

**The City of Milford Board of Zoning Appeals met in Regular Session in Council Chambers at 745 Center Street on Thursday, May 9th, 2019.**

**The meeting was called to order at 8:00 p.m. by Geoff Pittman.**

**Present:** Geoff Pittman, Lisa Evans, Jon Lenihan, Ralph Vilaro, Jr.

**Staff:** Pam Holbrook, Assistant City Manager

**Visitors:** Matt Thompson, 11 Laurel Avenue

***Roll Call:***

All members were present at tonight's meeting, except Rick Raabe. Mr. Vilaro made a motion to excuse Mr. Raabe; seconded by Ms. Evans. The motion was approved 4-0.

**APPEAL 19-02 Alma Granite.**

Ms. Holbrook read the following Staff Report into the record:

**Project:** Thompson Variance Request  
**Location:** 11 Laurel Avenue, Milford, OH 45150  
**Property Owner/Applicant:** Matt Thompson  
11 Laurel Avenue  
Milford, OH 45150  
**Tax Parcel Id:** 210706.016B  
**Zoning:** R-3, Single Family Residential District  
**Existing Use:** Single Family Dwelling

The City received an application submitted by Matt Thompson, requesting a variance from Section 1147.10, Minimum Side Yard Setback of the Milford Zoning Ordinance which specifies that "The minimum side yard setback for properties in this district shall be six (6) feet from each side lot line." The applicant is proposing to construct an addition to the existing principle structure within the 6-foot side setback.

**ADJACENT LAND USE**

*All adjacent property is zoned R-3 Single Family Residential District.*

**BACKGROUND AND ANALYSIS**

1. The subject site is a 0.215-acre parcel (9,365 square feet) located on Laurel Avenue. Mr. Thompson purchased the property in January 2009. The lot is considered a legal, nonconforming use because, at a minimum, it does not meet the minimum side yard setback as required in Section 1147.10, Minimum Side Yard Setback in the R-3 zoning district.

2. A 1,015 square foot two-story home sits on the lot and was built in 1940.
3. The applicant indicated that he would like to add a bathroom on top of a current bathroom.
4. Original permit documentation for the first-floor bathroom could not be located. , which is not unusual for work done a number of years ago.
5. Section 1197.06 states that 'non-conforming structures may not be enlarged or altered in any way.'
6. Applicant submitted a variance application requesting permission to construct an addition in the 6-foot side yard setback.
7. The existing first floor bathroom appears to extend into the six-foot setback approximately 4' 11". This addition would be built above the original bathroom.
8. Adjacent property owner letters were sent to property owners within 200 feet of the subject parcel. The City has not received any objections from adjacent neighbors.

The Board of Zoning Appeals shall hold a public hearing as set forth in 1131.06. The Board of Zoning Appeals shall review each application for an area variance to determine if it complies with the purpose and intent of this Code and evidence demonstrates that the literal enforcement of this Code will result in a practical difficulty. A practical difficulty exists whenever a zoning standard unreasonably deprives a landowner of a permitted use of their property. All of the factors set forth in this section do not need to be satisfied; rather, they shall be weighed together in the analysis. The factors to be considered and weighed in determining whether a property owner seeking an area variance has encountered practical difficulties in the use of his property include, but are not limited to:

1. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or conditions;  
*The principal structure (the house) was built in 1940. It is possible the original first floor bathroom was built prior to the rules establishing a six-foot side setback in the Zoning Ordinance.*
2. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;  
*The variance request does not affect the property's primary use as a single-family dwelling.*
3. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;  
*It would appear that the applicant is able to make reasonable use of his property as is.*
4. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;  
*It does not appear that the character of the neighborhood would be substantially altered; staff has requested a letter from the adjacent property owner stating that they are not opposed to the addition.*
5. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and trash pickup; NA

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6. Whether the property owner purchased the property with knowledge of the zoning restrictions;  
*The property owner appears to be unaware of any zoning restrictions.*
7. Whether special conditions or circumstances exist as a result of actions of the owner; NA
8. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;  
*The applicant could forego building a second-floor bathroom; however, Staff does not see an issue with the addition unless the neighbor has a concern.*
9. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;  
*Substantial justice requires that the interests of the community, neighborhood and adjoining property owners be given due consideration. Staff is satisfied that this addition would not negatively impact the neighborhood, the applicant does bear the burden of proof to the satisfaction of the Board of Zoning Appeals to show that his proposal will not be a detriment to the neighborhood.*
10. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.  
*Approving the applicant's variance request would not appear to confer on the applicant any special privilege that is not also shared by other property owners in this neighborhood.*

#### **RECOMMENDATION**

Staff recommends approval of the variance to construct an 2<sup>nd</sup> floor addition within the six-foot side yard setback.

Mr. Thompson stated that it is a simple addition to the second level on top of an existing bathroom. The BZA had no questions for the applicant.

Mr. Vilardo made a motion to approve the variance request, the motion was seconded by Ms. Evans.

#### **ADJOURNMENT**

There being no further business to come before the Board of Zoning Appeals tonight, Mr. Pittman made a motion to adjourn the meeting at 8:10 p.m.; followed by a second by Ms. Evans. The motion carried by a 4-0 vote.

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Pam Holbrook, Assistant City Manager

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Geoff Pittman

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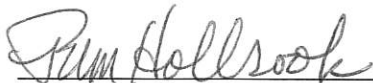
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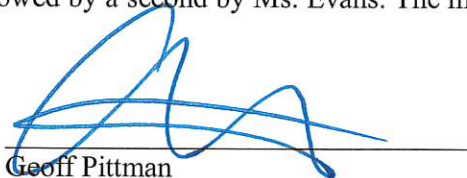
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