

Item 24-0590: 924 N. Leminwah St The applicant proposes to construct an attached garage addition to the principal building that would be three (3) feet from the side lot line

Item 24-0810: 924 N. Leminwah St The applicant proposes to construct an attached garage addition to the principal building that would be one and one half (1.5) feet from the side lot line

Board of Zoning Appeals
Mon, Jun 17, 2024, 7:00PM

Paul McCann (BOZ Chair) 01:48

Okay, the next part of the agenda is for public appearances. For anyone who is a neighbor or an interested party other than the applicants, they are going to be asked to step forward to the podium, and then you know, if you have any kind of questions that you'd like us to make sure get asked on your behalf that this is the time that you would put those forward. So are there any public appearances? Yes, sir. Go ahead. Step forward. And if you state your name, please.

Mark S. (Resident) 02:22

Okay. My name is [Mark S.] and I live just east of the property. I live on Owaissa the street. And the reason I'm here is the last time there was a garage put in on that side of the street, it caused flooding in the next yard and the back of my. It hasn't been bad recently. We've been pretty dry. But that's the only concern I have.

Paul McCann (BOZ Chair) 03:00

So is your concern about elevation?

Mark S. (Resident) 03:02

The elevation, how high the garage would go up in the back end.

Paul McCann (BOZ Chair) 03:08

Okay.

Kelly Sperl (BOZ Member) 03:09

Which location are we talking about?

Mark S. (Resident) 03:12

I'm on [XXXXX] North Owaissa.

Kelly Sperl (BOZ Member) 03:15

Well, which? Are you talking?

Mark S. (Resident) 03:17

[XXXXX]

Paul McCann (BOZ Chair) 03:18

Leminwah.

Mark S. (Resident) 03:19
Leminwah.

Kelly Sperl (BOZ Member) 03:19
Leminwah. Okay.

Paul McCann (BOZ Chair) 03:20
Okay. Understood. So we'll make sure we understand what's being done to mitigate that.

Mark S. (Resident) 03:28
Right.

Paul McCann (BOZ Chair) 03:29
Okay. Thank you. Are there any other public appearances tonight? Okay, there being none, I will ask Kurt to read the first case on the agenda. These cases will be heard on the order in which they were received by the city. It requires four affirmative votes to approve the variance, and that decision will be made tonight. So everyone in the room will know the answer to whether or not these things have been approved. So Kurt, the first one, 24-0590, please.

Supervisor Kurt Craanen (Inspections) 04:10
Thank you. The applicant proposes to construct an attached garage in addition to the principal building that would be three feet from side lot line. Section 2393(g)6 of the zoning ordinance requires a six-foot side yard setback.

Paul McCann (BOZ Chair) 04:23
And if you'd come forward.

Scott Engstrom (BOZ Member) 04:27
And as a matter of housekeeping, I believe that we had to address the initial application from last month?

Paul McCann (BOZ Chair) 04:35
Right this this was left over from last month. You were unable to appear, Ma'am. Is that correct? You were unable to be here last month.

Erin O. (Resident) 04:42
Things have actually—sir, things have changed slightly. I have—the neighbor to the north of me understands my situation, and since then he's willing to sell me four and a half feet of his property.

Erin O. (Resident) 04:58
So that's why we're at—that one will be omitted.

Paul McCann (BOZ Chair) 04:58
Okay.

Paul McCann (BOZ Chair) 05:02
So the first one, you'd like us to deal with that? I mean, we need to deal with that first.

Erin O. (Resident) 05:07
So.

Paul McCann (BOZ Chair) 05:08
So are you asking us to deny that? I mean it doesn't—

Erin O. (Resident) 05:11
Yes.

Paul McCann (BOZ Chair) 05:11
—if you don't. Okay.

Erin O. (Resident) 05:12
Deny that one, please.

Paul McCann (BOZ Chair) 05:14
So if we could get a motion.

Scott Engstrom (BOZ Member) 05:17
Because for purposes of bringing it to a vote, I'll move to approve it as requested and move it to discussion.

Paul McCann (BOZ Chair) 05:26
Is there a second?

Kelly Sperl (BOZ Member) 05:27
Second.

Paul McCann (BOZ Chair) 05:28
Moved and seconded. Is there any further discussion?

Kelly Sperl (BOZ Member) 05:31
No.

Paul McCann (BOZ Chair) 05:32
Okay, so we'll take a roll call.

[Everyone votes “Nay”.]

Paul McCann (BOZ Chair) 05:40
Okay, so that's off the board.

Erin O. (Resident) 05:42
Thank you.

