

**BOARD OF ZONING APPEALS
CITY OF PRAIRIE VILLAGE, KANSAS
AGENDA
January 6, 2015
6:30 P.M.**

I. ROLL CALL

II. APPROVAL OF MINUTES - December 2, 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 porte cochère
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 17'
3905 Delmar Drive
Zoning: R-1a Single Family Residential District
Applicant: Gregory Shondell**

**BZA2015-01 Request for a Variance from Section 19.06.035 "Rear Yard" for a
reduction from the 25' setback to 11'
5107 West 66th Terrace
Zoning: R-1a Single Family Residential District
Applicant: Gary Mayerle; Boyle & Mayerle Architect for Cybele
Kanin**

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, JANUARY 6, 2015**

ROLL CALL

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, January 6, 2015 in the Council Chambers of the Municipal Building at 7700 Mission Road. Chairman Randy Kronblad called the meeting to order at 6:30 p.m. with the following members present: Bob Lindeblad, James Breneman, Nancy Vennard, 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; Mitch Dringman, City Building Official; Terrence Gallagher, Council Liaison and Joyce Hagen Mundy, Board Secretary.

APPROVAL OF MINUTES

Bob Lindeblad moved the moved the minutes of the December 2, 2014 meeting of the Board of Zoning Appeals be approved as written. The motion was seconded by Jim Breneman Lindeblad and passed by a vote of 4 to 0 with Randy Kronblad abstaining.

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

Bob Lindeblad stated that based on the comments directed at him by the applicant at previous meetings he does not believe he can be impartial regarding this application, recused himself and left the room.

Chairman Randy Kronblad noted this was a continued application with new plans submitted in December. At the October 7th meeting, the Board had found favorably on Criteria A "Uniqueness" and Criteria B "Adjacent Property".

Ron Williamson reviewed the revised plans noting that the depth of the porch increased from 6.5 feet to 8 feet. The distance from the house to the outside of the column on the north side of the driveway decreased from 21 feet to 17 feet when scaled on the drawing. The proposed driveway is now 11 feet in width between the columns compared to 17' 4" on the initial submission.

According to the Plot Plan submitted by the applicant, the house sets back 73 feet from 81st Street. The calculated setback for this house is 72 feet. The dimension from the house to the outside of the column base is 17 feet. Since the house sets back one foot further than the required setback, the porte cochère can extend 13 feet from the front of the house according to the ordinance. Based on the information submitted, the requested variance to extend into the front yard is 4 feet.

Mr. Williamson noted the dimensions of Sheet 3 Partial Right Elevation do not agree with those on Sheet 2. The distance between the column bases on Sheet 2 is approximately 11 feet, while the distance on Sheet 3 is 15' 6". It is recommended that Sheet 2 be used by the Board in making its decision.

The City Staff measured the height of the porch and it is approximately 21", which is three steps.

Nancy Vennard noted in driving by the property the porch is finished with a roof and asked the applicant if the variance was still being sought. Mr. Mancuso stated that if the variance is granted the roof will be removed and the porte cochere will be constructed.

Chairman Randy Kronblad led the Board in review of the remaining conditions.

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 applicant has pointed out in his statement that he has a disability and the porte cochère would provide protected access for him to enter the house during inclement weather. It should be noted that a garage bay is being added on the west side of the house that would provide protection during inclement weather. The driveway is already in place and the granting of the variance would eliminate the need to remove and rebuild it.

Nancy Wallerstein moved the Board find favorably on the on condition of unnecessary hardship. The motion was seconded by Larry Levy and passed unanimously.

D. Public Interest

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

The variance is only being requested for the porte cochère and it would setback approximately 56 feet from the street and therefore it will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

Nancy Wallerstein moved the Board find favorably on the criteria for Public Interest. The motion was seconded by Nancy Vennard 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 intent of this section of the ordinance is to preserve the character of an area that has been developed with a greater setback than normal. The calculated setback in this instance is 72 feet and the projection of the porte cochère, 4 feet into the setback, will not be opposed to the general spirit and intent of the zoning ordinance. Lot coverage for the existing house is 4.3% and with the proposed addition will be 6.7%, which is well within the 30% maximum lot coverage allowed by ordinance.

Nancy Wallerstein moved that the Board find favorably on the criteria for Spirit and Intent of the Regulation. The motion was seconded by Nancy Vennard and passed unanimously.

Nancy Wallerstein moved that since all of the conditions have been met, the Board grant a variance as depicted on Sheet 2 for the minimal distance necessary for the porte cochère which is a projection of 4 feet into the setback with 11 feet between columns. The motion was seconded by Nancy Vennard and passed unanimously.

Bob Lindeblad returned to the meeting.

BZA2014-07 Request for a Variance from Section 19.06.035 "Rear Yard" for a reduction from the 25' setback to 17.4' 3905 Delmar Drive

Gregory Shondell, 3905 Delmar Drive, stated he has revised his plans per the direction of the Board at its December meeting and is now requesting a variance of 17' which is the encroachment of the existing house.

