



**BOARD OF ZONING APPEALS
MINUTES OF THE PUBLIC HEARING
SEPTEMBER 27, 2011**

The hearing was called to order at 7:30 P.M. by Chairman Neverman

PRESENT: Board Members Jeff Neverman, Scott Fatzinger, Matthew Jones, Robert Swisher, Dan Meehan

ALSO PRESENT: Law Director John Wheeler, Nicolette Sackman Clerk of Commissions

SELECTED CORRESPONDENCE

Calendar 2011-17 Laux

- Letter against request: received 9/19/11 from R. Chokan Sr. 1470 Marview
- Letters supporting request: received 9/22/11 from Richard Linn, 1460 Marview; 9/26/11 Kathleen Heraghty 1550 Marview, Gina Slater 1525 Marview, Patrick Tyna 1504 Marview, Michelle Walsh 1524 Marview, Jean Linn 1460 Marview, Gertie Stefanik 1493 Marview, Kevin Ward 1536 Marview, Robert Holmok 1494 Marview, Gary Horning 1515 Marview, Nicholas Nardi 1514 Marview, Jennifer & Ed Aigust 1481 Marview, Lynne DeLong 1537 Marview
- Letter received 9/26/11 from Mark Chernisky, project architect, explaining porch size and providing house rendering
- 9/26/11 email from Dan Laux with setbacks for surrounding houses on Marview

Calendar 2011-18 Bohac

- At meeting submitted a letter with signatures from nine residents in support of request

CALENDARS

Calendar 2011-16

Applicant: Robert Shulin

Premises: 26238 Hilliard Blvd., PP#213-19-034

Requesting to construct a utility building (gazebo) in his side yard; at variance with 1211.04(k) which states a utility building shall be permitted in the rear yard; variance to allow the gazebo in the side yard.

Applicant not present

Motion: Mr. Jones moved, seconded by Mr. Fatzinger to table Calendar 2011-16 to the October hearing.

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Nays: none, motion carried

Calendar 2011-17

Applicant: Dan Laux

Premises: 1503 Marview Dr., PP#213-11-066

Requesting to install an 8' deep covered front porch onto his home; at variance with 1211.22(c) which states, building features may project into required front of a dwelling, but (a shelter unenclosed) shall not project more than 4' than into the front yard setback; a 4' front yard variance.

Mr. Dan Laux, sworn in by Mr. Wheeler, that he wishes to build a porch on the front of his house that is 4' larger than permitted by code. Due to the setback of his house he is only allowed to build a covered porch 4' into the front yard setback but a 4' deep porch would not be functional and he would like to construct an 8' deep porch. With a depth of 4' it would be difficult to place furniture on the porch and be able to walk around it. The bay window of the house sets out 2' so in the location of the bay window the porch would only be 2' deep if the porch were 4' deep. Mr. Laux explained he lives in a nice neighborhood on a dead end street and would like to be able to enjoy a porch. He explained the homes in the neighborhood were constructed prior to 1970 and has varying front yard setbacks, ranging from 31'6" to 55'2". The setback of his home is 51'3". Mr. Laux reviewed other variances in the city that have been granted for front porches based on similar reasons. When he was designing the home remodel he thought that he could have a 10' deep front porch but felt 8' was deep enough.

Mr. Jamie Thompson (contractor), sworn in by Mr. Wheeler, explained the architect designed the house addition and remodel with an 8' to 10' porch and he thought that was permitted based on conversations he had with staff in the building department. When the construction plans were submitted and reviewed they were advised that the porch could not extend into the front yard more than 4'. He stated they could have a functional porch 6'4" deep but would really like to have a porch 8' deep. Since there are so many different setbacks on Marview the houses do not all line up and this addition will fit with the neighborhood.

Members of the board asked if there were any other covered porches on the street which Mr. Thompson stated that there are but not similar to this style which is Craftsman. Mr. Thompson stated that if the applicant's house were setback deeper onto the lot like other houses on the street they would not need a variance. It was questioned if the porch was shown on the construction plans that received a permit. Mr. Laux stated that it was and they did receive permits but not a permit to construct the porch as the porch required a variance. They have begun construction on the house but have not started the porch construction yet.

The Board made the following findings of fact:

1. Applicant's property is located on Marview Drive;
2. Applicant wishes to build a porch on the front off his home that would be 8' into the front yard setback, 4' larger than permitted by code;
3. Applicant requests a 4' variance;
4. Applicant states that a 4' porch would not be functional as he would be unable to place

- furniture on a 4' porch;
5. Applicant states that homes in the neighborhood were constructed prior to 1970 and have varying front yard setbacks;
 6. Applicant states that the architect designed the home addition or remodel and thought that an 8' to 10' front porch was permitted but was mistaken;
 7. Applicant states that due to the varying front yard setbacks the homes are not constructed in a straight line and this would fit in with the neighborhood;
 8. Applicant states that the practical difficulty is that an 8' porch is more usable than a 4' porch and would not be detrimental to the appearance of the neighborhood as the houses on Marview Drive have varying front yard setbacks;
 9. Board finds that applicant has presented a practical difficulty in that a 4' porch as the rebuilding or remodeling of the house is not usable, an encroachment of 4' in the front yard setback would render the front porch more usable, the construction of the 8' front porch would not be visually detrimental to the neighborhood as the houses on Marview have varying front yard setbacks, that the granting of the variance would not be detrimental to the neighborhood so long as the porch remains open air and never be enclosed or have vertical walls, and the variance is in keeping with the spirit, letter and intent of the codes of the city of Westlake.

