

**PRAIRIEVILLE TOWNSHIP
ZONING BOARD OF APPEALS**

October 8, 2024

PRESENT: Chairperson Dale Grimes, Jaci Dalke, Ted DeVries, Dan Jeska,
Glenn Stoneburner

ABSENT: None

ALSO PRESENT: Rebecca Harvey, Township Planning Consultant

CALL TO ORDER

Chairperson Grimes called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA

Mr. DeVries moved to approve the agenda as presented. Ms. Dalke seconded the motion. The motion carried unanimously.

APPROVAL OF MINUTES

The next matter to come before the Board was consideration of the proposed minutes of April 3, 2024. It was noted that the minutes should be corrected throughout to reflect Chairperson Grimes as absent and Glenn Stoneburner present in lieu of former Board member Richard VanNiman. Mr. DeVries moved to approve the minutes as corrected. Mr. Jeska seconded the motion. The motion carried unanimously.

The next matter to come before the Board was consideration of the proposed minutes of September 4, 2024. Mr. Jeska moved to approve the minutes as presented. Chairperson Grimes seconded the motion. The motion carried unanimously.

PUBLIC COMMENT CONCERNING NON-PUBLIC HEARING ITEMS

No public comment was offered on non-public hearing items.

PUBLIC HEARING ITEMS

VARIANCE REQUEST – Kienitz

The next matter to come before the Board was the request by Alex and Rhonda Kienitz for variance approval for the proposed construction of an addition to an existing dwelling that fails to meet the setback and lot coverage requirements established by Section 4.24 – *Waterfront Lots* and Section 4.41 - *Schedule of Lot, Yard and Area Requirements*, Zoning Ordinance. The subject property is located at 11875 Lakeway Drive and is within the R-2 District.

Chairperson Grimes stated that the matter had been postponed from the September 4, 2024 ZBA meeting to allow the applicant the opportunity to provide new and/or additional information regarding the application. He noted that the matter had been postponed to the October 2, 2024 regular ZBA meeting but was then postponed to a special meeting on October 8, 2024 at the request of the applicant to have a full Board present.

Chairperson Grimes then re-opened the public hearing.

Rhonda Kienitz was present on behalf of the application. She inquired if all Board members had had the opportunity to visit the site. All Board members indicated they had individually visited the site in preparation for the meeting.

Ms. Kienitz referenced a lengthy packet of information provided to Board members and noted the following:

- Referencing photos, she highlighted the portion of the cottage proposed to be removed and reconstructed.
- Referencing photos, she highlighted the foundation under the original portion of the cottage (650 sq ft) in need of repair. Options include lift cottage/repair foundation or raze cottage/reconstruct foundation and cottage.
- The option to raze/reconstruct was deemed to be safer, more cost effective, and would result in less impact on the neighborhood.
- The proposed cottage reconstruction will require the removal of the existing 576 sq ft (24 ft x 24 ft) detached garage for access.
- As a result, the proposal also includes the removal of the detached garage and the construction of a new 504 sq ft (21 ft x 24 ft) garage . . . to be attached to the cottage by enclosure of the existing space between the garage and the cottage.

