

CITY OF ST. CLAIR
ZONING BOARD OF APPEALS
WEDNESDAY, MAY 17, 2023
ST. CLAIR CITY HALL
547 N. CARNEY, ST. CLAIR

CALL TO ORDER: Chairman Jim Bier – 7:00 p.m.

ROLL CALL: Chairman: Jim Bier Vice Chair: Doug Glassford
Secretary: Joann Westrick Member: Doug Vernier
Member: Ralph Gizowski Member: Diane Ives
Member: Burton Brooks

ABSENT: Ralph Gizowski

Jim Bier made a motion to excuse Ralph Gizowski.

AUDIENCE: Thomas Click, Karen Schutter and James Edwards

APPROVAL OF AGENDA: *Doug Glassford made a motion to approve the agenda as presented, supported by Doug Vernier. All in favor, none opposed.*

APPROVAL OF MINUTES: *Doug Glassford made a motion to approve the minutes as presented for March 15, 2023, supported by Diane Ives. All in favor, none opposed.*

CORRESPONDENCE: Special Joint Meeting Minutes from April 12, 2023

Jim Bier – The applicant is seeking approval of (2) two dimensional variances. 1) A side yard dimensional variance of One foot Six inch, 2) Schedule of Accessory Structure a variance of 68 square feet would be required. The Zoning Board of Appeals has 4 options:

- Approve the application as submitted.
- Approve the application as submitted with conditions.
- Postpone a decision until the applicant and staff submits additional information.
- Deny request.

With that being said I would entertain a motion to open the public hearing.

Doug Vernier made a motion to open the public hearing, supported by Joann Westrick. All in favor none opposed.

PUBLIC HEARING: 413 Victoria Court
74-07-995-0002-000
Section 4.5 – Schedule of District Regulations - Side Yard Setback
Section 5.33 – Schedule of Accessory Structures – Square Footage

Jim Edwards – 413 Victoria Court. The reason for making this request is that we would like to add on an additional 1-car garage for an extra vehicle and yard equipment. We are unable to build in the back yard due to the guide wires and telephone pole in the back yard. Eventually we would like to put a pool in the back yard also but we aren't even sure if we can do that.

I have tried for two years to get these guide wires moved. I've had the electric company and the telephone company out and they won't move them. I have submitted pictures of where these are at in my yard. They come down in the center of my yard.

When you put a car in the garage you need 12 feet. I also, as getting older, need a riding lawn mower and I have no place to put it. This is basically to store one car and lawn equipment and with the guide wires located where they are we are unable to put anything in the back yard.

Prior to Karen and I getting married, I had another house that I just finished doing the same thing to. The garage would match the house. The same siding and the same roof as the house so it would look like it was always there. I have pictures of the previous house so that you can see how it matches. I am trying to get the same building to do it. This addition also needed a variance as well.

I have talked to all of the neighbors, other than just talking to Tom now, and they have no problem with it. I went down the whole street and I talked to everybody short of two houses. Basically, we need this for storage which is our hardship.

Jim Bier – Where are the guide wires? They appear to me to be in the 12-foot utility easement because they run in line with the power pole.

Jim Edwards – The guidewires are right in the center of the yard. Almost center of the yard. The power pole line, I am not certain, I would have to ask Tom. The power pole is in his yard and the lines are in mine. The power pole is in his yard and I don't believe it is on an easement.

Jim Bier – I looks to me like the power pole is in the easement and the guidelines are in that easement. When I look at this it looks like it is in the rear of your yard, not in the center and that may be why the utilities don't want to move it.

Jim Edwards – I don't know about that but they are in the center of our yard. Tom would maybe be able to answer that because the pole is in his yard.

Jim Bier – Thank you. We may have more questions for you. Is there anything else? Would the gentleman in the back like to say anything?

Tom Click – 315 Victoria Court. I am the property owner to the south of Karen and Jim. I am not here to block anybody's project. I am here to see how this will affect my property by the plans of anyone else. On Victoria Court, I am the only house that would be affected by the extension coming my way. And like most neighbors, including myself, if were to put an extension on my house I think most people would like, or reasonably expect my extension to lie within my property lines. I am just hear to see what the actual dimensions coming my way would be. When I got the notice from the city that there was going to be a hearing, and I have never been to one. There were no plans, no measurements of what it was going to be. In talking with Jim briefly a year ago about him wanting to do this that is the only information I

had. I am basically operating with little or no information so I am just here to find out what the affects would be on my property.

