



TOWN OF BEAUX ARTS VILLAGE

BOARD OF ADJUSTMENT

MINUTES

July 5, 2006

Donworth

PRESENT: Acting Board Chairman Steve Hauck, Boardmembers Peggy Bates, Steve Matsudaira, and Robin Stefan.

GUESTS: Town Planner Mona Green; Applicant Jim Cooch

DEPUTY TOWN CLERK: Betsy Donworth

Acting Board Chairman Steve Hauck called the meeting to order.

PUBLIC HEARING ON VARIANCE NO. 6-02 – Jim and Barbara Cooch (2805 105 Avenue SE Beaux Arts, WA.)

Acting Board Chairman Steve Hauck opened the public hearing.

Chairman Hauck stated that the applicants Jim and Barbara Cooch Applicants seek relief from Section 8.C of the Town of Beaux Arts Village Zoning Code Ordinance (No.333) in order to continue an intrusion of 13' into the required 25' rearyard setback. Section 17 of the Ordinance allows the Board of Adjustment to vary the provision of Section 8 provided that the board finds that all five variance criteria are met.

As required in Ordinance No. 258, notice for a public hearing at 2805 105 Avenue SE was posted on June 21, 2006 and published on June 20, 2006. Notices were sent to property owners within 300 feet of the property on June 21, 2006.

The following exhibits were submitted:

- Exhibit A - Application (6/14/06)
- Exhibit B - Staff Analysis (6/28/06)
- Exhibit C - Public Hearing Notices
- Exhibit D - Public Hearing Affidavits
- Exhibit E - Applicant's Supporting Documents

Acting Chairman Hauck asked the Boardmembers present if they had participated in any ex parte conversation regarding this application. No Boardmember has had any ex parte conversations.

Acting Chairman Hauck asked if any Boardmember had a conflict of interest in hearing the variance. No conflict of interest was noted. There were no challenges from the applicant or public as to appearance of fairness of any Boardmember to hear the variance.

Staff Report:

SUMMARY OF VARIANCE REQUEST

Applicants seek relief from Section 8.C of the Town of Beaux Arts Village Zoning Code Ordinance (No.333) in order to continue an intrusion of 13' into the required 25' rear yard setback.

PROJECT DESCRIPTION

Jim and Barbara Cooch propose to expand the footprint of their residence and accomplish an interior remodel. The additions include a 493 square foot master bedroom suite in the reorient the garage entrance from 105th Avenue SE (east side) to SE 28th Street (north side.) The two additions, totaling 589 square feet, are within the allowable building area of the 10,594 square foot lot.

NON-CONFORMING STRUCTURES

The residence is an existing non-conforming structure because it sits 12' from the rear (west) property line. The Zoning Code requires a 25' rear yard. Because of this circumstance, a variance is required in order to complete the proposed work. Section 16 of the Code states:

B. Non-conforming Buildings or Structures.

1. Any non-conforming building or structure that lawfully existed as of January 13, 2004 is hereby permitted to continue, to be maintained, repaired or brought into compliance with current building codes, and to be operated in accordance with this section.

2. The remodel of an existing non-conforming building or structure will be allowed without a variance:

- a. to reduce the setback encroachment or the height of that portion of the nonconforming building or structure located within the setback, or*
- b. to make changes to bring the building or structure into compliance with the Uniform Building Code, to make repairs, to change siding, or to change a window or window trim, provided that these changes do not increase the setback encroachment or the height of that portion of the non-conforming building or structure located within the setback.*

Provided however, that if the existing building or structure exceeds the maximum Gross Floor Area Ratio (GFAR), no additional enclosed square footage may be added without a variance unless the building or structure, as remodeled, is in compliance with GFAR.

3. *Any non-conforming building or structure that is damaged or destroyed by a fire or natural disaster may be rebuilt to its previous building footprint and envelope without obtaining a variance.*

4. *Any non-conforming building that is proposed for reconstruction shall comply with all applicable provisions of the Zoning Code, including parking requirements.*

The Cooch project does not qualify for the “variance exemption” in Paragraph 2 above, and may only be accomplished with the granting of a variance.

REMODEL AND RECONSTRUCTION

In order to encourage the removal of nonconformities within Beaux Arts, the Town Zoning Code differentiates between “remodel” projects and “reconstruction” projects. Remodel is defined in the Zoning Code as “*Any construction in which the enclosed living space added to the existing structure comprises 20% or less of the existing structure and the value of the construction is less than or equal to the greater of the assessed value of existing improvements or \$250,000.*” Reconstruction is defined in the Zoning Code as “*Any construction in which the enclosed living space added to the existing structure comprises more than 20% of the existing structure and/or the value of the construction is more than the greater of the assessed value of the existing improvements or \$250,000.*”

The Coochs propose to add 589 square feet to the existing 2,799 square foot structure. This amounts to 21.04%. The fair market value of the project, as stated in the Building Permit application, is \$100 per square foot, for a total of \$58,900. The 2006 appraised improvement value, per the King County Assessor, is \$294,000. Therefore, the plans as submitted, would be classified as a “reconstruction” and would require the entire house be brought into compliance with the zoning code, as stated in Section 16, Paragraph 4 above. The Board of Adjustment does not have the authority to waive the requirements of Section 16 of the Zoning Code.

