

**MINUTES OF THE SPECIAL MEETING OF
THE LITCHFIELD PARK BOARD OF ADJUSTMENT
March 5, 2020**

I. Call to Order

The meeting was held in the Conference Room at City Hall and called to order by Chairman Ledyard at 7:02 p.m.

Present: Chairman Ledyard; Vice Chairman Charnetsky; and Boardmember Romack.

Absent: Boardmembers Dudley and O'Connor.

Staff Present: Jason Sanks, Planning Consultant via video; and Pam Maslowski, Director of Planning Services.

II. Pledge of Allegiance

Chairman Ledyard led the Pledge.

III. Business

A. Public Hearing: Variance ZA.20-01: 305 W. Campbell Avenue

Chairman Ledyard opened the Public Hearing.

1. Staff Report:

Mr. Sanks stated that this is a request to allow a 10' encroachment into the 30' required rear yard setback at a single family residence. The existing house was built on the corner lot at a slight angle. Per the applicant's narrative, the property has a 10' side yard setback requirement. That is the side on which the applicant is proposing to put the addition. At the time the application was received, a proper site plan was not submitted so the location of the addition to the side yard setback could not be confirmed. He reviewed the application with the exhibits provided. However, he believes that the applicant has now brought on an architect and, perhaps it can be confirmed that the addition will not encroach into the side yard setback.

Mr. Sanks read the four questions that the Board must determine can be answered affirmatively in order to grant a variance and provided Staff's findings for each condition. He stated that the applicant asserts that they have meet the four conditions; however, Staff is having trouble in finding that those conditions have been met.

- a. Are there are special circumstances or conditions applying to the land, building, or use referred to in the application which do not apply to other properties in the district?

Staff acknowledges that the corner lot creates a difficult development standard related to setbacks in that the property has a large front yard setback that also applies to the street side of the lot, However, the applicant is not asking for a variance from the street side setback but rather from the rear yard setback. Staff is not finding that there is a special circumstance with the placement of the home relative to the rear yard setback. The addition is a large proposal with 44' extending from the rear of the home and going into the rear yard. The 30' rear yard setback is standard for all lots in the district. Staff finds that Condition (a) has not been met.

- b. Were the special circumstances not created by the owner or applicant?

Since finding Condition (a) has not been met, Condition (b) is not applicable

- c. Is authorization of the variance necessary for the preservation and enjoyment of substantial property rights?

The lot, while being located on a corner, still has significant land area in which to position a reasonable addition to the home without a variance. Staff is not comfortable finding that Condition "c" has been met.

- d. Will authorization of the application not be materially detrimental to persons residing or working in the vicinity, to adjacent properties, to the neighborhood, or to the public welfare in general?

Based on the exhibits provided and viewing the property on Google Street View, it appears that this property is going through some sort of transition. There is no landscaping, and there are sawed off tree stumps, and discoloration on the exterior walls of the residence. Staff is not certain that this addition which would extend the home within the rear yard in closer proximity to the neighbors would not have a negative impact.

Staff finds that the four required conditions cannot be met and that, without a property site plan, the application is incomplete. Denial is recommended. Should the Board wish to work with the applicant, Staff would support continuance of the application until they can complete the application and provide better findings.

Ms. Maslowski stated that the applicant has just submitted a new site plan. It does indicate that the addition will be 10'2" from the property line, meeting the 10' required interior side yard setback requirement.