And let me say too, Karen has been a wonderful neighbor for 24 years. We haven't had any issues and we don't have one now. I do know that on my block it was originally developed as a condominium site development so the homes on that street are pretty squeezed in already. To give you an indication, there is only 8 feet of total space on the southside of my residence to the fence to the adjoining residence so I am already squeezed that way and I am not alluding to the fact that this project would squeeze me out of my property. I just need to know the details and if it would have a negative effect on my property. It's no indication on their plans at all.

Jim Bier – Ok, thank you. Is there anything else you would like to add? I am sure we will have more questions as we go on. If there is nothing else, I would entertain a motion to close the public hearing.

Doug Vernier made a motion to close the public hearing, seconded by Burton Brooks. All in favor, none opposed.

Jim Bier – Burt spoke to me before the meeting that because he has relationship with Tom Click that he should recuse himself for a potential conflict of interest and I agreed that would be a good idea.

What we do in the next step is to review your request in the context of variances that we are authorized to grant. We will probably have some additional questions for the petitioner as to what you are doing and any alternatives that you might have to what you proposed. At the conclusion of our discussion, we have what we call a "Finding of Fact". The Finding of Fact lets each of the ZBA members make a statement as to how they view your request. Basically, what we are doing in that process is going on record in our minutes so that it is recorded for future review by you and also, if for any reason you were to challenge a decision that we made then that challenge would go through Circuit Court and they would have the recorded minutes that we based our decision making on specific issues.

With that said I just want to bring members up to date on some of the review at the last meeting you attended and I want to thank you for your attendance at the joint meeting. One of the things that the city is moving forward with is the rewriting of the Zoning Ordinances. This will be going out to bid to ask for a professional service to rewrite them. If you heard there is some updating that needs to be done in our zoning ordinance and one of the things that they pointed out is that we are constrained by "practical difficulties" in relationship to dimensional variances. We don't look at hardships in the case of "this is something I want to do", it has to be a reason for the dimension and the need for whatever improvement is being made.

With that said, you are requesting the addition to be twelve feet. I heard you to say to fit a car in that is the minimum width to execute a door that a car would fit in. Is that correct? If you were just to use if for lawn equipment, would you be able to put a smaller addition where you would not need a variance for the side yard?

Jim Edwards – For just lawn equipment, yes it could be narrower but if I am going to the same expense...

Karen Schutter Edwards – 413 Victoria Court. We have another car that is at my mother's.

Jim Edwards – We have another car that we can't keep at the house because we have no place to keep it. The garage was going to give us that space. We have a truck and two cars.

Karen Schutter Edwards – We have three cars and a truck so one would be in the driveway and the rest would be in the garages.

Jim Bier – Had you considered, when you said that you can't build in the back yard, how were you going to consider accommodating the build in the back yard? Where you going to look at a detached structure?

Jim Edwards – It wouldn't even be possible with those wires in the back yard.

Jim Bier – Let's say the guide wires were not there.

Karen Schutter Edwards – Then we would have to have a driveway put in through the back.

Jim Edwards – It would take up the yard and we wouldn't be able to put in a pool next year like we would like to with a detached. And we just think it would look better with an attached garage than having a free-standing building in the back.

Jim Bier – Ok thank you. Do any other members have any questions?

Doug Vernier – How will you get lawn equipment in if you are putting in a car?

Jim Edwards – The garage would be 12 x 31; the car is only 13 feet long. With the car being 13 feet long it would give use room for the lawn equipment. I have an old Corvette that I want to put in there. The Corvette is 13 ½ feet long.

Doug Vernier – I guess my question is, you have the problem because the guide wires are there, why is it our responsibility to give you a variance if those lines should not be there. Isn't it up to you to get that taken care of?

Jim Edwards – I have tried for 2 years. I have had people out there and everyone that has come out states it's not their problem.

Diane Ives – Were the lines there when you bought the house?

