

MINUTES OF MEETING

HOOVER BOARD OF ZONING ADJUSTMENT

Date: March 3, 2016
Time: 7:30 P.M.
Place: Hoover Municipal Center
Present: Mr. Guy Locker, Chairman
Mr. Lawren Pratt
Mr. Kyle Puchta
Ms. LeAnna Huddleston
Mr. Alan Rice

Absent: Mr. Dan Mikos – Vice-Chairman
Paul Gamble

Also Present: Mr. Bob House, House Consultants
Mr. Rob Rosenberg – City Attorney Staff
Mr. Richard Broome – Plans Examiner, Building Inspections
Ms. Vanessa Bradstreet – BZA Secretary

1. CALL TO ORDER

The meeting was called to order by Mr. Locker. The secretary had the roll call and a quorum was present. Mr. Locker announced there were five (5) board members present and they would all be voting tonight.

2. APPROVAL OF MINUTES

Mr. Locker stated the minutes from the February 4, 2016, regular meeting and the February 22, 2016, work session had been distributed to the Board members for review. Mr. Locker asked for a motion to dispense with the reading and approve the minutes as written. Mr. Puchta made a motion to approve. Mr. Rice seconded the motion. On voice vote, the minutes were approved unanimously.

3. BZA-0316-03- Mr. Rob Bannon is requesting a variance to extend his garage past the 40 (forty) foot building line in his secondary front yard for property located at 1819 Thornton Place. Mr. Bannon is the property owner and the property is zoned R-1 (Single Family Residential). (**Denied**)

Mr. Rob Bannon, 1819 Thornton Place, stated he and his wife, Kelly, were present to represent their case. He explained they had a corner lot with a secondary front asking for a 5 foot variance to put the line basically asking not to crowd the back yard and were asking for a 5 foot variance not to go over that line.

Mr. Locker asked him to give them a description of the structure they wanted to build and the rationale for building it and why they have chosen to put it in that location. Mr. Bannon stated the structure was roughly 26 x 26 with the garage dimensions being 25 x 25. Mr. Bannon stated it would be just a straight pull in off the street on the secondary front which

would be the corner of the lot or where the driveway existed now. Mr. Bannon stated they were enclosing the carport that was there now. Mr. Bannon stated this would be his primary garage that they would pull into straight off the street.

Mr. Locker asked if this structure (garage) was proposed to be completely detached. Mr. Dan Simms, contractor, stated the house directly behind them and every house on Huntington Abbey which was the street that runs into Polo Trace, were all at 35 foot setbacks. Mr. Simms stated that R-1 in Hoover now was a 35 foot setback. Mr. Simms stated that the only reason this house was at a 40 foot setback was that back in the early 60's this lot was recorded that way and that was the primary reason that Mr. Bannon was asking for the extra five feet because the current zoning allows that in every other instance and with this being on a corner lot it was a unique situation and it didn't affect anyone because it lined up exactly with the neighbor immediately behind him. Mr. Simms added that in addition to that, if the garage was pushed back to the 40 ft line, essentially it would crowd the garage so far back into the breakfast area and the other living areas of the house that your view out the back of the house would be nothing but the garage. Mr. Simms stated this was enclosing and adding to the original structure and making that building space so this garage would take the old place of the old carport.

Mr. Locker asked how long the Bannon's had been in this house. Mr. Bannon answered they were not living there yet due to it being in the total remodel phase. Mr. Bannon stated they were in an apartment at the present time. Mr. Locker stated what he was trying to gather was when the house was built. Mr. Simms stated according to the survey, it was in 1964 or 1965. Mr. Locker stated that it probably preceded Hoover even. Mr. Simms agreed and said the street Polo Trace wasn't there. Mr. Simms stated that was all acreage back then. Mr. Bannon stated he thought Polo Trace or Polo Downs was built in the 90's and this butted right up to it.

Mr. Locker stated that as he understood it, the fact that this lot and subdivision was recorded with 40 ft setbacks meaning that now and that the house was built in conformance with that, now that the house is in place, the location of the house actually governs even over the 35 ft setback, so they had that issue to deal with and further the issue of a structure in the front yard, since this is a corner lot as they have recognized they were fortunate to have two front yards. Mr. Locker stated not only do they have to deal with an encroachment, they have to deal with an encroachment in a front yard. Mr. Locker stated that is why there were some questions regarding this case, and why they would like to hear how much thought was given to this lining it up with the property lines.

