

MINUTES
BOARD OF ADJUSTMENT
JULY 11, 2019

ROLL CALL:

RICK BLISS

ANNE BISHOP

MARY DEBENEDETTI

ROBERT DENLOW

CHAIRMAN GARY SOULE

SUSAN ISTENES, AICP, DIRECTOR OF PLANNING & DEVELOPMENT

KEN HEINZ, CITY ATTORNEY

CHAIRMAN SOULE called the meeting to order at approximately 17:00.

The minutes of the May 2, 2019 meeting were continued until the next meeting

APPEAL FROM KEN AND LORI ASTON, OWNER OF 747 MIDDLE POLO DRIVE FOR TWO VARIANCES – A 6.08 FOOT FROM THE REQUIRED WEST FRONT YARD SETBACK OF 8.25 AND A 3.83 FOOT FROM THE REQUIRED REAR YARD SETBACK OF 32.40 – TO ALLOW FOR A GARAGE ADDITION

LORI ASTON (LA) – HOMEOWNER

KEN ASTON (KA) – HOMEOWNER

WILLIAM COVER (WC) – ARCHITECT

ALL THOSE WISHING TO SPEAK WERE SWORN IN BY KARI CRANFORD

CHAIRMAN SOULE asked if the City had any exhibits to present with regards to this appeal.

KEN HEINZ presented the following exhibits:

- A. City of Clayton Code of Ordinances & Master Plan
- B. Application for Zoning Review & Zoning Review Denial Letter
- C. Application for Appeal
- D. Property Survey Site Plan, and elevation submitted by applicant
- E. Staff Report

CHAIRMAN SOULE – Asked if the applicant had any objections to the City's exhibits

APPLICANTS – No objections

CHAIRMAN SOULE – The City's exhibits A – E will be included in this record. Asks for applicant representative to come forward and begin by stating name.

WC – My name is Bill Cover and my home address is in Wildwood. The Astons came to me to add a two car garage. We are proposing a two car garage connection to the existing one car garage. It would be best to locate this garage next to the existing garage. It will be near the rear

of the property. This will enhance the architecture and fit in with it and not be so bold if it was out front. If you look at the site plan, the lot has a very irregular shape and it is difficult to put anything on. We would be almost 16 feet from the addition to the street. We are asking to go 6 feet beyond the existing building line. There is also a rear encroachment because the existing house encroaches on the rear yard. We also notice that there are many other homes in the neighborhood, I have photos, and I don't know the technical dimensions, I'm just observing where there are huge walls really close to the street in the neighborhood and other additions which seem close so we felt it would not be out of character with other parts of the neighborhood. We understand there have been other variances approved in the neighborhood so we feel this is the right approach overall in terms of placing the garage and how it would fit with the house and enhance the style and architecture of the home. It would also allow us to maintain the circle drive. We would have to shift it over but we could still have a nice little circle drive with a flag.

CHAIRMAN SOULE – Anything else for right now?

WC – Not right now from me.

CHAIRMAN SOULE – Any Board members with questions for Mr. Cover?

RICK BLISS – There are 10 photographs on this sheet but its not 10 separate houses, how many houses are shown here?

KA – There are three houses ten photos.

RICK BLISS – What is your address, when I pulled in off of Hanley 747 is not listed. Then there is a sign in your yard that says 528 and I'm not sure what the legal description is but if any kind of decision is going to be made here I think we may want to make sure it applies to the proper property.

KA – When we bought the house 7-8 years ago, our house faces Middle Polo Drive but it had an address of 528 West Polo and our mail was getting confused with different people and so I went to the post office and the Public Works Department at the City and we had the address officially changed to 747 Middle Polo. We have a sign in the front yard, you saw one West Polo but there is one next to it that says 747. So it has been legally changed.

RICK BLISS – This is a question for Staff, On page two of this packet, in the top left corner it says wood fence is 6 feet into the right of way. And I'm wondering... is this a problem?

SUSAN ISTENES – Yes it is but not for this Board. We are figuring that perhaps when it was a private subdivision, encroachments were not considered when people built fences and what not.

RICK BLISS – Would you say that it is 'grandfathered' in?

SUSAN ISTENES – No, I wouldn't look at it that way...

RICK BLISS – Ok, I know one of the things we look at and wrestle with on a regular basis is that we are going to try and move towards conformity with zoning and setbacks and things like that when new construction is being done and there is no provision that I can see that this fence is going to be moved or anything like that.

SUSAN ISTENES – Right, the City could do a variety of things. They could request the fence be moved, they could enter into an easement to allow the fence to remain. It normally doesn't become an issue unless the City is going to be doing some work in their right-of-way and these fences/structures are discovered to be in the right-of-way where the City is potentially going to do some work. I don't think anything is planned for this subdivision, so really until then I don't see the City initiating any type of action to clean these sort of things up.

RICK BLISS – I like your suggestion, because the house is already violating the setback line, already right now, lets throw that into the discussion at this meeting.

