

MARIEMONT PLANNING COMMISSION
REGULAR MEETING HELD FEBRUARY 14, 2018

The Mariemont Planning Commission met Wednesday February 14, 2018. Mayor Policastro called the meeting to order at 5:30 p.m. Present were Ms. Schwartz, Ms. Reed, Mr. Rich and Mr. Vianello. Also in attendance was the Building Administrator Don Keyes.

Mr. Vianello moved, seconded by Ms. Schwartz to nominate Mr. DeBlasio as Chairman of the Planning Commission for 2018. Ms. Schwartz moved, seconded by Ms. Reed to nominate Mr. Vianello as the Vice-Chairman of the Planning Commission for 2018. Mayor Policastro moved, seconded by Ms. Reed to nominate Ms. Schwartz as Secretary of the Planning Commission for 2018. On roll call; five ayes, no nays.

The request was from Patrick & Valerie McEnroe, 6828 Mt Vernon Ave, Mariemont, Oh, to allow a garage to exceed the normal height limits so that its design will be more in line with the construction of the house and to allow a raised patio to be closer to the property line than the normal setback in order for the walkways in the patio to be of reasonable width. In association with this project a tree will be removed as it interferes with the footprint of the home expansion.

Finding of the Building Commissioner: Heritage trees, which are trees over 25 inches diameter, require a reason for removal. The interference with a permanent improvement is regarded by Mariemont as a valid reason for removing the tree. The height of the garage is by Mariemont code 151.126, allowed to be 15 feet in total height measured from the grade to the peak of the roof and shall be at least 3 feet from all lot lines. The setbacks for the garage are adequate. The garage design height is 17 feet 8 inches in order to maintain a reasonable design pitch to match the house design. The information with the Planning Commission packet includes sun shade patterns for neighboring areas. The setback for property over 18 inches in height is covered in Mariemont code section 151.087. "Steps, slabs, covered and uncovered stoops, and platforms leading to an entrance door; (are permitted) provided, that no such obstruction shall project into a required side yard more than three feet or into a required front yard more than five feet." "(1) When constructed more than six inches above the ground level, they (patios or decks) may project not more than one foot, six inches in a required yard; provided, that those patios, terraces, or decks do not extend more than three feet above ground level at any point;" - - - "(2) When constructed less than six inches above the ground level, they may be no closer than the minimum side yard requirements less one foot, six inches to any side or rear property line" - - While the patio in this project starts at ground level at the side of the house and is raised to about 24 inches at the rear steps due to the slope of the property, the above requirement is not met by this project as the patio extends to the fence, which is on the property line as allowed by Mariemont code.

It was noted that several neighbors sent a signed notice that they were in favor of the Planning Commission granting the request.

Mr. Vianello asked that Mrs. Garber's e-mail be made part of the permanent minutes. The e-mail read:

Members of the Planning Commission and Building Commissioner:

I am unable to attend the meeting on Wednesday, February 14, 2018, but have reviewed the application and accompanying documents of Patrick and Valerie McEnroe for a variance to add a two car garage with a height of 17 ft. 8 inches, which is 32 inches above the code

requirement of 15 ft., and for a variance to add a raised patio to be closer to the property line than the required setbacks permit. Additionally a tree will be removed to accommodate these requests. After reviewing these documents I have the following observations for your consideration.

1. Code Section 151.060 (A)(7)(b)(2) - (not section 151.126 in the notice) provides "An accessory Building erected as a separate building shall not exceed 15 ft. in total height measured from the grade at the front of the structure to the highest point of the roof and shall be at least 3 ft. from all lot lines of abutting lots.".....

Applicants are requesting that they receive a variance of 32 inches above that requirement so that the garage will be "in keeping with the design of the home". It is noted, however, that the garage on this particular property is not on a double lot off to the side of the house, the placement of the garage will not be visible from the front of the house, and it is not on a street that is being considered for historic designation. Since it has a Tudor design with stucco and wood and the front of the garage faces the alley with Tudor design doors, that design could be carried out on a garage with a 15 ft. height.

