

**City of Hudson
Board of Zoning and Building Appeals**

Appeals Docket No. 2015-11

**42 Aurora Street
Applicant: Ted Georger, GCM
Owners: Michael and Bambi Knights**

Conclusions of Fact

The Board of Zoning and Building Appeals of the City of Hudson, Ohio, make the following conclusions of fact in the above-referenced matter.

After the hearing of evidence on this matter at a public hearing at public meetings held on September 17, 2015 and October 15, 2015, and considering the standards set forth in the Land Development Code with respect to the consideration of area variance applications, the Board of Zoning and Building Appeals finds that the Applicant/Owners have not met their burden of proof to show that practical difficulties exist to warrant a variance from Section 1206.03(d)(3) of the Land Development Code to permit an accessory structure detached garage in the side yard.

1. The property at issue is 42 Aurora Street, Hudson, Ohio 44236 (hereinafter the "Property").
2. The Property is located in District 4, Historic Residential Neighborhood, the City's Historic District, and is improved with an existing single-family dwelling.
3. The Property is surrounded by single-family residential homes to the east, south and west. The First Congregational Church of Hudson is to the north of the Property.
4. The house was built in 1878 and Michael and Bambi Knights bought the Property in December of 2014.
5. The existing rear yard setback is less than the required minimum rear yard setback. The evidence in the record shows that there is only thirteen feet five inches (13' 5") from the rear of the house to the rear property line.
6. The Knights have been renovating the house for several months pursuant to all required City permits and approvals. The Knights' contractor is Ted Georger.
7. During the renovation of the house, Mr. Knights' father became ill and the Knights decided that Mr. Knights' parents should live with them. The Knights modified their renovation plans to convert the existing attached two-car garage into living space, specifically a family room. The proposed plans in the record show that the first floor will also include a "1st Floor Master Option/Family

Room” and a “Parlor”. Based on the evidence in the record, the Knights plan to use the 1st Floor Master Option/Family Room” as a bedroom for Mr. Knights’ parents. The plans also show that there will be three bedrooms upstairs.

8. The Land Development Code requires that each dwelling in District 4 have at least a one-car garage. See Section 1205.07(d)(9)(D)(iii). The Knights decided to construct a detached one-car garage on the Property but due to existing site conditions, can only locate the detached garage in the side yard. The Land Development Code does not permit accessory structures to be located in the side yard. See Section 1206.03(d)(3).
9. Under the Land Development Code, the maximum height for any structure in District 4 is thirty-five feet (35’). See Section 1205.07(d)(8)(A).
10. The Knights submitted an application to the Hudson Board of Zoning and Building Appeals (hereinafter “BZBA”) requesting a variance from Section 1206.03(d)(3) to construct a detached one-car garage in the side yard (hereinafter the “Application”).
11. The BZBA considered the Application at public hearings held during its regularly scheduled meetings on September 17, 2015 and October 15, 2015.
12. At the September 17, 2015 meeting, the Application included two designs for the detached one-car garage, both of which were two-story designs. The Architectural and Historic Board of Review preliminarily reviewed the two designs and suggested that the height be reduced to seventeen feet nine inches (17’ 9”).
13. The Knights wanted a two-story detached one-car garage because additional space is needed for storage.
14. The evidence in the record shows that the detached one-car garage complies with the City’s impervious cover requirements.
15. The evidence in the record shows that downspouts from the detached one-car garage are designed to drain into a storm drain at Aurora Street.
16. At the October 15, 2015 meeting, the Application was modified in response to neighbors’ comments and included two new designs – one being a one and a half story option with a height of sixteen feet (16’) and the other being a one-story option with a height of thirteen feet (13’). The Architectural and Historic Board of Review preliminarily reviewed the two new designs and expressed a preference for the one and a half story option.
17. Several residents attended the public hearing and spoke in opposition to the Application for reasons, including but not limited to:

- a. Water drainage concerns.
 - b. Impacts on the neighborhood, including the scale of the accessory structure and visual impacts.
 - c. Concerns that the Property is being overbuilt.
 - d. The owners can use the existing attached garage and eliminate the need for the variance.
 - e. The owners can park vehicles in the existing driveway.
 - f. Concerns that a variance to permit the detached one-car garage in the side yard will lower property values.
18. Certain residents in attendance at the public hearing also spoke in support of the Application for reasons, including but not limited to:
- a. The variance will not substantially alter the existing neighborhood because some properties in the neighborhood have larger detached garages or more than one driveway.
 - b. The proposed detached one-car garage will permit one car to be stored inside.
 - c. The proposed detached one-car garage will improve property values in the neighborhood.
19. The evidence in the record shows that the properties in the neighborhood vary in size. Also, some properties in the neighborhood have two-story detached garages and/or detached garages located in the side or front yard. However, some properties in the neighborhood are less densely developed than the Property.
20. The property in question will yield a reasonable return and there can be a beneficial use of the Property without the variance because there is an existing attached garage located behind the main mass of the house, but the owners chose to convert it into living space. The evidence in the record shows that the plans for the house include a first floor master bedroom and a parlor. The owners' preference to convert the existing attached garage into additional living space, specifically a family room, does not constitute a practical difficulty warranting the granting of the variance.
21. The variance is substantial because the proposed location of the detached accessory structure is visible from the street and it is separated from the existing two-story house.
22. The essential character of the neighborhood would be substantially altered and adjoining properties would suffer a substantial detriment as a result of the variance because the size and height of the garage will impact the neighborhood and the community.
23. The variance would not adversely affect the delivery of governmental services (e.g. water, sewer, garbage).

24. The owners purchased the Property with knowledge of the zoning restriction.
25. The owners' predicament feasibly can be resolved through some method other than a variance because the owners elected to change the existing attached garage into living space. Again, the plans for the house include a first floor master bedroom and a parlor. The owners' preference to convert the existing attached garage into additional living space, specifically a family room, does not constitute a practical difficulty warranting the granting of the variance.
26. The spirit and intent behind the zoning requirement would be observed and substantial justice done by denying the variance because the owners created the need for the variance by electing to convert the existing attached garage into living space.

APPROVED BY:

The City of Hudson Board of Zoning and Building Appeals

Date: _____, 2015

David Lehman, Chairman