SUSAN ISTENES – It does make sense, however, we didn't advertise for it. We only advertised for the garage. It's not uncommon in older homes where existing structures don't meet the current setback requirements.

KA – The fence was there when we bought the home 8 years ago and within the last few months we obtained permits from the City where we had the fence redone.

RICK BLISS – Sounds like it was approved administratively and didn't go through the Architectural Review Board.

KA – No we didn't go to ARB.

RICK BLISS – Congratulations.

SUSAN ISTENES – Generally fences that are replacements of the same material, it doesn't need to go to ARB.

CHAIRMAN SOULE – You followed what you understood to be the City permitting requirements. And that wasn't a requirement.

RICK BLISS – My last question – on the packet we have here in front of us the appeal to the BAJ, on page 5 the applicant states there is no impact on neighboring properties. The variance request is approved by Polo Trustees and also approved by adjoining neighbors that will see the addition. Do we ask for the trustees to send to the City for the file their approval or do we take the applicants word on it?

SUSAN ISTENES – We inform the applicants that they need to check with their trustee's we don't enforce any of the subdivision indentures, that is not our role. We try to make sure an applicant is not coming in and applying for a building permit that might be in violation of their indentures. It's a courtesy notice to say please check.

RICK BLISS – And if they are in violation, then that’s an issue with them and the trustees not involving the City.

SUSAN ISTENES – Correct.

KA – We have three trustees and every one of them signed off on the survey and that should be a part of your application.

CHAIRMAN SOULE – Do you have that Mr. Aston?

KA – Yes, here you go. This is their signed approval on the plans.

CHAIRMAN SOULE – This will be marked as ‘Applicants 1’

KA – We have letters of support as well.

CHAIRMAN SOULE – We will mark these as well ‘Applicants 2...’

RICK BLISS – On the site plan it talks about a new driveway curb cut, have you secured this through public works?

KA – No, we figured we would do this before even bothering them. **Explains old curb cut from original home that was closed when the circle drive with two entrances was added.**

ROBERT DENLOW – I want to talk aesthetics with the architect. There are so many odd shaped lots here and situations where the buildings often come pretty close to the street, there is missing sidewalks. Beautiful neighborhood, but it’s odd in my book. So you’re going to push out closer to the street and looking at some of the other structures, is this going to affect the aesthetics at all?

WC – I think we are pretty well staying with the architecture of the structure so are you talking about the proximity to the street?

ROBERT DENLOW – Right in terms of proximity.

WC – Well I guess it would be difficult for me to answer that but if you look at the photos provided they are examples of where structures are very close to the street.

ROBERT DENLOW – Do any of the neighbors that have supported this surround your home?

KA – 730 M. Polo Ed and Sheryl, 531 W. Polo Akins, 511 W. Polo Kissles, 503 McClinton Trustee, 509 Styles.

ROBERT DENLOW – The garage looks like a smaller version of your home. Its nice.

KA – It’s brick, it will have a slate roof like my house, it is meant to look like my home.

ROBERT DENLOW – You did a stellar job making it look like a part of the home and not a garage. All of the materials are very expensive and the appearance is that it is simply your house. I applaud you for that.

KA – Thank you for saying that.

CHAIRMAN SOULE – Pass the exhibits to Ken, please.

CHAIRMAN SOULE – Asks Susan Istenes to confirm Staff analysis a-c in the staff report:

- a) There are practical difficulties or unnecessary hardships associated with the strict application of the Zoning Regulations, due to the exceptional or unique circumstances or conditions such that strict application would deprive the owner of reasonable use of the property.
- b) Granting the variance requested would observe the spirit of the Zoning Regulations and secure public safety and welfare.
- c) The deviation from strict application of the Zoning Regulations authorized by the variance would not constitute a change in the district map, impair an adequate supply of light and air to adjacent property, increase congestion in public streets, increase the danger of fire, materially diminish or impair established property values within the surrounding area and would not in any other respect impair the public health, safety, comfort, morals and welfare of the City of Clayton.

SUSAN ISTENES – Confirms analysis from staff report.

- a) The shape of the lot is an irregular triangle with two front yards and a large circular drive in the front yard. Lots to the south have similar configurations. The characteristics of the subject lot are somewhat exceptional in that undeveloped areas of the lot where a garage could potentially be located, are not practical locations that would provide reasonable access to the principal structure. Nevertheless, there is an existing garage on the site which provides parking.
- b) The Zoning Regulations establish setbacks to maintain an appropriate amount of light and air between structures and to ensure compatible development of properties within the district in which they are zoned. The proposed location of the new garage is adjacent to West Polo Drive, a fifty foot right of way. The north wall of the addition is located at a similar rear yard setback to the existing garage and its location is mitigated by the fact that the neighboring property to the north, has a large side yard. Staff does not anticipate any significant detrimental effects on public safety and welfare associated with approving the requested variance.
- c) Granting the variances would not likely impair an adequate supply of light and air or negatively impact adjacent property.

CHAIRMAN SOULE – Mr. Heinz, does the City have any objections to Applicants Exhibit 1, the signed trustee survey and Applicants Exhibit 2 the letters of support being made apart of the record?