Mr. Simms stated he had a copy of the proposed layout. Mr. Simms stated the main reasoning was, even though he understood about the 40 ft setback, was the new street, when it was built, all of those houses were lined up at 35 ft and again, the only lot they felt like this would apply to would be Mr. Bannon's because that side of the street, even though, technically they called it a front siding, the front door faces Thornton and the side street lines up with every house on Polo Trace. Mr. Simms stated that was another reason for asking for it was because they were already at 35 ft so they weren't asking to go beyond what they already had established. Mr. Simms stated he had the set of plans out that showed a little bit more of the reasoning behind asking for this small variance because even 5 feet crowds it back into the breakfast area and all you could see would be the garage without the variance. Mr. Simms stated that in addition to the carport being enclosed for living space, there would also be an outdoor patio and some other features built in the backyard. Mr. Simms stated too, that you had to leave room for drainage around

those items too. Mr. Simms stated all that together, plus the setback next to Polo Trace, he felt like those things were their main reason for asking for the variance.

Mr. Locker asked if there were any questions or comments from the other Board members. Mr. Pratt stated he had a couple of questions. Mr. Pratt asked about the comment about the existing garage. He asked what it was going to be turned in to. Mr. Simms stated it had been attached to the house and would now become a laundry room and an additional bedroom and bathroom. Mr. Simms stated again that the area that this garage would be in if it were pushed back covered that area up completely, which would be new living space and it would also encroach back into where the breakfast nook which was directly next to where the old carport was.

Mr. Bannon asked Mr. Locker if he had page 3 (three) which was the survey. Mr. Locker answered yes, he did. Mr. Bannon asked the Board if they would mind taking a look at the house plans so they could see the areas they were speaking of. Mr. Simms asked if he could approach the front to show the Board members his set of plans. Mr. Locker answered yes.

Mr. Simms stated that Ray Weygand had done the survey when Mr. Bannon had bought the house. Mr. Simms showed them just in front of the line and right now where it used to be a carport and old patio, if you pushed it back, the breakfast nook and the patio, you would only have about 6 or 7 feet between the patio and the back of the garage and the same thing between the breakfast nook. Mr. Simms stated that it crowded everything and the backyard sloped up so the usable area of the lot gets severely constricted and you would have an issue with water drainage. Mr. Simms reiterated that 5 feet wasn't much but it would allow enough room there to build the swell so that any water would drain naturally down the driveway into the existing storm drainage system without backing up. Mr. Simms stated there was a myriad of things but when they originally approached the Building Inspections office about getting a permit for this job, they said that technically on a detached garage it could go 5 feet from the property line which would've helped with some of those issues but there was a power company easement there so you couldn't push it back all the way, so all of these things together is the summary of why they were asking for the five (5) ft. variance. Mr. Simms stated that every house on both sides of the road all the way back through Polo Trace was at 35 ft setback and Mr. Bannon was right on the corner so there was nobody else in the older established neighborhood that would be affected by it.

Mr. Locker asked for Mr. Bannon or Mr. Simms to describe the proposed materials for construction and the style. Mr. Simms stated the house had an old red warehouse brick that were hard to find now. Mr. Simms stated that all windows would be replaced and all the patching would be redone with similar brick. Mr. Simms stated the foundation of the garage would match that exactly. Mr. Simms stated the top 1/3 of the house would have new hardy board siding, kind of a board and batten look, which was a lot more maintenance free. Mr. Simms stated the garage would match exactly every other element of the house in a combination of the brick and the hardy siding. He stated the roof pitch even and every element would blend in exactly with the house to make it look like an original feature.

Mr. Locker stated Mr. Simms had answered one question he had which was he understood with it being a detached structure, by code alone or ordinance alone, he would be able to move it back 10 feet to the property line, but he was saying there was a 15 ft power company easement. Mr. Simms mentioned there was a recorded power company easement there.

Mr. Locker stated the nature of the Board of Zoning Adjustment was that they were empowered by State law to grant variances from the Municipal Zoning Ordinance in cases of a hardship whereas strict interpretation of the ordinance would result in undue hardship to the owner. Mr. Locker asked the owner or the builder what they would categorize as hardships. Mr. Simms answered he felt it was the combination of everything he had mentioned but that the three main elements were the easement in the back, the crowding of the back yard which could cause drainage issues in the future, and the overall aesthetics for the entire neighborhood by what they were requesting would make a better profit. Mr. Simms said what the owners were doing was investing a lot of money into this house and usually when this happened, the neighborhood would benefit from it and maybe start a trend. Mr. Simms stated this house would be brand new on the inside and the outside. Mr. Simms stated that all the windows, doors, everything was being replaced so in a lot of respects, it would be a brand new house when they were done with it.