In order to be considered a “remodel,” the maximum addition that could be allowed is 559.8 square feet. A reduction of 29.2 square feet from the Cooch proposal would allow the project to be considered a “remodel” and would not require that the rear of the house be removed and brought into compliance with the Zoning Code.

VARIANCE CRITERIA

The Board of Adjustment may grant a setback variance from Section 8.C of Zoning Code Ordinance 333 provided the Board finds that all five of the variance criteria listed in Section 17 of the Ordinance have been met. Because the Board may not vary the definitions of “reconstruction” and “remodel,” this analysis is written with the assumption that the Coochs will be able and willing to reduce their proposed addition by 29.2 square feet in order to be considered a remodel and move forward with this variance.

The maximum allowed addition is 559.8 square feet.

No variance shall be approved or approved with modifications unless the Board finds that all of the following five criteria have been met:

1. *The variance will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the Town.*

Applicants satisfy this criterion. The Coochs recently purchased the home. It is a nonconforming structure, as are many homes in Beaux Arts. The project will not increase the nonconformity. The addition of a bedroom and a garage expansion are not special privileges.

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the Town. It will be consistent with the Town's Comprehensive Plan.

Applicants satisfy this criterion. In fact, reorientation of the driveway will provide increased visibility for ingress/egress to the property.

3. The variance is necessary because of special circumstances relating to the size, shape, topography, location, surroundings, and special features of the subject property.

Applicants satisfy this criterion. The residence is an existing non-conforming structure. The proposed additions are within the allowable building areas.

4. The need for a variance has not arisen from actions previously taken by the applicant (owner).

Applicants satisfy this criterion; this is not a self-created problem. According to the King County Assessor's Office, the home was originally constructed in 1952 and remodeled in 1982. The existing non-conformity was in place prior to the purchase of the property by the Coochs in 2005.

5. It is the minimum necessary to permit the owner reasonable use of the property.

Applicants satisfy this criterion. The two additions do not change the fact that the property is a non-conforming structure. The two additions are within the GFA allowance and the maximum impervious allowance.

CONCLUSION

Applicants satisfy the five variance criteria for a maximum addition of 559.8 square feet to the non-conforming existing structure.

APPLICANT PRESENTATION:

Jim Cooch explained that a variance for his remodel is required since part of the structure is out of compliance with current 25' setback required in the back yard, which has come to be defined as the western side of the property. The proposed project consists of two additions to the residence. One small addition at the garage allows for turning the access to the garage to SE 28th street in order to have a safer sight distance for traffic, when entering and exiting the driveway to the residence. As it is currently situated, there is only a 35 foot sight distance, which is very unsafe. On numerous occasions there have been near collisions, the p previous, Pat Bochner, did have collision at this location, and it is only matter time until there is an even more serious accident.

The second addition is a master bedroom suite on the southeast corner of the house.

The proposed additions meet the variance criteria because:

1: The proposed variance requested would not give the owners any special privilege. Allowing this variance gives the owners the ability to add a third bedroom and have a safe driveway. The project is still within the lot coverage ratio and impervious area ratio allowed. The project does not increase the degree of non-conformity of the existing structure.

2: The nature of the proposed additions is in keeping with the community appearance. They keep the structure low and away from the street, in keeping with the town's comprehensive plan. No variance would be needed to build a two story addition ten feet from the road, but the owner does not want to change the appearance of the neighborhood in such a way. The driveway change makes the roadway much safer to travelers and residents alike.

3: This variance is necessary because of the small size of the lot and its corner proximity to two roads. This feature means that adding to the structure as requested will improve the road safety, improve the neighborhood appearance and increase surrounding property values.

4: The need for this variance has arisen from the fact that since being built, the rules for determining front, back and side yard definitions have changed. Since being built, the rules have changed to no longer recognize the limitations of corner lots.

5: The proposed project is the minimum necessary to permit the owner reasonable use of the property. The owner should have the right to a safe driveway access to the road, and should be allowed to expand to three bedrooms in their home.

PUBLIC TESTIMONY:

There were no members of the public present.

The Board members reviewed the application submittal for Variance 06-02 against the five variance criteria of Ordinance No.313, Section 1.

From the foregoing findings the Board made the following CONCLUSIONS:

1. The variance will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the Town
The Board is unanimous that Criterion 1 is satisfied.

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the Town. It will be consistent with the Town's Comprehensive Plan.
The Board is unanimous that Criterion 2 is satisfied.

3. The variance is necessary because of special circumstances relating to the size, shape, topography, location, and special features of the subject property.

The Board is unanimous that Criterion 3 is satisfied.

4. The need for a variance has not arisen from actions previously taken by the applicant (owner).

The Board is unanimous that Criterion 4 is satisfied.

5. It is the minimum necessary to permit the owner reasonable use of the property.

The Board is unanimous that Criterion 5 is satisfied.

Variance No. 06-02 t satisfies all five of the variance criteria.

DECISION: MOTION: Based on the foregoing findings and conclusions Variance No. 06-02 does satisfy the 5 variance criteria and is hereby granted, provided that the Cooch's maximum addition is 559.9 square feet.

BUILDING ACTIVITY REPORT: The Board reviewed the Permit Report and Building Official's Invoice indicating building activity for the past several months.

ADJOURN: The Board approved the motion to adjourn the meeting.

Respectfully submitted,

Betsy Donworth
Deputy Town Clerk