

Minutes
Zoning Board of Appeals Meeting
August 17, 2016
6:00pm

Chair Busse called the meeting of the City of Monona ZBA to order at 6:00pm.

Present: Chair Busse, Mr. Hermanson, Mr. Griffith, Ms. Lamb, 1st Alt. Blomme, and 2nd Alt. Speight

Absent: Mr. Gavins

Also present: City Planner & Economic Development Director Sonja Reichertz

Approval of Minutes

A motion by 2nd Alt. Speight, seconded by Mr. Griffith, to approve the minutes of April 26, 2016 carried without corrections.

Appearances

Peter Turney, 4535 Winnequah Road, spoke in opposition. He said the oak tree is far enough away from the house where he does not think it will be in the way, and it is a very large garage posing a significant change for the neighborhood.

Susan Turney, 4535 Winnequah Road, spoke in opposition and echoed Peter Turney's comments. She does not believe a hardship has been met.

Jeff Vercauteran, Attorney, speaking on behalf of Peter and Susan Turney, spoke in opposition. He said a hardship is not met because it must be caused by the code, not the desires of the applicant. The applicants simply desire a 3-car garage with living space and there is no problem continuing the existing use. The property is not unique; adjacent lots are approximately the same width within the neighborhood. He said the variance would be contrary to the public interest because it would impact views and fire access.

Amy Dixon, 4533 Winnequah Road, registered in opposition.

Charlie Talbert, 4531 Winnequah Road, registered in opposition.

Bill Dixon, 4533 Winnequah Road, spoke in opposition. He referenced the multiple letters that have been submitted by neighbors and their reasons against the various variance requests. He said the legal standards for granting a variance have not been met. Additionally, he said there are various discretionary reasons why it should not be granted including it is not in harmony with the neighborhood and promotes overcrowding. He said the applicants could build to code. He said it sets a bad precedent on 50' wide lots in a historic district. It negatively impacts the beauty and general enjoyment of the neighborhood.

Cathy Carr, _____, spoke in opposition. She said she is against this because it is not a normal small garage. The applicants are asking for more than is needed. She said it is bad precedent to have structures close to the lot line for fire protection and fire access reasons.

Vicky Talbert, 4531 Winnequah Road, spoke in opposition. She does not believe there is a unique hardship on this lot. She said others in neighborhood have worked within their constraints.

George Kinsler, 4539 Winnequah Road, spoke in opposition stating that the request is not in the public interest.

Staff provided names of others registered in opposition or support that were not present at the meeting including:

- Anne Wellman, 4529 Winnequah Road, Registered in Opposition
- Mark and Susan Rogers, 4555 Winnequah Road, Registered in Support
- Mike Volenberg, 4540 Winnequah Road, Registered in Support
- Joe Schlesing, 4538 Winnequah Road, Registered in Support
- Nichols Loniello, 4523 Winnequah Road, Registered in Support
- Henry Bauman, 4545 Winnequah Road, Registered in Support.

There were no further appearances and this section was declared closed.

Joseph (Mike) Fritz is requesting a variance from Sec. 13-1-80(d)(4)(b), side yard setback requirements to build an attached garage with a setback of 4' from the side yard property line, 3' less than the minimum side yard setback required for the property at 4537 Winnequah Road (Case No. Z-003-2016)

Mr. Fritz presented his request for a side yard setback variance to build a 3-car, 2-story attached garage 4 feet from the west property line. He said the width and configuration of the lot are limiting for an average width garage with an average turn around area to access it in the driveway. A large old oak tree further limits the lot with sensitive roots within 9" of the topsoil. He commented on the footprint of the garage noting that it is enough room to store two vehicles inside and other storage items like a lawn mower, and add a first floor bathroom, which the house does not currently have. He added that there is a 6' difference in grade between the driveway and house, which requires some excavation and they cannot avoid cutting into the critical non-disturb root zone without a side-loaded garage. He shared information from a certified arborist regarding the non-disturb root zone of the tree. Regarding the characteristics of the neighborhood, Mr. Fritz shared photos of other garages in front of homes and other garages closer to lot lines. He reviewed the zoning files at City Hall showing side-yard variances that were likely granted for other homes. He said because of these his request does not set a bad precedent and is consistent with the neighborhood character. He said in past variances, narrow non-conforming lots and trees have often been cited as natural hardships and adequate justification for granting variances. He said overall the net increase of area to his home/garage will be less than 600 SF so he does not believe his request is unreasonable. Additionally, he said in his previous variance requests this year, which involved a boat house height variance, the garage setback drew no opposition.

Mr. Bob Bouril, the applicant's architect explained that the inside dimension of the garage is 20' which is shallow and that back-up space is 3' less than the City of Monona standard. He said they explored all possible alternatives, and that a front-entry garage would require a variance still to avoid encroaching on the tree roots. The lot is deep and can handle a side-loaded garage better, which is also harmonious with the neighborhood. His professional perspective on variances is that they are a last resort and he would not propose one if he thought there was a better architectural alternative.

Mr. Speight agreed with the architect's comments on challenges with the site, however, just because it is desired does not mean it should be approved. It seems a hardship is present due to the narrow lot. There is a unique condition on the property with the older tree and its location. However, he does not feel the public interest is met, due to the opposition of the majority of the neighbors.

Mr. Griffith feels the variance may be warranted due to the tree's location, however, he feels that there may be viable alternative that does not require a variance.

Mr. Hermanson said he believes the project will improve the neighborhood, and he would rather not see the tree damaged. He does think the width of the lot is a hardship. He asked what the purpose of the side yard setback is.

Staff read the purpose and intent statement from the zoning code, and said the side yard setback is intended to ensure adequate spacing between properties for fire protection, to allow for emergency vehicle access along the side of a property, to prevent overcrowding, and to preserve open space, views, and natural light.

Mr. Blomme stated he will vote in favor because it eliminates an existing non-conforming structure and improves access on the east side of the property, it conserves the tree which preserves the character of Monona, and still allows for public safety access on that side of the lot.

Ms. Lamb said she is in favor of eliminating the existing non-conforming structure, and ultimately feels that the tree is a renewal resource so she does not feel this is a compelling justification for a hardship. She said if the tree is removed, then there is no reason for a variance.

Chair Busse asked questions regarding re-orienting the garage so that it is a deeper, tandem style garage instead of side-by-side. He questioned if the size of the garage is reasonable and necessary. He said it currently includes storage space, but perhaps it could be built with no variance if it were a 2 car garage.

A motion was made by Mr. Hermanson, seconded by 1st Alternate Blomme to approve the variance as requested.

On a voice vote, Mr. Hermanson and Mr. Blomme voted in favor and Ms. Lamb, Mr. Speight, and Mr. Griffith voted against the motion.

The motion failed to pass.

Adjournment

A motion by Ms. Lamb, seconded by Mr. Griffith, to adjourn was carried. (7:30 pm)

Respectfully submitted by: Sonja Reichertz, City Planner