- The reconstructed portion of the cottage will have the same footprint and location as the existing cottage; the reconstructed garage will be smaller with an improved side setback.
- *Rear setback variance request:*
 - The garage is currently provided a 15 ft setback from the r.o.w. of Lakeway Drive, in violation of the 25 ft rear setback requirement; maintaining the 15 ft rear setback for the garage rebuild is requested.
 - The existing/proposed 15 ft rear setback is similar to most rear building setbacks in the area and will serve to maintain building alignment.
 - The Township Fire Chief indicates no safety/access concerns with the existing/proposed 15 ft rear setback.
- *Lot coverage variance request:*
 - The existing cottage/detached garage currently result in a lot coverage of 45%, in violation of the 30% maximum lot coverage standard; maintaining a 45% lot coverage for the cottage/garage rebuild is requested.
 - The 45% lot coverage calculations have been confirmed by PCI and the staff report. [Ms. Harvey noted agreement with the 45% lot coverage calculations. She clarified that the staff report does not reference an average lot coverage for the surrounding area . . . rather it notes the lot coverages that exist on the lots in the surrounding area.]
- *Side setback variance requests:*
 - The cottage is currently provided a 2.6 ft setback from the west property line and a 4 ft setback from the east property line, in violation of the 6 ft side setback requirement; maintaining the 2.6 ft/4 ft side setbacks for the cottage rebuild is requested.
 - The garage is currently provided a 1.7 ft setback from the west property line, in violation of the 6 ft side setback requirement; a 4.7 ft side setback for the garage rebuild is requested.
 - Reasonable options for compliance are not available given existing site limitations.
 - The lots in the area are part of an old plat (1929) and most are nonconforming due to lot size/lot width.
 - Similar situations exist and similar variances have been granted on area properties.
 - The reconstruction will improve building safety and building architecture/appearance. Compliance will result in a loss of valuable floor space and require expensive redesign.
 - Adjacent property owners have expressed support for the project.

Guy Parks, neighboring property owner, requested confirmation that the proposed reconstruction is considered 'new construction' and is subject to current standards.

No further public comment was offered on the matter and the public comment portion of the public hearing was closed.

Chairperson Grimes summarized that 5 separate variances have been requested:

- 1) Variance approval from the 6 ft side setback requirement to allow for a 4 ft setback from the east property line for the cottage rebuild.
- 2) Variance approval from the 6 ft side setback requirement to allow for a 2.6 ft setback from the west property line for the cottage rebuild.
- 3) Variance approval from the 6 ft side setback requirement to allow for a 4.7 ft setback from the west property line for the garage rebuild and attachment.
- 4) Variance approval from the 25 ft rear setback requirement to allow for a 15 ft setback from Lakeway Drive for the garage rebuild.
- 5) Variance approval from the 30% maximum lot coverage standard to allow for a 50% lot coverage for the proposed cottage/garage rebuild.

He clarified that the proposal before the Board is unchanged from the proposal originally presented in September. He stated that he would like to proceed in considering the variance requests separately.

The Board then proceeded with a review of the variance criteria set forth in Section 7.5 with respect to the requested east side setback variance for the cottage rebuild. The following findings were noted:

#1 – The requested variance will not serve to 'permit the establishment of a use' which is not allowed within the R-2 District.

#2 – It was recognized that the subject site is currently occupied by a dwelling and that a denial of the variance would not prevent reasonable use of the property.

In consideration of the availability of reasonable options for compliance, lengthy Board discussion ensued regarding reconfiguration options, including reducing the size of the proposed cottage rebuild. It was noted that if the east wall of the cottage rebuild were located in alignment with the east wall of the existing cottage, the rebuild would comply with the 6 ft setback requirement from the east property line.

#3 – In determining substantial justice, a review of the building arrangements on surrounding property was completed. It was noted that the 6 ft requirement already represents a reduction of the 10 ft standard applicable to conforming lots, but it was recognized that lesser side setbacks do exist on some area lots.

#4 – There are no unique physical limitations on the site preventing compliance and the property is similar to other lots in the area.

#5 – The location and configuration of the existing cottage/garage were at the discretion of the property owner, as is the location and configuration of the proposed rebuild . . . resulting in practical difficulties created by an affirmative action of the property owner.

#6 – The intent of the requirements was referenced and the following noted:

- The proposed 4 ft side setback is less than even the reduced minimum side setback requirement of 6 ft, suggesting side setback objectives will not be met.
- The dwelling adjacent to the east is provided a 6 ft setback from the common property line with the subject site. The proposed 4 ft side setback will result in a building separation of only 10 ft, suggesting side setback objectives related to building separation, fire safety, access, open space, light/air and visibility will not be met.

Ms. Dalke then moved to deny variance approval from the 6 ft side setback requirement to allow the proposed 4 ft setback from the east property line for the cottage rebuild based upon the findings of the Board on Variance Criteria #2, #4, #5 and #6. Mr. Jeska seconded the motion. The motion carried unanimously.