Paul McCann (BOZ Chair) 05:44
0590 is denied.

Paul McCann (BOZ Chair) 05:46

So we'll move on to the more current, or the more recent one. Kurt, is there any change to what's to be presented? I see that there's different numbers here.

Supervisor Kurt Craanen (Inspections) 05:57

There's a slight change. And she alluded to this, that she made a new application with a different dimension for how far she wants to be from the lot line. So I can read it and explain that if you like. The applicant proposes to construct an attached garage addition to the principal building, that would be one and a half feet from the side lot line. Section 93(g)6 of the zoning ordinance requires a six-foot side yard setback.

Paul McCann (BOZ Chair) 06:20

Okay.

Supervisor Kurt Craanen (Inspections) 06:20

So I think she mentioned that she talked to the neighbor, and any vote would be contingent on the sale of real estate, which hasn't happened yet. I assume.

Erin O. (Resident) 06:30

He's going to agree tonight if this goes through.

Supervisor Kurt Craanen (Inspections) 06:33

Okay. So you shouldn't grant the variance tonight outright. If you do grant it, it should be contingent on the sale of the right.

Paul McCann (BOZ Chair) 06:39

Yeah, we've got a little cart before the horse issue here. We can—we could probably discuss this as if you have a six-foot side yard setback. And if you were to have a six-foot side yard setback, we wouldn't need to give you a variance, right, Kurt? That's—

Supervisor Kurt Craanen (Inspections) 07:03

Yes.

Paul McCann (BOZ Chair) 07:04

So she will, as soon as the transaction is completed, have a six-foot side yard setback.

Kelly Sperl (BOZ Member) 07:11

According to what I read here, it's only going to—she's only buying four and a half feet from the neighbor.

Paul McCann (BOZ Chair) 07:15

And she has one and a half feet today.

Supervisor Kurt Craanen (Inspections) 07:17

That's what she would need a variance for, that—

Paul McCann (BOZ Chair) 07:18

One and a half plus four and a half is—

Erin O. (Resident) 07:20

I need a variance of one and a half feet.

Michael Babbitts (BOZ Member) 07:23

She would have four and a half total.

Paul McCann (BOZ Chair) 07:24

After?

Erin O. (Resident) 07:27

After the purchase from my neighbor, I'll need a variance of one and a half feet because it violates his six feet.

Paul McCann (BOZ Chair) 07:35

So you're buying four and a half. And you have and you have zero today?

Supervisor Kurt Craanen (Inspections) 07:43

The garage doesn't exist. The addition doesn't exist.

Paul McCann (BOZ Chair) 07:46

Under? Okay. So she's asking for—

Erin O. (Resident) 07:49

I'm asking for a one-and-a-half-foot variance after I purchase from the neighbor. I'll be one and a half feet shy of the code.

Kelly Sperl (BOZ Member) 07:59

And I'm assuming he needs—there was—he needs to keep six feet, so he doesn't make his nonconforming.

Erin O. (Resident) 08:06

Yes.

Paul McCann (BOZ Chair) 08:11

Okay, I'm confused. The one that we just denied, that position of that building would have been three feet from the side lot line.

Erin O. (Resident) 08:24

I have it drawn. Could I bring it up?

Paul McCann (BOZ Chair) 08:26

Sure. Sure. Kurt, do you—what am I missing?

Supervisor Kurt Craanen (Inspections) 08:32

I have it here somewhere.

Paul McCann (BOZ Chair) 08:33

Yeah.

Karen Cain (BOZ Member) 08:34

I think it's she was short three feet, she's buying four and a half feet, so now she's only short one and a half feet.

Paul McCann (BOZ Chair) 08:44

See, I still don't follow.

Erin O. (Resident) 08:46

It's hard to explain unless—

Paul McCann (BOZ Chair) 08:48

[Joking while motioning toward Kelly Sperl] Is he your engineer on this? Like. No, I'm sorry. It's what he does.

Paul McCann (BOZ Chair) 09:02

So the add—this is neighbor's house. You'll retain six feet. He's gonna sell you four feet it says here—

Erin O. (Resident) 09:09

Yeah.

Paul McCann (BOZ Chair) 09:10

Plus there is six inches...?

Erin O. (Resident) 09:12

Goes into his lot if I were to buy all that is necessary.

Paul McCann (BOZ Chair) 09:23

Do you have a drawing of where this goes? Where this footprint of the garage goes? Do we have a good footprint? That's it.

Supervisor Kurt Craanen (Inspections) 09:33

This was what you submitted, I think first time around.

Paul McCann (BOZ Chair) 09:36

So it's—previously it was right on the lot line.