SECTION 151.055 OF THE CODE PROVIDES THAT "ACCESSORY BUILDINGS CAN NOT BE USED AS A RESIDENTIAL DWELLING."

Accessory buildings as provided in the code cannot be used for residential purposes and are permitted to be closer to property lines because they are not as high and will NOT be used as a room. Further accessory buildings pursuant to Code Section 151.060(A)(7)(b)(1)(a)(b)(c)and (d)are to be used to only store motor vehicles and tools, supplies and equipment for maintenance, recreation and landscaping which would be on the first floor.

To permit a "room" that a person can stand in above a garage is difficult to monitor and enforce the restrictions that it not be used for residential purposes, such as an office, playroom, etc.

Applicants have offered neighbors signatures that they are not opposed to this, but the code cannot be modified simply because neighbors do not object to these variations.

A "variance" as defined in Code Section 151.024(H)(3) provides that "the Commission shall have the power to grant a variation in the property provision and requirements of this chapter which will not be contrary to the public interest or intent and purpose of this chapter, so that the public health, safety, convenience, comfort, prosperity, and general welfare will be conserved and substantial justice done, but only where, owing to SPECIAL CONDITIONS PERTAINING TO A SPECIFIC PIECE OF PROPERTY, THE STRICT APPLICATION OF THE PROVISIONS OR REQUIREMENTS OF THIS CHAPTER WOULD CAUSE A CLEARLY DEMONSTRABLE HARDSHIP (emphasis added).

Applicants are requesting this variance so that the garage will be "more in keeping with the design of the house", but the garage is not even visible from the front of the house and this does not qualify as a "hardship". The Tudor design with the stucco, wood and Tudor design doors can be accomplished within the code provision requirements. The garage has entry off of the alley and does not have sufficient space for a car to be parked in front of the garage so the applicants are requesting a gravel drive adjacent to the garage. Since so much of the grass area of the back yard is being diminished by the two story addition, the covered porch, patio and a 528 square foot garage, the driveway should be of a material similar to the stone patio or more in keeping with the design of the home such as pavers or concrete in lieu of the gravel, which would be more aesthetically pleasing to adjacent landowners.

2. The drawings supplied by the Applicants also request approval for a variance to build a stone patio to the side yard lot line. The height of the patio is raised at its highest point to 24 inches and is governed by Code provision 151.087(I)(1) which provides:” (I) Paved patios, paved terraces, and decks may be erected in accordance with the following:

1) When constructed more than six inches above the ground level, they may project not more than one foot, six inches in a required yard, provided, that those patios, terraces, or decks do not extend more than three feet above ground level at any point.”

The height of the house is 30 ft., and the lot width is 65 ft. making the side yard setback 8 ft. 6 inches. The side yard is currently only 6ft 6 inches which already exceeds the required setback by 2 ft. Therefore the raised stone patio should not extend any further into the side yard than the side of the house and the applicants have shown no reason that this creates a “clearly demonstrable hardship” as required by the code for a variance to be given. This patio is in addition to a covered porch also being added.

This provision safeguards against a platform later being covered and then made into a porch and later a room.

Code Provision 151.087 (H) set forth in the notice does not apply here. That provision states: “ A required yard or court shall, at all times and in every part, be unobstructed by any permanent or temporary human made object from its lowest point to the sky, however, the following obstructions shall be permitted: (H) Steps, slabs, covered and uncovered stoops, AND(emphasis added) platforms leading to an entrance door; provided , that no such obstruction shall project into a required side yard more than three feet or into a required front yard more than five feet”. This provision does not apply to this situation because the drawings show that there is no entrance door on the side and this provision since it has an “and” instead of an “or” applies only when an entrance door is involved that has steps, slabs, covered and uncovered stoops or platforms leading up to it.

