

**BOARD OF ZONING APPEALS
CITY OF PRAIRIE VILLAGE, KANSAS
AGENDA
December 2, 2014
6:30 P.M.**

I. ROLL CALL

II. APPROVAL OF MINUTES - November 4, 2014

III. ACTION ITEM

**BZA2014-04 Request for a Variance from P.V.M.C. 19.44.020(C4)
"Yard Exceptions" to increase the projection of the porta cochere
5115 West 81st Street
Zoning: R-1a Single Family Residential District
Applicant: Gerald Mancuso & Dr. Jana Goldsich**

**BZA2014-07 Request for a Variance from Section 19.06.035 "Rear Yard" for a
reduction from the 25' setback to 6'
3905 Delmar Drive
Zoning: R-1a Single Family Residential District
Applicant: Gregory Shondell**

IV. OTHER BUSINESS

V. OLD BUSINESS

VI. ADJOURNMENT

If you cannot be present, comments can be made by e-mail to
Cityclerk@Pvkansas.com

**BOARD OF ZONING APPEALS
CITY OF PRAIRIE VILLAGE, KANSAS
MINUTES
TUESDAY, DECEMBER 2, 2014**

ROLL CALL

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, December 2, 2014 in the Council Chambers of the Municipal Building at 7700 Mission Road. Vice-Chairman Nancy Vennard called the meeting to order at 6:30 p.m. with the following members present: Bob Lindeblad, James Breneman, Gregory Wolf, Nancy Wallerstein and Larry Levy. Also present in their advisory capacity to the Board of Zoning Appeals were: Ron Williamson, Planning Consultant; Kate Gunja, Assistant City Administrator; Keith Bredehoeft, Public Works Director and Joyce Hagen Mundy, Board Secretary.

APPROVAL OF MINUTES

Nancy Wallerstein noted the first “not” should be removed from the first sentence on page 4 with the corrected sentence reading: “Bob Lindeblad noted that if the lettering was adjacent to a fascia location it would be called a wall sign, not a roof sign.” Nancy Wallerstein moved the minutes of the November 4, 2014 meeting of the Board of Zoning Appeals be approved as corrected. The motion was seconded by Bob Lindeblad and passed by a vote of 4 to 0 with James Breneman and Gregory Wolf abstaining.

**BZA2014-04 Request for a Variance from P.V.M.C. 19.44.020(C4) “Yard
Exceptions” to increase the projection of the porta cochere
5115 West 81st Street**

Vice-Chairman Nancy Vennard called upon the applicant for BZA2014-04. Mr. Mancuso requested the Board continue this application for 30 days as his builder was preparing revised plans for consideration. The continuance was granted, Mr. Mancuso will submit revised plans to the staff for review by December 15th.

**BZA2014-07 Request for a Variance from Section 19.06.035 “Rear Yard” for a
reduction from the 25’ setback to 6’
3905 Delmar Drive**

Gregory Shondell, 3905 Delmar Drive, stated he is requesting a rear yard variance in order to convert the existing garage to a bedroom/office and a closet/storage room. The house was built in 1955 and is on a slab foundation. The applicant desires to maintain a ranch style home in order to accommodate the family in preparation for aging. The proposed addition is for a three-car garage. One of the bays would tandem stack two vehicles.

The lot has a 40-foot platted setback, but the house was built approximately 50 feet from the front property line. The house is also positioned at an angle on the lot which makes it more difficult to expand.

Mr. Shondell noted they had considered expansion with a second floor, but that would defeat the purpose of the ranch style home. Another option was to build a stand-alone structure in the rear yard. The city code does permit a stand-alone garage. A stand-alone garage must be 60 feet from the front property line and 3 feet from the rear or side property line, but cannot exceed 576 sq. ft. That is a 24' x 24' building, which would be a two-car garage rather than three. It would be difficult to put that size garage in the southeast corner of the lot.

The proposed addition would extend 19 feet into the rear yard setback. It was noted the existing home already encroaches the rear yard setback by 17 feet. The proposed garage would be located within the footprint of an existing shed that is currently on the property. Mr. Shondell noted that the shed would be unnecessary and removed if he was allowed to construct the three-car garage.

Larry Levy noted he visited this site and stated he would like to see a fence constructed or some landscape buffering planted. Mr. Shondell stated he was not comfortable with a fence but would be supportive of a landscape buffer.

Bob Lindeblad asked what was unique about this lot. Mr. Shondell responded the lot is elevated and house sets at an angle with the driveway in the shape of an "S" going around to the back making it very difficult to get cars out. He also added the house is built on a slab.