Karen Schutter-Edwards – I believe that they were but it was an open back yard and we put up a fence.

Jim Bier – The problem that I am having with this is that one version is that we grant the minimum variance in order to allow you to do what you want and you want to park a car but you have another car. You have a classic car that you want to store and protect. These aren't circumstances that are subject to a house that was built in a conforming way. You are requesting to do something that you want that doesn't conform with the ordinance. I can't see the validity of I want to do this being something that ZBA can act upon to grant a variance.

Karen Schutter-Edwards – To build a garage so that we can park our vehicles in rather than parking them on the street and having to move them in the winter and it is 18".

Jim Edwards – We are asking for 18 inches.

Diane Ives – What about a shed?

Karen Schutter-Edwards – For a car?

Diane Ives – No you said you needed it for lawn equipment.

Jim Edwards – It is for a car and for lawn equipment. Again, the wires are in our way and like I said, we would eventually like to put in a pool on the right. We can't put a shed anywhere but on the right side and if we do that we cannot put in a pool.

We think that an attached building that is designed and looks like the house is much more beautiful for the community than a separate building or shed sitting out in the middle of the yard.

Jim Bier – I am not inclined to look pro or con on the appearance of it. I am looking at the variance that would be required to permit and a legitimate reason for granting the variance. I am having a hard time because you want to build a garage to store an additional vehicle over and above what you presently have. You want to retain the yard area for a future pool that you would like to have. That is nice, those are things you want to do. Those are not practical hardships based on the dimensions of your lot that are preventing your house from being maintained. Those are just future improvements that you want to make. You are here to ask for a variance, I am having a difficult time seeing why that is a variance that I should vote in favor of or even look at as something that is legitimately a variance request based upon constraints that are on us?

Karen Schutter-Edwards – Well what else is there that we can do to get another garage besides building it out towards the street? We wouldn't need a variance but it would be ugly.

Jim Bier – How you use your house is not something that ZBA is acting on. You're expressing a desire to want to expand your house to meet your personal needs.

Karen Schutter-Edwards – It's not the house, it's a garage to park our vehicles in.

Jim Bier – It's your property improvement which is part of your house. I clearly understand you want to do this.

Karen Schutter-Edwards – It's 18".

Jim Bier – We have the schedule of accessory structures in our ordinance, which you have looked at, which states what the set backs are in your zoning district. We don't set those guidelines. They are set by the city and the city's Planning Commission. We can grant variances that are legitimate that are based upon an actual hardship.

Jim Edwards – What would be a hardship?

Jim Bier – A hardship would have to be non-conforming lot size.

Jim Edwards – I would think the guide wires would be a hardship. I think it would look far better to have the garage match the house on the side and recessed back one foot. I don't believe there is any ordinance that states that I can't put a two-car garage going forward is there?

Jim Bier – As long as you are staying within the set back requirements but the second variance says that you may need to come back for a variance that gives you square foot coverage which is the second request that Dee laid out for us. As far as the side set-back, you may not need one as long as you are staying with in the front, side and rear setbacks you are more in conformance.

Joann Westrick – My concern is that you have one property owner next to you that really is affected by this. The side yard setback was set at 5 feet for reasons of safety: fire safety. If we grant this variance to you and a neighbor comes in and says they want to build a garage, then you are talking about a very narrow path. Without having a hardship, I would not be in favor of approving this at this time.

Diane Ives – If they put it in front of the existing garage could they do that? Their existing garage isn't that far from the road.

Jim Bier – The set back on the front is 40 feet so they wouldn't be able to build forward.

Doug Glassford – Again, when the houses were built, they were placed on smaller lots which don't give us a lot of leeway.

Jim Bier – I know it's not what you want to hear but my observation of what you want to do isn't practical with that property.

Jim Edwards – Why is it not practical?

Jim Bier – Because the setbacks are there for a reason for conformity within a zoning district and the city is responsible to make sure those are protected. We are an out when there is an extraordinary circumstance that is non-uniform typically is what gets brought before us and there is a reason to give relief. The reason that you simply want to improve your property because it is what you want, that is not the reasoning that is legitimately given to us to grant variances from.

Jim Edwards – Anybody that adds something on to their house is because they want something.