The Board then proceeded with a review of the variance criteria set forth in Section 7.5 with respect to the requested west side setback variance for the garage rebuild and garage attachment enclosure. The following findings were noted:

#1 – The requested variance will not serve to ‘permit the establishment of a use’ which is not allowed within the R-2 District.

#2 – It was recognized that the subject site is currently occupied by a dwelling and that a denial of the variance would not prevent reasonable use of the property.

In consideration of the availability of reasonable options for compliance, it was noted that relocation options are limited but that reconfiguration options exist, including reducing the size of the proposed garage rebuild and attachment enclosure.

#3 – In determining substantial justice, a review of the building arrangements on surrounding property was completed. It was noted that the 6 ft requirement already represents a reduction of the 10 ft standard applicable to conforming lots, but it was recognized that lesser side setbacks do exist on some area lots.

#4 – There are no unique physical limitations on the site preventing compliance and the property is similar to other lots in the area.

#5 – The location and configuration of the existing cottage/garage were at the discretion of the property owner, as is the location and configuration of the proposed rebuild . . . resulting in practical difficulties created by an affirmative action of the property owner.

#6 – The intent of the requirements was referenced and the following noted:

- The proposed 4.7 ft side setback is less than even the reduced minimum side setback requirement of 6 ft, suggesting side setback objectives will not be met.
- The dwelling adjacent to the east is provided an 8 ft setback from the common property line with the subject site. The proposed 4.7 ft side setback will result in a building separation of 13 ft, suggesting the ability to meet side setback objectives related to building separation, fire safety, access, open space, light/air and visibility will be improved.
- It was also recognized that the proposed 4.7 ft setback will greatly decrease the existing encroachment/nonconformity.

Mr. Stoneburner then moved to grant variance approval from the 6 ft side setback requirement to allow the proposed 4.7 ft setback from the east property line for the garage rebuild and garage attachment enclosure based upon the findings of the Board on Variance Criteria #1, #3 and #6. Mr. DeVries seconded the motion. The motion carried unanimously.

The Board then proceeded with a review of the variance criteria set forth in Section 7.5 with respect to the requested west side setback variance for the cottage rebuild. The following findings were noted:

#1 – The requested variance will not serve to ‘permit the establishment of a use’ which is not allowed within the R-2 District.

#2 – It was recognized that the subject site is currently occupied by a dwelling and that a denial of the variance would not prevent reasonable use of the property.

In consideration of the availability of reasonable options for compliance, lengthy Board discussion ensued regarding reconfiguration options. It was noted that the narrowness of the lot would greatly limit the size of the cottage rebuild if the 6 ft side setback standard was met on both the east and west sides.

It was further noted that the cottage is situated on the lot at a slight angle, but that constructing the west wall of the cottage rebuild to be parallel with the lot line would result in difficult architecture and not result in a meaningful increase in the side setback.

#3 – In determining substantial justice, a review of the building arrangements on surrounding property was completed. It was noted that the 6 ft requirement already represents a reduction of the 10 ft standard applicable to conforming lots, but it was recognized that lesser side setbacks do exist on some area lots.

#4 – There are no unique physical limitations on the site preventing compliance and the property is similar to other lots in the area.

#5 – The location and configuration of the existing cottage/garage were at the discretion of the property owner, as is the location and configuration of the proposed rebuild . . . resulting in practical difficulties created by an affirmative action of the property owner.

#6 – The intent of the requirements was referenced and the following noted:

- The proposed 2.6 ft side setback is less than even the reduced minimum side setback requirement of 6 ft, suggesting side setback objectives will not be met.
- The dwelling adjacent to the west is provided an 8 ft side setback from the common property line with the subject site. The proposed 2.7 ft side setback will result in a building separation of only 11 ft, suggesting side setback objectives related to building separation, fire safety, access, open space, light/air and visibility will not be met.
- However, it was recognized that the proposed 2.6 ft setback will not increase the nonconformity of the existing setback from the west property line and will result in minimal encroachment overall given the increased side setback of the proposed garage rebuild.

