

**City of Leawood
Board of Zoning Appeals Minutes
August 22, 2018 – 5:30 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive
Leawood, KS 66211**

CALL TO ORDER/ROLL CALL:

Chairman Clawson: I'd like to call to order the August 22, 2018 Board of Zoning Appeals Meeting. Could I have roll call, please?

MEMBERS PRESENT: Munson, Dr. Peppes, Clawson, Hawk, Bussing, and Farrington.

MEMBERS ABSENT: Dunn,

STAFF PRESENT: Thompson, Knight,

APPROVAL OF MINUTES: Approval of the minutes from the July 25, 2018 Board of Zoning Appeals meeting

A motion to approve the minutes from the Board of Zoning July 25, 2018 Board of Zoning Appeals meeting was made by Bussing; seconded by Hawk. Motion carried with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Chairman Clawson: Our only case tonight is in New Business.

NEW BUSINESS:

Case 41-2018 – Adam Abrams/Owner – Request for a variance to the required side yard setback in accordance with the LDO, Section 16-2-5.3(D) in an R-1 District for property commonly known as 8809 Aberdeen Street.

Staff Report:

Wade Thompson made the following presentation:

Mr. Thompson: The applicant has submitted plans for 2 additions to the home. Both of the additions will be on the north side of the home. The addition on the front side is to expand the garage 10', making it symmetrical with the south portion of the home. The addition on the rear of the home is to extend the existing wall 11.5'. Both additions are consistent with the existing wall that was originally constructed 9'6" from the north property line. A variance of 5.5' is being requested.

Chairman Clawson: Are there questions for staff concerning this case? You noted that since it was constructed 6" less than the 10', it's a variance as opposed to an exception.

Mr. Thompson: That is correct.

Chairman Clawson: Is the applicant here?

Applicant Presentation:

Adam and Amy Abrams, 8809 Aberdeen Street, appeared before the Board of Zoning appeals with a PowerPoint presentation and made the following comments:

Mr. Abrams: This is Single Family Residential R-1 zoning. As stated, we are seeking a variance to Section 16-2-5.3(D). As noted, the house was built in the 1950s, and the north wall of the garage was built 9'6" along the side property line. Goals of our project are to get more garage space, add a bathroom by the pool area, bring the laundry upstairs, and remodel the mudroom and kitchen. We have received written consent from neighbors within 200 feet as well as from our homes association. Moving the garage forward 10' would make it even with the plane of the house on the south. The back addition will be where the wooden deck is currently. We have included the survey as well as the project plan submitted with the variance application for reference. We also included an updated plan, with the mudroom relocated to the interior of the house and an expansion of the garage.

Mr. Hawk: Is the swimming pool existing or proposed?

Mr. Abrams: It is existing.

Mr. Hawk: What is the height of the fencing?

Mrs. Abrams: The wrought iron fence is 4'.

Mr. Bussing: On the garage addition, are you going to change the pitch of the roof from east to west to north to south like the south side of the house?

Mr. Abrams: The goal is to match the same pitch on the south side. The back page of justifications discusses the factors you consider. Uniqueness: the house is existing, built in the 1950s. There have been no alterations to that wall. The pool in the back yard limits the expansion opportunity. Since we do want to add on to the garage portion and make more garage space, there is really nowhere else to go, other than forward and backward on the garage side. Will it adversely affect the neighbors or be opposed to the general intent and spirit of the development ordinance, no. We haven't had any concerns of any neighbor, including our neighbor at 8801 Aberdeen, which is the adjacent property owner. The project also had no adverse change to water drainage or the grade. The proposed remodel is consistent with the architectural appeal of the neighborhood. As far as the hardship to the property owner, the wall was built at 9'6", and the entire garage structure is dependent on that wall. The house was purchased in 2009. We didn't anticipate the strain on the function as far as a growing family and more cars. We potentially lose functionality of the garage and proposed rear addition. We love Old

Leawood and the characteristics of that neighborhood as well. It will not adversely affect the public.

Mr. Bussing: You know if you make your garage bigger, you're just going to get more stuff to put in it.

Mr. Abrams: Of course.

Chairman Clawson: I think when the house was built, the setback requirement was 10'. I'm guessing this was probably just a construction error in making the house a little wider, or it could have been the survey. Are there any questions for the applicant? Thank you. There is no one in the audience to speak for or against this. This is a variance, so we have to go through the five factors. The first is Uniqueness.

Mr. Bussing: I think the fact that this structure is a legal, nonconforming structure makes it fairly unique in this city. We don't have a lot of those. Most are up here in this Old Leawood area. Still, I think it poses a unique issue for the property.

Uniqueness criterion satisfied with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Chairman Clawson: Rights of Adjacent Property Owners. All the cards went out, I presume?

Mr. Thompson: All the cards did go out, and I have several of the forms that they provided the neighbors. I have one from Elizabeth Chilcot on behalf of the Leawood Hills HOA. They are in support.

Rights of Adjacent Property Owners satisfied with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Chairman Clawson: Hardship.

Mr. Bussing: As staff has indicated, if a variance is not allowed, they would have a very difficult time maintaining the symmetry of the house.

Ms. Farrington: They have done a very good job of working within the constraints that they have. The issue is the side yard setback, and they have an existing pool that prevents them from going farther to the rear. They can't go much farther on the front end because of the front yard setback. They have contained it within the only parameters they have.

Hardship criterion satisfied with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Chairman Clawson: Public Safety and General Welfare. Staff notes that it would not be affected.

Public Safety and General Welfare criterion satisfied with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Chairman Clawson: Spirit and Intent.

Mr. Munson: I think the project, as proposed, is well within the spirit and intent of being consistent with the way the neighborhood looks as compared to some of our cases where we're asked to add thousands of square feet to a structure.

Mr. Bussing: I thank the homeowners for trying to work within the existing framework of their house.

Spirit and Intent criterion satisfied with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

A motion to approve Case 41-2018 – Adam Abrams/Owner – Request for a variance to the required side yard setback in accordance with the LDO, Section 16-2-5.3(D) in an R-1 District for property commonly known as 8809 Aberdeen Street – was made by Hawk; seconded by Bussing. Motion carried with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Mr. Hawk: I would like to commend the homeowners for a wonderful presentation.

Ms. Knight: I would suggest in light of the time that we table the Executive Session until the September meeting. There is nothing urgent that we covered, and since it was a late addition to the agenda, I will agree to table it.

MEETING ADJOURNED.