As set forth above, variances to the code provisions are to be given when the application of the code would cause a “clearly demonstrable hardship”. Since this garage is behind the home and not visible from the front it is no different than most of the other Tudor homes in the village that have their garages behind their home and not very visible from the street. This is distinguishable from other property where the garage is on a double lot and very visible from the front of the house and on a street that was being considered for historic designation. Additionally the applicants are already encroaching on the side yard setback by two feet and should not be permitted to encroach even further into their side yard. If the stone patio is even with the side of the house, the applicants would already be given more than the code currently permits and the standard required for a variance has not been met.

Respectfully Submitted,

Valerie Garber

Mr. Vianello said the request should be considered on each separate item: (1) Patio (2) Tree (3) Garage.

Mr. McEnroe said in speaking with one of the neighbors, Mr. Dill, he did not object to the structure. There was some concern that it may shade his property. After additional analysis

he was able to show Mr. Dill that the structure would not shade his second floor. His neighbors, the Stephens, who are supportive of their effort, had a similar request in 2013 on their detached garage which was granted a variance by the Planning Commission. Their request is in hopes of keeping the Tudor style look and to look like the structure had always been there.

Mr. Rich asked if the applicant looked at lowering the spring point. Mr. McEnroe said they need a 7 ft. door minimum with a header above it. The wall height needs to be 8 ft. Mr. Rich said the spring point could be lowered and the applicant could shave a bit of width off the garage. He believes there are alternatives to bring the high point of the roof down. Changes could be made that would make the garage look like other garages from that period. Mr. McEnroe said he feels they are limited with the width to be practical. He did reiterate that there will not be a room above the garage.

Mr. Vianello said his understanding is the applicant wants to fit in the pitch and the design with the existing home.

Mr. McEnroe distributed the Planning Commission meeting minutes from November 20, 2013 which showed that the Planning Commission approved the Stephens request, including Mr. Vianello and Mrs. Garber. Ms. Reed said the Stephen's garage is visible from the front while the McEnroe's garage is not which may be a reason Mrs. Garber voted in favor of it. Mr. Rich said he applauds even though it is not facing the street that the applicant wants to keep it in the context. The way the Village was designed was not necessarily to see houses from the street. Mr. Keyes said he believes Mrs. Garber's belief is yes we have done this before but we are allowing way too many people to change the code. Mr. Vianello said anytime we make an exception it tends to become the rule and we do not want to get there. It was discussed each application must be looked at separately.

Mayor Policastro moved, seconded by Mr. Vianello to grant the variance for the garage based on Section 151.025(3)(b)(2)(c)(d)(e)(f). On roll call; four ayes, one nay (Mr. Rich).

Discussion ensued regarding the tree and it was determined that it was not a heritage tree. Therefore, no variance determination is required.

Mr. McEnroe said they have a small lot and are trying to make the best use of it as they can when it comes to the patio. The design shows a couple of steps down from the house to the patio which will be level with where the patio starts. This will allow for the patio to be level. The neighbor that would be effected the most was very enthusiastic with the project.

Mr. Rich asked if there were other instances where the Village has allowed above grade structures to be built to the property line.

Discussion ensued regarding the setback requirements for patios/decks and the possibility of extending towards the rear property line. The McEnroe's did not feel that would allow them the best use of the back yard and to have optimum outdoor space. The exiting patio is right to the property line. It is not a violation it just does not conform to the current code.

Mr. Rich said he believes the lower patio could be at grade level. It could also be hard surfaced going more towards to lane. Taking the raised deck to the property line is problematic in his opinion. He does not believe a raised structure can intrude on a setback line.

There was further discussion on other options available to the applicant. The applicant asked to have the matter tabled so they may come back with a new design for the Planning Commission.

Mayor Policastro moved, seconded by Ms. Schwartz to approve the minutes as written for November 20, 2017. On roll call, five ayes, no nays.

The meeting adjourned at 6:35 p.m.

Respectfully Submitted,

Ms. Mary Ann Schwartz
Secretary