Randy Kronblad 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. Nancy Wallerstein moved that the Board find that the variance does arise from a condition unique to this property. The motion was seconded by Nancy Vennard and passed unanimously.

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 moved that the Board find the variance would not adversely affect the rights of the adjacent property owners. The motion was seconded by Larry Levy and passed unanimously.

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.

Larry Levy moved that the Board finds the condition of unnecessary hardship upon the property owner to exist. The motion was seconded by Jim Breneman and passed unanimously.

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.

Bob Lindeblad moved the Board find favorably on the criteria for Public Interest. The motion was seconded by Jim Breneman 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 17.5 feet. This is the same as the setback on the existing non-conforming house.

Bob Lindeblad stated that in reducing the rear yard setback no further than the existing non-conforming encroachment he feels the spirit and intent of the regulations is met.

Larry Levy moved that the Board find that the granting of the variance would be not be opposed to the general spirit and intent of these regulations. The motion was seconded by Jim Breneman and passed unanimously.

Bob Lindeblad moved that since the Board found favorably on all the criteria for a variance that it grant the requested variance for only that portion of the building proposed to be enlarged as shown on the plans dated December 12, 2014. The motion was seconded by Jim Breneman and passed unanimously.

**BZA2015-01 Request for a Variance from Section 19.06.035 "Rear Yard" for a reduction from the 25 feet setback to 11 feet
3905 Delmar Drive**

Gary Mayerle, with Boyle & Mayerle Architects, presented the application on behalf of the homeowner Cybele Kanin. The applicant is proposing to add 8.5 feet on the west side of the existing house and approximately 6 feet on the west 19.5 feet of the southwest corner of the house. Currently the existing house is approximately 28 feet from the house to the west and the ordinance requires a separation of 14 feet and a minimum side yard of 5 feet. The applicant meets this requirement.

The problem occurs on the south property line. The existing house appears to be approximately 16 feet from the rear property line where the expansion is proposed and approximately 21 feet for a portion of the house to the east. Cybele Kanin distributed photos depicting the distance between homes.

Mr. Mayerle noted the ranch style home, built on a slab, approximately 1,543 sq. ft. plus a 240-sq. ft. garage were built in 1953. A portion of the existing house is in violation of the rear yard setback.

It should also be pointed out that this property is located within the Countryside East Overlay District which has guidelines that override the normal requirements in the Zoning District. One of those requirements is that the side yard for the dwelling shall be 12.5% of the width of the property at the front property line. The property is 85 feet wide and 12.5% is 10.6 feet. The proposed addition on the west side does not meet that requirement. However, Mr. Mayerle stated a hearing was held on December 18th and approval was granted by the appeals board.

Randy Kronblad led the Board in consideration of the following five criteria for approval:

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 unique in shape. It is a trapezoid with a large notch out of the southwest corner which limits the building envelope. There also is a 10-foot utility easement along the south lot line and through the middle of the east portion of the lot that further limits expansion.

Bob Lindeblad noted the unique shape of the lot and location of utility easements meet the criteria for uniqueness and moved the Board find favorably on Criteria A "Uniqueness". The motion was seconded by Larry Levy and passed unanimously.

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 proposed addition would not affect either the house to the east or the one to the west. The lot to the south which would be most affected is over 220 feet deep and the rear of the house is approximately 60 feet from the rear property line; therefore, the proposed addition should not affect that property.

Larry Levy moved the Board find favorably on Criteria B “Adjacent Property”. The motion was seconded by Nancy Wallerstein and passed unanimously.

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.

Because of the configuration of the lot, it is difficult to expand the floor plan of the dwelling and meet the setback requirements. The house was built in the fifties and updates need to occur to meet the needs of today’s family, as well as the housing market.

Larry Levy moved the Board find favorably on Criteria C “Hardship”. The motion was seconded by Jim Breneman and passed unanimously.

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.

Bob Lindeblad moved the Board find favorably on Criteria D “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 proposed variance would not be opposed to the general spirit and intent of these regulations. The rear yard setback is met on the east 60 feet of the lot.

Larry Levy moved the Board find favorably on Criteria E “Spirit and Intent of the Regulation”. The motion was seconded by Jim Breneman and passed unanimously.

Bob Lindeblad moved that since the Board found favorably on the criteria as required by State Statutes, BZA2015-01 granting the requested variance be approved subject to the following conditions:

1. A variance be granted from 25 feet to 11 feet for the proposed addition, as shown on the Site Plan; and
2. A variance be granted for the existing house that is in violation of the rear yard setback, as shown on the Site Plan.

The motion was seconded by Jim Breneman and passed unanimously.

OTHER BUSINESS

The Board Secretary stated that no new applications have been filed and the Board will not meet in February.

ADJOURNMENT

Chairman Randy Kronblad adjourned the meeting of the Board of Zoning Appeals at 6:55 p.m.

Randy Kronblad
Chairman