Jim Bier – But they do it within the constraints of the zoning ordinance.

Jim Edwards – The other houses on our street don't all have the same lot sizes. I haven't measured them but I will. They don't all have the clearance you are talking about.

Jim Bier – They are less than 5 feet from their property line? If they wanted to do an addition then they would be looking at the same problem.

Jim Edwards – They couldn't do an addition because they would not have the room that we have.

Jim Bier – In reality you don't have the room either. You are asking to encroach on the 5-foot setback.

Jim Edwards – Yes for only 18 inches.

Doug Glassford – But you only have 5 feet, so you deduct the 18”, it only leaves 3’6” to the property line.

Jim Edwards – But I can go 10 ½ feet with no problem?

Doug Glassford – Yes, you can go 10 ½ feet wide and there would be no variance for side yard setback.

Jim Bier – There could potentially be a coverage variance. If you went 10 ½ feet wide addition you would need a 3 sq ft variance for coverage which is something we could act favorably on.

Jim Edwards – If I did that would I have to file another variance?

Jim Bier – No, we could do that right now. So, if that is your pleasure to say I understand that I can’t get a car wide enough to fit my car in but I can fit my other stuff in then I will stick with an addition that isn’t 12 feet wide but is 10 ½ feet wide then we would double check the math and only have a coverage variance to act on.

Karen Schutter-Edwards – What would be the reason that you would act unfavorably?

Jim Bier – Because there is no legitimate need other than a desire to do it, I want to do this is your reasoning and that is something that we don’t act favorably on. It has to be a practical dimensional hardship.

Karen Schutter-Edwards – So we could spend the money to build a garage that we can’t fit a car into and you would be fine with that for 18 inches?

Diane Ives – What is above your shed? Have you ever thought of going up and putting in a lift?

Jim Edwards – It would be a lot higher than the house. It would look ridiculous.

Diane Ives – Isn’t there a 2nd story on that house?

Jim Edwards – Yes, but the way that the roof of the garage is designed it is already almost as tall as the rest of the house but it isn’t high enough for a lift. We would have to tear off part of the top of the house.

Jim Bier – Would you consider a 10 ½ foot x 21-foot addition? If you did that you would only need a variance on the area coverage.

Jim Edwards – I can’t get a car in there.

Karen Schutter-Edwards – Can’t you just give us the 18”? It’s only 18”

Doug Glassford – We don’t have the latitude to do what you are asking of us. The demonstrated hardship does not come into play. It’s a want, I want to do this.

Jim Edwards – Any time somebody wants something on their house, whether it is a new kitchen or an added bedroom and they have to file a variance to put it, it's not a need, it's a want. Almost any addition is a want, not a need.

Karen Schutter-Edwards – Can you tell me one?

Jim Bier – Most of the remodeling or changes that are done to people's homes conform to the zoning ordinance and they don't come before us.

Karen Schutter-Edwards – But you knew that this was for an addition on a garage and you knew that there was an 18" variance. Why were we not informed that an addition on a garage was not a hardship there is no since paying to have this meeting.

Jim Bier – Dee Boulier is not here to answer that question. Dee is the one you would have spoke to as you prepared this? I am not sure what Dee may have said to you, Jennifer can you add to that?

Jennifer Burlingame – I did not hear Dee talking to them directly but that is what he always tells anyone who comes in front of ZBA for a variance.

Jim Edwards – I thought the wires would be a hardship. We can't put something in the back yard and then put a pool in. They won't move the wires. I have done everything I can to get the wires moved.

Doug Glassford – The wires don't impact this garage on the front.

Karen Schutter-Edwards – We can't build one in the back because of the wires. That was one of the options, "why don't you build it in the back"?

Jim Edwards – That's why I have tried for two years to get those wires moved and I can't do it.

Diane Ives – How far is it from the fence line to the wires?

Jim Bier – Let's pause for a minute so I can try to pull this up on the internet.

ZBA members continued to measure out distance and reviewing possible options for the petitioners.

Jim Bier – Do any of the members have any more questions for the petitioner? Does the petitioner have any questions they would like to ask of us? You will hear from each one of us during the Finding of Facts. At the end we will vote on your request. If the majority approve it then this will pass or vice versa.