2. Applicant Presentation:

Jeffrey Denning, the applicant, stated that, if they located the addition on the south side, they would not be able to have emergency egress for the master bedroom because of the location of the master bathroom window. They cannot go east because of the setback and the angle of the house. They would only have 4.5 to 5 feet going east. They could, in theory, go south off of the great room but it would impede on natural light and other things. The reason why the addition is so large is they want a master bathroom that they can both use at the same time. They are also looking at the addition for longevity and sustainability. His wife is a nurse/firefighter/paramedic, and they assume they will be taking care of their parents sometime in the future. The size of the addition will allow them to move the parents into the master bedroom when it becomes necessary. The entire addition will be ADA compliant. The other reason for the size is that he would like to put a shop in at the back end of it. He cannot put it in the two car garage. He read the Staff Report that mentions that the rear yard is not in good shape. He provided reasons as to why the yard is that way, noting that they had put a lot of money into the interior of the home. They have done some landscaping and put in some concrete work. He guarantees that, once the house is done, he will have the yard looking good. He believes he meets Condition (a) because the house is slanted and he cannot go east because of the way the master bedroom is set up. He can only go off the southwest corner. He has talked to the neighbors and they have said they have no issues with the addition.

Vernon Williams, architect representing the applicant, stated that he was taken on to assist on this project about two weeks ago. There is no survey for the property, so they went out and hand staked and measured the property so they could determine points. They verified what was in the application in that extending the existing west wall straight down 44 feet will leave them brought 10'2" to the fence line at the end. There is no way to be certain, but they did the best they could without surveying the property. This house was skewed on the property so when the wall is extended south, it gets closer and closer to the west fence wall. The new site plan conforms to the variance request. The ultimate plan is to make this yard an outdoor area. There is an existing fence and wall that has been recently added and encloses the area. It is a work in progress.

Vice Chairman Charnetsky commented that, when asking for a variance, the least amount of variance necessary, should be requested. A different configuration of the workshop could result in less of a variance being needed. She inquired if the overhead door was really needed, or if the workshop could be made narrower and pushed back, etc. Mr. Williams replied that the overhead door is not for a vehicle, it is for moving materials in and out. The 15' interior dimension is what will be minimally required for their equipment. The workspace was located in this area so as to have the least minimal interference on the bedroom.

Boardmember Dudley inquired if the workshop could be detached. Mr. Williams replied that they wanted to have a whole building so that it looks like a complete residential building, not a separate workshop.

Boardmember Romack stated he is concerned with the pictures indicating what the property currently looks like. Mr. Denning noted that the pictures are old. Krina Reineke, applicant, stated that this property had been vacant for about two years when they purchased it. Her husband and father-in-law have completely rebuilt the house in the last 14 months, including the drains, the electrical, and the plumbing. There is still work to be done, but it takes time. Her husband is working on the house every weekend. They want the addition to look like the rest of the house and neighborhood. They are trying to not make a big impact on the neighborhood. They love the house, the neighborhood, and the open concept of Litchfield Park. Going to the east would be very challenging. They need the shop because her husband is always working on something.

3. Public Comments:

Marcie Ellis stated she has lived in a home in this neighborhood for a long time. She is delighted that new people are moving in and remodeling some of the houses that have gone into disrepair. However, this remodel has taken a really long time. The effect of having this home in disrepair for such a long time while people are trying to sell their homes is not good. It will not be good to have to wait another year or two for it to be finished. Her biggest concern is the time it is taking. She has heard from some neighbors that have complained about this home not looking good outside. The applicant has a need to have their home look just right; but, a neighbor might have a need to sell their home and not take a loss because the home looks bad. Sprucing up the property needs to be a priority. Adding onto the home and having it in disrepair for another two years is not fair to the people who live around the property. The stumps need to be removed, the dirt smoothed out, and the new wall needs to be painted, although it might need to be taken down to get in to do the work. She would like a finishing time frame added to the approval, as well as a time frame for cleaning up the property.

Mr. Denning stated that they have a 24' wide RV gate. It was put in for the addition. They do not plan on parking cars there. As far as the side yard, he planted four trees there last week. They have done some work. They had a huge issue with grading. The yard looks much better than the pictures indicate, although the stumps are still there. He did not realize they were an issue. As soon as they get approval, they will have the block wall built and a new roof put on. At that

point, people will not know that it is a construction site. As far as a timeline for completion, it will be up to how quickly he can get the contractors to finish the work.