Larry Levy stated he felt the elevation of the lot and the placement of the existing house make this property unique. Nancy Vennard agreed that this lot had an unusually high elevation.

Mr. Lindeblad asked how big his existing garage was. Mr. Shondell responded it was a two car garage. The third garage would be located tandem to minimize the size of the footprint. Mr. Levy noted there is substantial yard on the east side of the house.

Bob Lindeblad confirmed the current rear yard setback was 17.4 feet. He asked if the construction could be moved more to the east. Mr. Williamson replied that doing so would also require a variance.

However, Mr. Williamson noted that because of the way the house is positioned on the lot, another option would be to add on to the front of the garage which is now the driveway. It appears there is adequate room to build this addition and still meet the setbacks.

Nancy Vennard led the Board in consideration of the essential criteria for the 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.

The lot is not irregular in shape, but the house was located an additional 10 feet back from the street which limits the expansion area. It should also be noted that the house is on a slab foundation so an office/bedroom cannot be put in the basement.

Larry Levy noted the elevation of this lot is unusually high and moved that the Board find that the variance does arise from a condition unique to this property. The motion was seconded by Nancy Wallerstein and passed by a vote of 5 to 1 with Bob Lindeblad voting in opposition.

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 house sets back approximately 17.5 feet from the rear property line, which is in violation of the 25-foot rear yard setback required by the Zoning Ordinance. It is a non-conforming building, and should not be enlarged. It was pointed out that this portion of the Homestead Country Club is being proposed for single-family lots which would abut this lot. Therefore, this proposed expansion could adversely affect the rights of adjacent property. The property to the east would not be affected because the garage is located on that side and the house sets at an angle. The lot to the west would not be affected.

Bob Lindeblad stated the variance would leave a 5' rear yard. The zoning required rear yard setback is 25'. Mr. Lindeblad noted the house currently has a 17.5' setback and that a two-car garage could be constructed without further violating the established setback.

Nancy Wallerstein moved that the Board find the variance would adversely affect the rights of the adjacent property owners. The motion was seconded by Gregory Wolf and passed by a vote of 4 to 2 with Larry Levy and James Breneman voting in opposition.

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 way the house is laid out on the site, and the fact that it is built on a slab foundation, makes it difficult to expand. The house also has an unusual configuration; however, it appears that expansion to the front of the garage may be an opportunity.

Nancy Vennard stated it appeared that the hardship would be having a two car garage rather than a three car garage. Mr. Shondell noted that he needs accommodations for three cars. Gregory Wolf confirmed the location of the existing shed on the property.

Gregory Wolf moved that the condition of unnecessary hardship upon the property owner cannot be found to exist. The motion was seconded by Bob Lindeblad and passed by a vote of 5 to 1 with Larry Levy voting in opposition.

D. Public Interest

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

The proposed variance would not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

Gregory Wolf moved the Board find favorably on the criteria for Public Interest. The motion was seconded by Nancy Wallerstein and passed unanimously.

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 applicant is requesting a variance of the rear yard setback to reduce it from 25 feet to 5 feet, which is significant. Unless there is some major topographical feature that restricts development a variance should be minor.

Bob Lindeblad stated the intent of the rear yard setback is to maintain consistent yard setbacks throughout the City. He noted this setback on this property has already been reduced to 17' and moved that the Board find that the granting of the variance would be opposed to the general spirit and intent of these regulations. The motion was seconded by Gregory Wolf and passed unanimously.

Bob Lindeblad asked the applicant if he would be willing to accept a 17' variance and not build beyond the current setback.

David Waters advised the Board that in order to grant a 17' variance they would need to reconsider each criteria on that basis. Nancy Wallerstein stated she would like to see the actual plans prior to voting on the variance.

Gregory Wolf moved that application BZA 2014-07 be continued to the January 6th meeting of the Board of Zoning Appeals at which time the Board will consider a revised request for a variance of 17 feet. The motion was seconded by Bob Lindeblad and passed unanimously.

Mr. Shondell was advised to resubmit plans to staff for review by December 15th.

OTHER BUSINESS

It was noted that the Board will meet on January 6, 2015 to reconsider BZA2014-04 and BZA2014-07 which have been continued and will hear a new application for a rear yard setback variance at 5107 West 66th Terrace.

ADJOURNMENT

Vice Chairman Nancy Vennard adjourned the meeting of the Board of Zoning Appeals at 7:05 p.m.

Nancy Vennard
Vice-Chairman