would be for the current owner or some future property owner from enlarging the deck in some way and impacting the neighbors and community in a way it was not intended to? Mr. Roy read from letter of support the District 16 Council submitted. "After a full discussion, a motion was made and seconded to recommend to the BZA, approval of the variance subject to the conditions noted in the BZA Staff Report of August 1, 2011; but in addition SHA(Summit Hill Association/District 16 Planning Council) provides its support on the condition that the structures to be built in conformance with the same height as in the plans included in the application and no higher. The Committee voted unanimously (4-0) to approve the motion. Note: Although not a part of the approved motion, the ZLU(Zoning and Land Use Committee) Committee goes on record as strongly concerned about the possibility, once this variance is granted, of future enhancements being made to the deck by either Mr. King or future property owners that could create the situation that the Jaeger's have noted; and which motivated them to attend the District 16 Community hearing." Mr. Roy stated that he just wanted to get that on record. Also as the district supports the conditions set by the BZA staff, Mr. Diatta, that would include removal of the driveway.

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Mr. King stated that he had nothing further to add.

There was no opposition present at the hearing.

Hearing no further testimony, Ms. Maddox closed the public portion of the meeting.

Ms. Bogen moved to approve the variance and resolution based on findings 1 through 6, subject to the conditions that: 1) The exterior finish of the proposed new garage matches the exterior finish of the house. 2) The existing tuck-under garage is not used as a living space or for commercial purposes. 3) The existing driveway and curb cut in the front yard must be completely removed and replaced with a new curb and gutter. All work on curbs, driveways, and sidewalks within the public right of way must be done to City Standards and Specifications by a licensed and bonded contractor under a permit from Public Works Sidewalk Section (651-266-6120). The front yard must then be sodded with grass.

Mr. Ward stated that he would like to add an amendment that staff do further investigation to find out if a pool with water is an allowable addition to an accessory structure. Ms. Bogen stated she does not accept that as a friendly amendment.

Ms. Morton seconded the motion, which passed on a roll call vote of 6-0.

Submitted by:

Approved by:

YaYa Diatta

Gloria Bogen, Secretary

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