Jim Edwards – Are you basically telling me that you are not going to approve it?

Jim Bier – When we do our Finding of Fact it will be fairly apparent how we are each looking at it. Before we would vote I would give you the option to:

- Withdraw your request and come back to us later and we would table it
- We have discussed doing an addition of only 10' 5" which would require a small square foot variance on area coverage. If that is acceptable to you, you could modify your request or before we vote you could do that

Jim Edwards – Can I have a minute in the hall to discuss it?

Jim Bier – Yes, absolutely. If we do vote no you would have to wait a year before you come back and ask again.

Jim Edwards – If we agree to the reduction, then you would say ok, we will give them that. If I don't agree then I have to wait a year to come back.

Jim Bier – There is one more that we were discussing while you were out there, and I think Diane may have asked you, did you consider going straight back from the existing garage and making it a deeper garage? You would have cars blocked in but you could have them all in there.

Jim Edwards – That would be blocking a window in the kitchen. I really don't see why the wires are not a hardship. If I decide to do the 10'6" I still need a variance.

Doug Glassford – The 10'6' garage addition will not require a side yard variance; the set back is met right at five feet. If that is what you would have started with, you wouldn't even be here, you would be building already. I take that back; you would still need a small area variance, a 37-foot square foot variance.

Jim Edwards – Ok we will go with that.

Doug Glassford – What I heard was that if you amend your proposal to 10'6' we don't have to vote on the side yard setback ordinance we would only be looking at the coverage.

Jim Edwards – Ok, I am going to go with the smaller footprint but I still need to do my measurements and make sure it will work before I do anything. Is that ok?

Jim Bier – Yes, you have 6 months to start once we make a decision. You just need to let Dee know of your intent for the building the addition. If something delays it, you won't be penalized for it.

Jim Edwards – In other cities you have a year to complete the project is it the same thing here?

Jennifer Burlingame – In the city of St Clair the permits are good for 6 months. You can ask extensions and as long as you are continuing to do the construction you are good. Just keep in touch with the building department and let them know what delays you may be going through.

Jim Edwards – Ok, we will proceed with the 10'6" x 21' addition. And asking for 37' coverage variance.

Jim Bier – I appreciate you being considerate of the changes.

Finding of Fact

Joann Westrick – In regards to the original request of the side yard setback I would not be in favor of approving that but would be in favor of the 37 square foot coverage variance regarding area coverage.

Doug Glassford – After long deliberations with the homeowners and trying to come up with a plan that works. By reducing to staying within the 5' side yard setback again that doesn't even come before us.

The 37 square foot area coverage variance I have no problem with that. I guess I would like to find out if there is any relief to help the resident with the guide wires that are in their back yard that are not even in the easement. Is there anything the city can do?

Doug Vernier – I have no problem with the 37’ area coverage variance.

Diane Ives – I concur with everybody else. One thing that hasn’t been brought up, Tom is a very gracious neighbor, but I would have been concerned. The way these houses were built, not directly in line or the middle of the yard and that would have blocked his view.

Jim Bier – My concerns which I have stated in regards to the side yard request was that I didn’t think it was appropriate but the relief needed to do the garage addition based upon coverage is fine. I don’t have any objection to that. I want to thank the petitioner for being flexible and finding a minimum variance requirement to alt least partially meet their request. Thank you. With that being said, I would entertain a motion.

Doug Glassford made a motion for 413 Victoria Court, tax id #74-07-995-0002-000, the original request had a Section 4.5 side yard setback variance that has been resolved by changing the dimensions of the addition to 10.5 feet x 21 feet. By changing that, Section 5.33 the square foot coverage is reduced to 37 square feet variance required. Supported by Doug Vernier.

Roll Call:

Jim Bier – Yes

Doug Vernier – Yes

Doug Glassford – Yes

Joann Westrick – Yes

Diane Ives – Yes

Jim Bier – Karen and Jim as you work on your plans, please make sure you work with Dee and to make sure everything is going to fit.

Doug Glassford made a motion to adjourn, supported by Joann Westrick. All in favor, none opposed.

Meeting Adjourned: 8:10 pm