Motion: Mr. Fatzinger moved, seconded by Mr. Meehan to approve Calendar 2011-17 as requested with a condition that the porch remains open air and never be enclosed or have vertical walls.

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Nays: Meehan, motion carried

Chairman Neverman noted that the steps for the porch are to be within the 8' depth of the porch.

Calendar 2011-18

Applicant: Raymond Bohac

Premises: 2887 Canterbury Rd., PP#215-22-026

Requesting to build an 1,800 sq. ft. detached garage (1,200 sq. ft. enclosed with a 600 sq. ft. attached porch) at variance with 1211.04(a)(2) which states lot sizes 40,000 sq. ft. or more shall be limited to a maximum of one garage space of 1,200 square feet; a 600 sq. ft. variance

Mr. Bohac, sworn in by Mr. Wheeler, explained he would like to relocate the existing patio at the rear of his house to the side of a new detached garage. The existing attached garage will be converted into a family room. His property has water and drainage problems and part of this construction will be to install new drainage to fix the standing water problems. The new detached garage will be 1,200 sq. ft. with a one car garage door and at the side of the garage will be a 600 sq. ft. covered patio. Mr. Bohac stated his yard is 150' wide by 450' deep. He showed photos of a similar garage he built on his father's property further down the street. Mr. Bohac reviewed each drawing and rendering in his application packet. He also showed the renderings to his surrounding neighbors and submitted a letter with nine signatures in support of his variance request.

Members of the board questioned if the existing swale on the side of his house next to the existing attached garage will be filled in and if there will be other drainage problems. Mr. Bohac stated that the swale would be replaced with a new driveway to access the detached garage and that additional drainage will be installed to alleviate standing water and drainage issues. He will also have rain barrels and in the past has had city staff out to inspect the property due to drainage problems. At that time his was told he would be able to re-grade the property. It was questioned how allowing an additional 600 sq. ft. would help alleviate water problems since drains can be installed without an additional 600 sq. ft. being added to the garage. Mr. Bohac stated that additional drainage will be added and the existing patio will be relocated. It was noted that the applicant could construct a garage 30' x 40' without a variance which would give him a larger garage than currently exists and room for a patio. The garage space could be 800 sq. ft. with a 400 sq. ft. patio. Mr. Bohac stated that he would like a 1,200 sq. ft. garage with a 600 sq. ft. patio and as part of this plan he would remove the existing patio.

The Board made the following findings of fact:

1. Applicant's property is located on Canterbury Road;
2. Applicant wishes to build an 1800 sq. ft. detached garage (1200 sq. ft. enclosed with a 600 sq. ft. attached porch);
3. Code requires lot sizes 40,000 sq. ft. or more shall be limited to a maximum of 1200 sq. ft.;
4. Applicant requests a 600 sq. ft. variance from the garage space requirement;
5. Applicant states that the 600 sq. ft. would be a relocated patio, as he currently has a patio at the rear of his house;
6. Applicant states that the property has water and drainage problems and part of the relocation would fix existing problems;
7. Applicant states that his property is 150' wide and 450' deep and that this design would be similar to a garage built on his father's property further down the street;
8. Applicant states that the existing swale on the side of his house would be replaced by a new driveway with access to the detached garage and that additional drainage would be installed and that he would place rain barrels on his property;
9. Applicant states that he could have a 30' x 40' garage space which would allow a garage space of 800 sq. ft. with a 400 sq. ft. patio and conform to the Code but that he would like a 1200 sq. ft. garage with a 600 sq. ft. patio; and
10. Board finds that the Applicant has not presented a practical difficulty, that the Applicant has requested an 1800 sq. ft. detached garage which includes a 600 sq. ft. attached patio where an 800 sq. ft. garage with a 400 sq. ft. patio would conform to the Code, and the drainage and water problem would have to be alleviated with additional drainage regardless of the size of the garage space so that this variance would not be necessary 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. Swisher to approve Calendar 2011-18 as requested with a condition that the 600 sq. ft. patio remains open air and never be enclosed or have vertical walls.

ROLL CALL:

Yeas: Neverman, Fatzinger

Nays: Swisher, Jones Meehan, motion failed

MISCELLANEOUS - none

APPROVAL OF MINUTES

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve the minutes of August 30, 2011

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Abstain: Meehan

Nays: none, motion carried

FINDINGS OF FACTS

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve the findings of fact for Calendar 2011-04 Whitehead

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Abstain: Meehan

Nays: none, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve the findings of fact for Calendar 2011-14 Farr

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Abstain: Meehan

Nays: none, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve the findings of fact for Calendar 2011-15 Foster

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Abstain: Meehan

Nays: none, motion carried

ADJOURNMENT

Chairman Neverman adjourned the meeting at 8:08 P.M.

Jeff Neverman, Chairman

Nicolette Sackman, Clerk of Commissions

Approved: October 25, 2011