Erin O. (Resident) 09:39

It was six inches shy of the lot line.

Paul McCann (BOZ Chair) 09:45

Okay. And you're buying four and a half feet.

Kelly Sperl (BOZ Member) 09:50

Four feet.

Erin O. (Resident) 09:51

So I'm buying four feet from Adam, my next door neighbor.

Paul McCann (BOZ Chair) 09:54

Now I understand.

Kelly Sperl (BOZ Member) 09:55

And she's already got six that's left over. So she needs a variance for a foot and a half.

Paul McCann (BOZ Chair) 10:03

But this—but this says that it would be one and a half feet from the side lot line which is not the case. It's going to be one half feet short of six.

Karen Cain (BOZ Member) 10:19

Four and a half from the.

Paul McCann (BOZ Chair) 10:20

It's gonna be four and a half feet. That's where I'm confused. Understood?

Supervisor Kurt Craanen (Inspections) 10:24

Yeah. And you can change that.

Paul McCann (BOZ Chair) 10:26

So, so your request is to put your garage within four and a half feet of your new lot line.

Erin O. (Resident) 10:36

Yes.

Paul McCann (BOZ Chair) 10:38

Now I—no, no, it's—

Erin O. (Resident) 10:41

It's a little confusing. I had to draw it for myself.

Paul McCann (BOZ Chair) 10:44

[Mr. S. in the audience], did you teach math? I don't remember. Yeah. Good. Thank you for being in the audience. We could use you.

Mark S. (Resident) 10:55

You weren't a student.

Paul McCann (BOZ Chair) 10:55

My kids were. Okay, so now it's a one-and-a-half-foot variance.

Erin O. (Resident) 11:07

Yes, sir.

Paul McCann (BOZ Chair) 11:08

And can you go back to the bombardier view or whatever the city would call that that just shows where the next closest structure is?

Supervisor Kurt Craanen (Inspections) 11:18

Yes. Oh, you mean the aerial?

Kelly Sperl (BOZ Member) 11:21
GIS.

Paul McCann (BOZ Chair) 11:22
Yeah. So the neighbor will retain at least six feet to

Erin O. (Resident) 11:32
He'll have exactly six feet then if I, if I get the variance,

Paul McCann (BOZ Chair) 11:39
Okay, so his setback—his property will remain compliant.

Erin O. (Resident) 11:42
Correct.

Paul McCann (BOZ Chair) 11:43
Okay. And that's verified or you guys

Erin O. (Resident) 11:45
That was the goal.

Supervisor Kurt Craanen (Inspections) 11:47
We looked at that.

Paul McCann (BOZ Chair) 11:48
Okay. So you do need a variance for a four-and-a-half-foot setback.

Kelly Sperl (BOZ Member) 11:54
One and a half. She's gonna buy four feet.

Paul McCann (BOZ Chair) 11:57
That's right. She needs a variance for four and a half—

Kelly Sperl (BOZ Member) 12:04
One and a half foot.

Kelly Sperl (BOZ Member) 12:06
She's going to buy four feet from the neighbor. She's already got a spare six inches, so she needs a one and a half—

Paul McCann (BOZ Chair) 12:06
—setback.

Paul McCann (BOZ Chair) 12:13
—foot variance on a four-and-a-half-foot setback.

Kelly Sperl (BOZ Member) 12:16
Six-foot setback.

Karen Cain (BOZ Member) 12:18
One and a half feet will give her six feet setback.

Paul McCann (BOZ Chair) 12:22
A one-and-a-half-foot variance will give her a four-and-a-half-foot setback. And the requirement is six feet.

Kelly Sperl (BOZ Member) 12:29
Correct.

Paul McCann (BOZ Chair) 12:30
So she's getting a variance for one and a half feet.

Karen Cain (BOZ Member) 12:32
Yes.

Paul McCann (BOZ Chair) 12:33
She'll have a setback of four and a half feet.

Erin O. (Resident) 12:35
Correct?

Karen Cain (BOZ Member) 12:35
Yes.

Paul McCann (BOZ Chair) 12:36
Thank you.

Karen Cain (BOZ Member) 12:37
Gotcha.

Paul McCann (BOZ Chair) 12:41
All right. Now we know where the building is.

Kelly Sperl (BOZ Member) 12:45
Can we see that other site plan, Kurt, that had the proposed garage on it?

Supervisor Kurt Craanen (Inspections) 12:52
I'll find it here. Give me a minute. Okay, so it was in last month's.

Paul McCann (BOZ Chair) 13:10
Okay, while he's looking for that, can I just ask you a question about—the requirement for us to be able to grant a variance is for you to identify a hardship.