Mr. Stoneburner then moved to grant variance approval from the 6 ft side setback requirement to allow the proposed 2.6 ft setback from the west property line for the cottage rebuild based upon the findings of the Board on Variance Criteria #1, #2, #3 and #6. Mr. DeVries seconded the motion. The motion carried unanimously.

The Board then proceeded with a review of the variance criteria set forth in Section 7.5 with respect to the requested rear setback variance for the garage rebuild. The following findings were noted:

#1 – The requested variance will not serve to ‘permit the establishment of a use’ which is not allowed within the R-2 District.

#2 – It was recognized that the subject site is currently occupied by a dwelling and that a denial of the variance would not prevent reasonable use of the property, noting that a garage is not a use right.

In consideration of the availability of reasonable options for compliance, it was noted that the only way to comply would be to eliminate the garage entirely, which could be considered unreasonable given a garage has historically been present on the site.

#3 – In determining substantial justice, a review of the building arrangements on surrounding property was completed. It was noted that the 15 ft requirement already represents a reduction of the 25 ft standard applicable to conforming lots, but it was recognized that rear setbacks ranging from 5 ft to 20 ft are common to the area. It was further noted that most developed lots in the surrounding area include garages of similar size to that proposed.

#4 – There are no unique physical limitations on the site preventing compliance and the property is similar to other lots in the area.

#5 – The location and configuration of the existing cottage/garage were at the discretion of the property owner, as is the location and configuration of the proposed rebuild . . . resulting in practical difficulties created by an affirmative action of the property owner.

#6 – The intent of the requirements was referenced and the following noted:

- The proposed 15 ft rear setback will provide adequate depth for parallel parking outside of the abutting road r.o.w.
- Rear setbacks on nearby lots suggest the proposed 15 ft rear setback will promote ‘consistency of building lines’.

- It was further recognized that the proposed 15 ft setback will not increase the nonconformity of the existing setback from the rear property line.

Mr. Jeska then moved to grant variance approval from the 25 ft rear setback requirement to allow the proposed 15 ft setback from the rear property line for the garage rebuild based upon the findings of the Board on Variance Criteria #1, #2, #3 and #6. Mr. DeVries seconded the motion. The motion carried unanimously.

The Board then proceeded with a review of the variance criteria set forth in Section 7.5 with respect to the requested lot coverage variance for the cottage/garage rebuild. The following findings were noted:

#1 – The requested variance will not serve to ‘permit the establishment of a use’ which is not allowed within the R-2 District.

#2 – It was recognized that the subject site is currently occupied by a dwelling and that a denial of the variance would not prevent reasonable use of the property.

In consideration of the availability of reasonable options for compliance, it was noted that the only way to comply would be to eliminate the garage entirely, which could be considered unreasonable given a garage has historically been present on the site.

#3 – In determining substantial justice, a review of the building arrangements on surrounding property was completed. It was recognized that lot coverages ranging from 35% to 45% are common to the area.

#4 – There are no unique physical limitations on the site preventing compliance and the property is similar to other lots in the area.

#5 – The location and configuration of the existing cottage/garage were at the discretion of the property owner, as is the location and configuration of the proposed rebuild . . . resulting in practical difficulties created by an affirmative action of the property owner.

#6 – The intent of the requirements was referenced and the following noted:

- The proposed 45% lot coverage will not alter/impact the existing building mass, open space, viewshed, or stormwater management conditions in the area.

- The proposed 45% lot coverage will not increase the nonconformity of the existing lot coverage.

Mr. Stoneburner then moved to grant variance approval from the 30% maximum lot coverage requirement to allow the proposed 45% lot coverage for the cottage/garage rebuild based upon the findings of the Board on Variance Criteria #1, #2, #3 and #6. Mr. DeVries seconded the motion. The motion carried unanimously.

UNFINISHED BUSINESS

Chairperson Grimes stated that no 'Unfinished Business' was scheduled for Board consideration.

NEW BUSINESS

COMMUNICATIONS:

Mr. DeVries provided an overview of the issues considered and actions taken by the Township Board in September.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 9:45 p.m.