

**BOARD OF ZONING APPEALS
MINUTES OF THE REGULAR MEETING
May 29, 2007**

Meeting was called to order at 7:30 P.M. by Chairman Edmister.

PRESENT: Board Members Jeff Neverman, Scott Fatzinger, John DesForges,
Richard Edmister

ABSENT: Jim Mayer

ALSO PRESENT: Assistant Law Director William Huffman, Clerk of Commissions
Nicolette Sackman

Chairman Edmister explained the Sunshine Laws and the procedures of the Board of Zoning Appeals.

SELECTED CORRESPONDENCE

Calendar 2007-05 House:

Letter received during the meeting from Kenneth Nahrstedt of 4322 Prestwick Crossing in favor of request

Letter received during the meeting from Douglas and Catherine McCann of 4341 Prestwick Crossing in favor of request

CALENDARS

Calendar 2007-05

Applicant: Robert House

Premises: 4336 Prestwick Crossing, PP# 217 05 002

Requesting to construct a 192 sq. ft. utility building at variance with 1211.06(k) which limit's the size of the utility building to 120 sq. ft.; requesting a 72 sq. ft. utility building variance.

Mr. Mike Viton of the Pattie Group, sworn in by Chairman Edmister, explained the applicant wished to have extended use of their back yard. What they are proposing is a pool cabana that will have open sides and a roof. The rear yard of the applicant has an easement and various terraces with steps which make relocating the pool house to another location difficult. According to the code the applicant's lot is permitted a 10' x 12' building which is too small for the applicant's needs. They propose to have a table with chairs and two storage trunks for pool safety equipment and other items. The structure will have roll down mosquito netting for use when needed. Mr. Viton expressed the building will be aesthetically pleasing and will not look like a utility building or shed even though it falls under that section of the code.

Mrs. Linda House, sworn in by Chairman Edmister, presented two letters from neighbors that are in favor of the variance request. Mrs. House added that to the rear of her

property are wetlands which produce a great number of bugs so the mosquito netting is necessary. A 192 sq. ft. structure is being requested so there is room for both dining and storage under the pool cabana. She felt an open structure with tasteful storage trucks, with a dual use as additional seating, would be more pleasing than an additional shed on the property.

Members of the board questioned why this lot was different than other lots with the same square footage requirements, why should a variance for a larger structure be granted. It was also noted that two outbuildings or utility buildings are not permitted. Mr. Viton explained due to the grade of the yard other locations are not options for the placement of the pool cabana. It was noted that normally a patio or pool cabana is attached to the rear of the home but this property does not allow that option due to the grade and terraces. Members of the board were in favor of the variance request as long as the sides of the building remain open; they were not opposed to mosquito netting but did not want to see solid permanent sides. The members agreed that the grade of the property prohibits the ability to attach a pool cabana to the house were the square footage would be allowed. This lot is also a smaller lot of record and if it were 20,000 sq. ft. the applicant would be permitted 150 sq. ft. utility building.

The Board made the following Findings of Facts:

1. applicant's property is located on Prestwick Crossing;
2. applicant wishes to construct an outbuilding as a pool cabana;
3. code permits an exterior structure of 120 sq. ft.;
4. applicant requests a variance of 72 sq. ft. for a 192 sq. ft. structure;
5. applicant states that the cabana would not be visible from the street due to the slope of the backyard;
6. applicant states that the hardship is the fall off of the property and there is no practical place to attach this structure to the house;
7. applicant states that there is some storage in the proposed structure;
8. the structure is an open air detached porch;
9. Board finds that applicant has presented a practical difficulty or unnecessary hardship due to the grade of the backyard of the property, that the granting of the variance would not be detrimental to the neighborhood and would be in keeping with the spirit, letter and intent of the codes of the city of Westlake.

Motion: Mr. Neverman moved, seconded by Mr. Fatzinger to approve 72 sq. ft. utility building variance with the condition that any side walls on the building be of a temporary nature.

ROLL CALL:

Yeas: Neverman, Fatzinger, Edmister, DesForges

Nays: None, motion passed

Calendar 2007-06

Applicant: Mousab Tabbaa

Premises: 29925 Chairman's Rowe, PP# 216-23-003

Requesting to construct an addition to home within 15' of the side yard, at variance with

1211.33 which requires a minimum of 25' side yard for estate sized lots; a 10' side yard variance.

Mr. Jeff Szczepanski Valore Builders, sworn in by Chairman Edmister, explained the applicant is seeking a side yard variance for a pool building to be 15' from the side yard. Mr. Szczepanski reviewed the layout of the existing home and the placement of the pool building which will be adjacent to the terrace towards the side of the home. The applicant does not wish to disturb the terrace and the location of the doors on the house. The building will have an atrium with sliding glass door which will open to allow air flow. The home to the south is 78.5' away from the structure. Mr. Szczepanski noted there is an existing storm easement along the side line.

Members of the board questioned why this lot was different than other lots with the same setback requirements and why should a variance for a setback be granted. Mr. Szczepanski explained the existing home is setback quite a distance from the applicant's home and with the addition there will still be over 50' between structures. It was questioned if there will be any other additions in the future but Mr. Szczepanski could not say. It was questioned if the building could be moved west so no variance is necessary. Mr. Szczepanski stated there was no problem moving the building west. Members of the board expressed the addition was a very nice but no hardship exists making this lot different than other lots because the footprint of the building could be shifted towards the center of the yard to eliminate the need for a variance. Also the footprint could be reduced to eliminate a variance request.

The Board made the following Findings of Facts:

1. applicant's property is located on Chairman's Rowe;
2. applicant wishes to build an addition to his home 15' from the side yard line;
3. applicant's property is an estate sized lot which requires a 25' side yard setback;
4. applicant requests a 10' variance to construct a pool house with an indoor pool;
5. applicant states that his hardship is that he does not wish to disturb the back terrace and location of the doors on the house;
6. applicant stated that a portion of the proposed addition could be moved 8' to 10' so that a variance would not be required;
7. Board finds that applicant has not presented a practical difficulty or unnecessary hardship, that the granting of the variance would be detrimental to the neighborhood, that the applicant's property is no different than the neighboring property, and no evidence was presented to compel the granting of the variance and the granting of the variance would not be in keeping with the spirit, letter and intent of the codes of the city of Westlake.

Motion: Mr. Fatzinger moved, seconded by Mr. DesForges to approve calendar 2007-06

ROLL CALL:

Yeas: None

Nays: Neverman, Fatzinger, Edmister, DesForges, motion failed

MISCELLANEOUS

Mr. Edmister, Mr. Fatzinger and Ms. Sackman reported on a seminar hosted by the American Planning Association's local chapter that they attended related to zoning variances. The seminar was informative and enjoyed by those in attendance. Ms. Sackman reported that she has draft By-Laws for the board and will be presenting them in the near future.

APPROVAL OF MINUTES

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve the minutes of April 24, 2007

ROLL CALL:

Yeas: Neverman, Fatzinger, Edmister

Abstain: DesForges

Nays: None, motion passed

FINDINGS OF FACTS

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve the findings of fact for Calendar 2007-01 Dave Lusardo

ROLL CALL:

Yeas: Neverman, Fatzinger, Edmister

Abstain: DesForges

Nays: None, motion passed

ADJOURNMENT

Chairman Edmister adjourned the meeting at 8:00 P.M. The next regular meeting is scheduled for June 26, 2007.

Richard Edmister, Chairman

Nicolette A. Sackman, CMC
Clerk of Commissions