Erin O. (Resident) 13:21
That is correct.

Paul McCann (BOZ Chair) 13:22

And I'm trying to understand why you can't be one and a half feet over. What's the nature of this property? Or what's the—what are the hindrances that you have to put in a compliant structure?

Erin O. (Resident) 13:36

Okay, the situation's a little bit different. I need an attached garage to be able to get to my patients with a life-threatening condition. I have made it to the hospital too late before. When my beeper goes off at two in the morning, I need to speed to the ER. People that have life threatening conditions where a clot could kill them. So I want to make sure that I'm doing everything I possibly can to save a life in time. When I—my beeper goes off, sometimes I—if it's raining, I'm drenched in my car because I don't have time to put a coat on. I run. I grabbed my scrubs. I grabbed my coat. I get to my car, and I speed to get to the patient in time, because one of the main things I do is I look for a blood clot. So someone could throw a pulmonary embolism, or I prep someone for an emergency bypass surgery. So the situation is a little bit different. I want to make sure that I'm doing everything I can to make sure that I'm there for the patient right away. And for me to go outside and brush off my car....

Paul McCann (BOZ Chair) 14:57

Oh yeah, I think I understand why you need a garage. And I think I understand why you need an attached garage. I mean, I can make that leap. I don't know why you need a garage that isn't one and a half foot narrower than the one you're proposing to build.

Erin O. (Resident) 15:14

So the architect said that the minimum amount of space would be what I've, you know, what I'm asking for, for that variance. They said that to go to six inches before the lot line, before I've purchased from the neighbor—they said to be able to do, to create the door, and whatever space they need between the door—the way the house is laid out, they said that would be the minimal amount of space that I would need to build the garage. So I'm having the smallest garage possible to make this work.

Paul McCann (BOZ Chair) 15:52

I have the benefit of having two architects on the board here.

Erin O. (Resident) 15:55

Okay.

Paul McCann (BOZ Chair) 15:56

So, I mean, I'm gonna just ask—I haven't really reviewed anything that tells me what necessitates this kind of a footprint. Is there any opinion? And I'm not asking them professional opinions. But I—it seems that a garage that would comply, especially after you buy the additional property that you'd need, that you could get a six-foot setback.

Kelly Sperl (BOZ Member) 16:22

Which way does the vehicle approach the garage? I'm kind of trying to figure out what we have here.

Paul McCann (BOZ Chair) 16:29

I think the driveways on the bottom of the picture.

Erin O. (Resident) 16:32

It would be this way. And they said, this is the minimum amount that they need to have—

Kelly Sperl (BOZ Member) 16:39

You know what that dimension is? I can't.

Someone 16:43

I can't read it.

Kelly Sperl (BOZ Member) 16:44

I can't read it either.

Paul McCann (BOZ Chair) 16:45

Kurt, do we have this? Does the board have this drawing?

Supervisor Kurt Craanen (Inspections) 16:51

Our copy? No.

Erin O. (Resident) 16:52

That dimension I believe, is 19.

Paul McCann (BOZ Chair) 16:57

Is this a single car garage or a two-car garage?

Erin O. (Resident) 17:00

It's a two-car garage.

Kelly Sperl (BOZ Member) 17:07

Well, I don't know that it's big enough. Michel, you can comment too. You to do this as well. But I don't think a 19-foot-wide garage is adequate to be considered a two-stall garage.

Erin O. (Resident) 17:18

They said that that's the smallest that they could do. The architect that I went through Thrivent through Appleton with the smallest garage to work—for that to work out.

Michael Babbitts (BOZ Member) 17:33

Very tight.

Kelly Sperl (BOZ Member) 17:34

Very tight.

Erin O. (Resident) 17:35

It would be tight, but

Michael Babbitts (BOZ Member) 17:36

Get skinny cars.

Kelly Sperl (BOZ Member) 17:37

Yeah.

Paul McCann (BOZ Chair) 17:38

Well I—again, we can, we can discuss what's appropriate for this property. Because that's what we need to understand. There doesn't seem to be a hardship that would keep you from building a garage, an attached garage. Maybe it's only a single car garage. Maybe it's two cars deep instead of two cars wide. But it just doesn't seem like there is a hardship here. I understand your personal need for a garage and fully appreciate that. But it seems this property is suitable or suited for something a little bit different than what you have designed here.

Erin O. (Resident) 18:12

I would have to object to that, because—

Paul McCann (BOZ Chair) 18:15

Well, that's what you're here for.