KEN HEINZ – No.

PUBLIC COMMENT:

JEAN DAVIS 600 W POLO – Didn't receive plans of the project and doesn't feel she has enough information to be in favor of the project or opposed to the project.

ANDREAS HERRLICH 505 W POLO – I have lived in this home for 2 years, I want to shed some light on a couple things. 1. Ken Aston wanted to replace the fence which was in my interest as well as the fence was in disrepair. But the encroachment on the street on this end of the fence, I had asked Ken to do a property survey before he replaced the fence but he didn't want to do that or maybe he did get one but he didn't make it available to me so I wasn't sure if the fence was in the right spot in the first place. However the property survey was obtained right after the fence was built by Ken. I haven't seen exactly the photos that were discussed earlier about the other properties but I can imagine which ones those are and I must say that they are the worst part of the neighborhood. I don't find them pleasing to look at and so far I'm a little concerned about new variations from those easements and our existing rules. The existing setback violation of the house, it is what it is, in my eyes. I also don't have a problem with the new fence as it is. It is much nicer than it was before. I do have some qualms about is the encroachment on the street towards W Polo. It is a large structure that is going to be very close to the street and in my view, what's changed the view of the neighborhood considerably and I'm really wondering whether there wouldn't be any other possibilities to build a new garage in a slightly different way. I am no architect and I understand that they are in need of a garage I can see that. I also feel that they should be able to build what they like on their property like would say to anyone but I'm not clear why two variances I asked for and then I build a garage and then I plan to ask for another variance to ask for a third curb cut. Which is obvious that you will need this. Otherwise you cannot get into your new garage. Those are my concerns. I'm not really in favor of encroaching on the street so much. And I wonder whether there is other solutions to this problem.

STEVE KISSEL 521 W POLO – We have lived on Polo drive for 33 years. I'm a civil engineer and I have an interest in setbacks and numbers. As far as the rear yard goes, the setback relative to the rear. The existing garage is inefficient and it is a one car garage, why isn't it being modified and being made a three car garage and meet the setback. The curb cut, the Cassidy's wanted to add a circle drive and the City wouldn't allow three curb cuts for a single lot. The City required them to close that curb cut. It wasn't an optional thing. Now we are going to go back to three curb cuts if this is approved. My driveway lines up directly with that third curb cut and there were a couple of incidents with the previous owner where we were backing out at the same time and we avoided each other at the last minute. It is an interesting thing to be reopening that curb cut and keeping the two on M. Polo. Is one of the front curb cuts going to be closed or is there going to be three. This is certainly an irregular lot and it is a tough lot to build on.

WILLIAM BURRIS 733 M POLO – The newly added exhibits, do we have addresses to those properties?

KA – 709, 711, and 721 M Polo.

WB – The signed plans, are those approvals of the design or the variance. Does it indicate anywhere in that packet if it is solely for the variance or if it is for the architectural design.

KEN HEINZ – I think they are in support of the variance and the architecture in general.

SUSAN ISTENES – We are only considering the variance in this meeting the design is irrelevant.

WB – Do the letters specifically support the variance or specifically the architecture or both?

CHAIRMAN SOULE – My understanding is that they approve both.

SUSAN ISTENES – Honestly they don't really mean anything other than saving everyone time and money in that if they are not allowed by indentures to build whatever on their property then they know before they try and start the process.

WB – I want to clarify that if they are being added to the record tonight that they are in favor of the variance as opposed to just the general plan.

MARY DEBENEDETTI – I am a retired member of a Trustee board and they trustees sign off on both variance and design. No matter what, though, the City has the power to overrule...

WB – I want to stop you...

CHAIRMAN SOULE – I think I understand your question and my best answer is that all of the information we receive at this hearing is all taken into consideration for whatever value each member of the board gives to that piece of information.

RICK BLISS – Can I add one thing... What they have signed is the copy of the Site Plan. So it is the layout of the lot so you would assume they studied it and understand it. Its not the photos, though they have signed the whole packet. So you'd have to ask the trustees what their awareness level is on the setbacks.

WB – 18 feet is the nature of Polo area garages. The design looks fantastic but I am concerned about the precedence it sets.

Hearing no further questions or comments, Chairman Soule called for a motion.

ROBERT DENLOW – I move that we approve a use variance to allow for a 6.08-foot variance from the required west front yard setback of 8.25 feet, Section 405.1900.A.1.a and a 3.83-foot variance from the required rear yard setback of 32.40 feet, Section 405.1900.A.2.

ANNE BISHOP – Second

CHAIRMAN SOULE – All in favor of Mr. Denlow's motion?

ANNE BISHOP, ROBERT DENLOW, AND CHAIRMAN SOULE – Aye

CHAIRMAN SOULE – Any opposed?

RICK BLISS AND MARY DEBENEDETTI – Nay

MOTION FAILS 3-2. APPEAL DENIED

Being no further business for this Board of Adjustment this evening, the meeting adjourned at 18:26.

Recording Secretary