

**MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
TUESDAY, JUNE 4, 2019, 4:00PM**

DOCKET 1270

25 Rio Vista Drive

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Tuesday, June 4, 2019 at City Hall.

The following members of the board were present:

Chairman Liza Forshaw
Ms. Laura Long
Ms. Kristen Holton
Mr. Lee Rottmann
Ms. Elizabeth Panke

Also present were: Erin Seele, City Attorney; Anne Lamitola, Director of Public Works; Roger Stewart, Building Commissioner; Lori Wrobel, Administrative Assistant; Councilman John Fox and Mayor Nancy Spewak.

Chairman Forshaw called the meeting to order at 4:03 PM.

Approval and Adoption of the Agenda

Ms. Panke made a motion to adopt the agenda. Ms. Long seconded the motion. All those present were in favor.

Approval of the Minutes from the January 8, 2018 meeting

Ms. Panke made a motion to approve the Minutes as submitted. Mr. Rottmann seconded the motion. All those present were in favor; the minutes were approved.

Docket 1270 Petition is submitted by Diana Tucker for the property at 25 Rio Vista Drive. Petitioner is requesting relief from the Building Commissioner denying a garage addition due to encroachment into the side yard and rear yard setback. This is in violation of Ord#1175, Section V-B (1). Building Commissioner has also denied a retaining wall encroaching into the side yard setback, which is in violation of Ord# 1175, Section IV-F (3).

Mr. Stewart stated the applicant wishes to update an existing non-conforming house by adding a one-story addition to the garage to allow for a first-floor master bedroom. The current garage encroaches into the rear yard setback, violating Ord#1175, Section V-B (1). The proposed addition would follow the existing line of the rear garage wall as built in 1954 and would encroach 3.5' into the 30' rear yard. The proposed retaining wall encroaches into the side yard setback, violating Ord# 1175, Section IV-F (3).

Chairman Forshaw introduced the following exhibits to be entered into the record:

- Exhibit A – Zoning Ordinance 1175, as amended;
- Exhibit B – Public Notice of the Hearing;
- Exhibit C – Letter of Denial dated April 29, 2019;
- Exhibit D – List of Residents sent notice of meeting;
- Exhibit E – Letter from the resident requesting the variance dated April 30, 2019;
- Exhibit F – Entire file relating to the application

Dave Regan, architect for appellant Diana Tucker, took the oath before addressing the board. The existing garage is already encroaching into the setback. They are not requesting the lines be changed. The retaining wall is necessary as the adjoining yard (27 Rio Vista) is considerably elevated.

Jacob Buchowski, 27 Rio Vista Drive, took the oath and asked the board to deny the appeal due to the undesirable precedent and the aesthetic affect this change would have on the neighborhood.

Diana Tucker shared an email from Mary Williams, a neighbor with property behind 25 Rio Vista, reporting no objections to the project.

Discussion ensued regarding the retaining wall. Dave Regan was agreeable to adapting the plans for the retaining wall to conform to the zoning code.

After discussion of the facts presented, including the existing nonconforming encroachment by the garage into the rear yard setback, the relatively minor extent of the proposed encroachment, and the minimal impact of the addition on the neighbor due to a high privacy fence and the elevation of the grade of the neighbor’s property, Ms. Long made a motion to overturn the decision of the Building Commissioner and grant the variance for the addition. Ms. Panke seconded the motion. The vote was as follows:

Chairman Liza Forshaw	“approve”
Mr. Lee Rottmann	“approve”
Ms. Laura Long	“approve”
Ms. Kristen Holton	“approve”
Ms. Elizabeth Panke	“approve”

With five (5) votes in favor and zero (0) against, the motion passed, the variance for the addition was granted, and the ruling of the Building Commissioner was overturned.

Ms. Panke made a motion to overturn the decision of the Building Commissioner and grant the variance for the retaining wall encroaching into the side yard setback. Ms. Long seconded the motion. The vote was as follows:

Chairman Liza Forshaw	“disapprove”
Mr. Lee Rottmann	“disapprove”
Ms. Laura Long	“disapprove”
Ms. Kristen Holton	“disapprove”
Ms. Elizabeth Panke	“disapprove”

With zero (0) votes in favor and five (5) against, the motion failed, the variance for the retaining wall was denied, and the ruling of the Building Commissioner stands.

Adjournment

At 5:20pm Ms. Holton made a motion to Adjourn the meeting. Mr. Rottmann seconded the motion. A unanimous vote in favor was taken.

DOCKET 1270

DATE OF HEARING	June 4, 2019
NAME	Diana Tucker
DESCRIPTION OF PROPERTY	25 Rio Vista Drive
CAUSE FOR APPEAL	Petitioner is requesting relief from the Building Commissioner denying a garage addition due to encroachment into the rear yard setback. This is in violation of Ord#1175, Section V-B (1). Building Commissioner has also denied a retaining wall encroaching into the side yard setback, which is in violation of Ord# 1175, Section IV-F (3).
RULING OF THE BOARD	After discussion, on the basis of the evidence presented, the Board finds that practical difficulty exists in the case of the garage addition, the decision of the Building Commissioner is reversed and the request for variance for the addition is granted. The request for a variance for the retaining wall is denied.

Ms. Liza Forshaw, Chairman