Erin O. (Resident) 18:18

The reason I would object to that is because my husband would be parked behind me. If my beeper goes off, I can't move his car and then play, you know, moving cars. I need to get to the ER.

Paul McCann (BOZ Chair) 18:32

Sure.

Erin O. (Resident) 18:33

So I have to have a two-car garage, so that I'm not moving someone else's car, because we thought about that as well.

Paul McCann (BOZ Chair) 18:41

Okay.

Erin O. (Resident) 18:43

Part of the reason this is really important to me is because no one got to my mom last October. She died of a blood clot. So this is—I want to do everything I can so that this doesn't happen to other people. Every second counts.

Paul McCann (BOZ Chair) 19:06

Sure. And we appreciate that and are sorry about your loss. I—my concern would be—I mean, this is with, for the lifetime of the property. Right? And it sets a bit of a precedent for anybody else who wants to build a garage four and a half feet from the lot line that doesn't have a physical limitation of the property that wouldn't allow them to enjoy their house. Are there any other questions of the applicant from the board?

Michael Babbitts (BOZ Member) 19:41

I guess, is the lot a standard sized lot for the city, and is it a standard width?

Kelly Sperl (BOZ Member) 19:52

And the size of—underneath the staff analysis, Michael, was the size of the property is 7200 square feet, 60 by 120, and an RB1 zoning is minimum 6000 square feet. So.

Michael Babbitts (BOZ Member) 20:05

And I'm guessing the 60-foot frontage is standard. There's nothing atypical about that.

Paul McCann (BOZ Chair) 20:10

Yeah, if it were the 50-foot frontages that we deal with in some of the older neighborhoods, that could be presented ma'am as a hardship. "Look, I have a 50-foot lot; you can't put a two-car garage on a 50-foot lot attached to a house." So you do have that additional 10 feet that that—and the seven foot nine on the on the other side of your house is the foot and a half you need, which is, you know, unfortunate that the house isn't six feet from your other landline and you'd be right where you need to be. Any other questions of the applicant?

Karen Cain (BOZ Member) 20:51

I just have a question. It's it says in the notes here that the applicant currently has a 200-foot garage and has the option to build a new code compliant detached garage in the rear yard. Is that an option for you? Is that helpful for you?

Erin O. (Resident) 21:06

It's not because many times—because where we live, it's hard for me because I'm totally drenched. I don't even put on a coat when my beeper goes off. I run. I grab my scrubs. I grab my coat. I get in the car, and I literally, I go as fast as I can to the ER. And if I have to change into my scrubs while I'm looking up the patient history, that's what I do. So this has happened to me a number of times where I have to get in the car, and I'm totally drenched. And I—everything is wet. So it's just a miserable situation for me.

Paul McCann (BOZ Chair) 21:55

Okay. That's all the questions we have. I guess I'll entertain a motion on the variance.

Karen Cain (BOZ Member) 22:05

In the interest of moving it forward for further discussion, I move that we approve this variance request.

Scott Engstrom (BOZ Member) 22:11

Second.

Paul McCann (BOZ Chair) 22:13

Moved and seconded. Any further discussion? Miss Cain, is there a basis? Just what hardship basis would you? Or are you just putting it on the table?

Karen Cain (BOZ Member) 22:29

Putting it on the table.

Paul McCann (BOZ Chair) 22:29

Okay. Thank you.

Kelly Sperl (BOZ Member) 22:31

Yeah, I think I agree with your statements. I don't I don't know how we how we find a var—er a hardship in this to approve a variance, unless I'm missing something.

Scott Engstrom (BOZ Member) 22:44

I think we're even beyond that, Kelly. I think we're constrained by case law. Because we don't have anything here where it's not particular to the property owner, and when it's just particular to the property owner, I believe there's case law on this that we're not able to consider that, especially if it's the sole basis.

Paul McCann (BOZ Chair) 23:08

I agree. Any further discussion by the board? Then we'll take a vote. Miss Cain?

Karen Cain (BOZ Member) 23:17

No.

Paul McCann (BOZ Chair) 23:18

Mr. Sperl?

Kelly Sperl (BOZ Member) 23:19

No.

Paul McCann (BOZ Chair) 23:20

Mr. Engstrom?

Scott Engstrom (BOZ Member) 23:21

No.

Paul McCann (BOZ Chair) 23:22

Mr. Babbitts?

Michael Babbitts (BOZ Member) 23:22

No.

Paul McCann (BOZ Chair) 23:24

The motion is denied.

Erin O. (Resident) 23:26

Thank you.

Paul McCann (BOZ Chair) 23:29

Sorry, the variance is denied.