B. Variance ZA.20-01: 305 W. Campbell Avenue

In response to an inquiry from Chairman Ledyard regarding the timeline, Ms. Reineke responded that, based on getting approval at this meeting, design review approval at the next meeting, and obtaining a building permit, she believes that work could start on May 1. Chairman Ledyard stated that the property is in a location that is very visible. The home was vacant for a few years and, even before that, the property did not look good. The thing that stands out right now is that there is a lot of rock that has not been raked or spread out. There are a lot of dirt areas in the front. He understands wanting to get the interior improvements done, but people do not see that. As a practical matter, removing the stumps and leveling the rock would help a lot.

Boardmember Romack inquired if the east wall and south fence walls are already in place. Mr. Williams responded that they are. Boardmember Romack also asked if Mr. Williams had reviewed where this workshop could be located since being brought on two weeks ago. Mr. Williams responded that he did. He took into consideration the applicants' needs for function and space wanted, as well as leaving room for future activities such as adding a pool or hydroponic gardening. They wanted to leave as much open space as possible.

Vice Chairman Charnetsky stated that variances are for serious things. The Board has to be careful not to set a precedence for the neighborhood. It can damage the neighborhood, especially when there seems to be enough yard to do this without a variance. Mr. Williams stated that the variance was applied for prior to his involvement. The encroachment will be 10' or a third of the 30' requirement, and it will only encroach across 26' of the yard. The vast majority of the yard will remain open. The neighbors have no buildings close to either the south or west fence lines.

Chairman Ledyard inquired if any of the properties in that area had received a variance for a rear yard variance. Ms. Maslowski replied that she does not recall any rear yard variances being approved in that area, but she would have to check the records.

Boardmember Romack stated he would like to see some kind of compromise. This is a large addition. Boardmember Dudley wondered if they could have the same size workshop in an accessory structure. It was noted that an accessory structure at 10' would require a 5' setback, and a 15' high structure would require a 10' side and rear yard setback. Vice Chairman Charnetsky noted that would put it closer to the neighboring properties. Boardmember Dudley pointed out that would keep the City from setting a precedence with a variance allowance.

Mr. Sanks stated that, if there is a way to provide substantial property rights enjoyment without granting a variance, that is what should be done. He understands and thinks it is great that they are fixing up the home. However, there seems to be a disconnect from a land use law prospective as to looking at the home and the proportions of the large addition encroaching into the setback for no other reason except this is what they want. He does not feel that the findings have been made.

In response to a question from Boardmember Romack, Mr. Sanks replied that the Board could continue the application to provide the applicant and his architect time to review the project and come back with illustrated plans so the Board could review them to see if this sized variance is really necessary. He would also like to have the applicant bring in support letters from the neighbors.

Boardmember Romack **moved** to continue this item to a Board of Adjustment meeting scheduled for April 2, 2020, at 7 p.m., to allow the applicants to possibly revise their plans a bit or their dialog for requesting the variance; Boardmember Dudley **seconded**.

Chairman Ledyard inquired if this item was approved at an April 2, 2020 Board of Adjustment, could it be scheduled for the April 2 Design Review Board meeting. Ms. Maslowski stated that she does not normally do that, but she could do that if the Board requests. Chairman Ledyard noted that, in this case, it would help the applicant to stay on their schedule.

The vote was taken and the motion was **approved unanimously**.

C. Minutes

Boardmember Romack **moved** to approve the minutes from the September 5 and October 3, 2020 meetings; Vice Chairman Charnetsky **seconded; unanimous approval**.

IV. Adjournment

Vice Chairman Charnetsky **moved** to adjourn the meeting; Boardmember Romack **seconded; unanimous approval**. The meeting was adjourned at 7:46 p.m.

APPROVED:

BOARD OF ADJUSTMENT

David Ledyard, Chairman

/pm