Mr. Bannon added that they were creating their own outdoor space in the back yard and because they were on a corner lot, with people driving by, the garage would allow them some privacy when they wanted to sit on the patio and enjoy dinner with friends. Mr. Simms stated the main thing was they were restricted on the back and the water issues. He said the lot started out at the back door and sloped up the neighbors' driveway which was established at about 6 foot higher elevation and may even be 7 or 8 feet, a good bit higher so that you were really restricted on a lot of the positioning and what they were asking for solved a lot of issues for everybody on the street and did not hinder anyone else because it was not in front of their home.

Mr. Pratt stated he had visited the site and from a grading perspective, he was having a hard time understanding. Mr. Pratt stated it looked like pretty much everything in the back had been graded. Mr. Pratt asked if they had given any thought of shifting the building back 5 feet because the grading has already been done. Mr. Simms stated it was hard to tell at this stage because a lot of the dirt he still saw there was stockpiled until the foundation was completed and it had to be regraded again, so that was not the finished product as they saw it now. Mr. Simms stated a lot of that dirt would have to be moved and then it would be more of a slope. Mr. Simms stated it looked like a lot of room until you really started working with the slope, but right now there was a total of about 15 feet of area and the code stated that from the house back the first 10 feet you had to have 6 inches of fall away from the foundation of the house for proper drainage. Mr. Simms said this severely constricted them and even the 5 feet made such a big difference when you were trying to sculpt all that.

Mr. Pratt explained that he didn't see a difference whether the house was where they proposed it to be or whether the house was slid back five feet. Mr. Simms added that the main reason was in order not to tear up the entire side yard, there was a lot of that dirt there was stockpiled but all that was going to change again very shortly.

Mr. Pratt asked if they had any consideration to decreasing the size of the structure at all. Mr.

Simms explained that for a two car garage that was about minimum. Mr. Simms stated that any vehicle, not just the brand new ones, most have mirrors that stick out further and all the gadgets, to get two cars side by side, this was basically the minimum size.

Mr. Rice asked if the house on Huntington Abbey that was perpendicular was at the 35 foot setback. Mr. Simms stated it was and he had the actual survey from the neighbor. Mr. Rice asked if he was standing out in front of 1819 and looking down, where he was proposing to put the garage, would he not see it protrude beyond the front of where the next house was located. Mr. Simms answered absolutely not. Mr. Simms stated they had made sure of that before they asked for this request.

Mr. Simms stated they had verified that the other houses further up were all at the 35' line and all came down to the line. Mr. Rice clarified with the clerk that notices did go out and asked if there was any feedback from any neighbors. Ms. Bradstreet answered she had not gotten any calls regarding this case.

Mr. Locker asked Mr. Bannon if he had gotten any feedback from the neighbors informally. Mr. Bannon stated he knew they were all notified. The neighbor next door volunteered his survey and told him to use it at the meeting if need be. He stated he had received no negative feedback from anybody.

Mr. Locker asked if there were any other questions, comments, or clarifications. There were none. Mr. Locker asked Mr. Bannon if he cared to make any closing comments. Mr. Simms respectfully asked that the variance be approved.

Mr. Locker reiterated what this case entailed was a variance for 5 feet from the recorded 40' building line even though the zoning at this time was 35', it would still require a 5ft setback and an addendum on that variance that it be for a structure in the secondary front yard for purposes of a free standing detached garage as part of an overall home renovation project.

Mr. Locker asked for a motion regarding this variance request. Mr. Rice made a motion to approve the variance request just as Mr. Locker had articulated. Mr. Puchta seconded the motion. Mr. Locker asked if there were any final comments. There were none. With a roll call vote, Mr. Locker voted – “aye”, Mr. Pratt – “naye”, Ms. Huddleston – “naye”, Mr. Rice – “aye”, and Mr. Puchta – “aye”. Mr. Locker announced it was a 3(three) -2 (two) vote, and explained that it actually takes a “super majority” of 4 (four) to approve a variance request. Mr. Locker stated that this was part of the state law that approval of a variance from a city ordinance requiring a positive vote from 4 (four) of the 5 (members), so they had 3(three) votes and fell 1 (one) short, therefore the request for a variance was not approved.

With no further business the meeting was adjourned.