

RECEIVED

DEC 21 2006

AM _____ PM _____
PLANNING DEPARTMENT
BY _____

City of Kirkland
Attn. Planning Dept.
123 Fifth Ave
Kirkland, WA 98033

Reference File Number: ZONO6-00030 setback variance

We are the homeowners across the street from the proposed variance to eliminate setback referenced above. Please let the records reflect that while we wish our neighbor the best with his or her improvement, we do object to the setback as it would cause considerable diminishment of the open look for both houses across the street as well as a negative impact on the open look of the city street.

It is our understanding that the height of the building will not be changed (above the existing height of the main building). If this is incorrect we vigorously object to any construction which would have an impact on the view.

Thank you for your careful consideration of this objection.



Arman Manoucheri
Urban Planner



Fatima Esfahani

homeowners of 4610 and 4618 Lake Washington Blvd. NE, Kirkland

ATTACHMENT 6
ZONO6-00030/SAR07-0004

Stacy Clauson

From: res0sf9v@comcast.net
Sent: Thursday, January 18, 2007 6:11 PM
To: Stacy Clauson
Cc: res0sf9v@comcast.net
Subject: Re: ZON06-00030 - OPPOSITION LETTER

Attachments: ZON06-00030 - Proposed Drawings



ZON06-00030 -
Proposed Draw...

Dear Ms. Clauson,

We want to go on record with our opposition to the Stephanus variance requested in File # ZON06-00030. We live across the boulevard from this duplex & see no legitimate reason to add to the environment-polluting traffic already congesting Kirkland & the Eastside by allowing the applicant to increase available parking space. Additionally, the duplex in question appears overly massive for its site, & allowing the owner to cover yet more of this lot for automobiles seems a very poor precedent to set. If this garage enlargement is approved, pedestrians on the sidewalk will be faced with a reduced lake view &, on a personal note, the view of the lake from all floors of our home will also be diminished. If they will not be adhered to, why does Kirkland establish building setbacks at all?

Richard & Laura Schafer
4630 Lk Wa Blvd NE
Kirkland, WA 98033

425 822 8663

----- Original message -----

From: "Stacy Clauson" <SClauson@ci.kirkland.wa.us>

> Dear Richard,

>

> Attached are copies of the proposal for this proposal. If you have
> any questions, please feel free to contact me. Thank you.

>

> Stacy Clauson

> Planner

> City of Kirkland

> Planning and Community Development

> 123 Fifth Avenue

> Kirkland, WA 98033

> 425-587-3248

> sclauson@ci.kirkland.wa.us

>

>

ATTACHMENT 7

ZON06-00030/S11R07-00030



JOHNS MONROE MITSUNAGA P.L.L.C.

RECEIVED

JUL 11 2007

AM PM PLANNING DEPARTMENT

BY

Robert D. Johns Michael P. Monroe Darrell S. Mitsunaga Duana T. Kolouskova

Ms. Stacy Clauson, Planner
Planning and Community Development
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033

July 11, 2007

Re: Request for Variance
Stephanus Residence, 4611 Lake Washington Blvd. (additional garage parking)

Dear Ms. Clauson:

This letter is provided in response to the public comments regarding the Stephanus setback variance. Attached hereto is also response letter from Mr. Stephanus' architect, Mark Travers. Also submitted today are (1) an alternative plan set created in response to public comments (submitted under separate cover) and (2) a shoreline substantial development permit application and attendant fee.

Response to Public Comments, Generally

As a primary matter, there is no question that the area subject to the variance is the only area on the property that can accommodate the necessary additional enclosed parking.

Only three members of the public submitted comments regarding the application. These comments focus almost exclusively on a fear over loss of view. However, neighboring property owners' and the general community's rights to views of Lake Washington are protected under the view corridor requirements of KZC 24.05.150. As you are aware based on our initial discussions prior to application, the proposed garage was specifically re-designed from an earlier concept so as not to encroach into that view corridor. Apart from this view corridor, the general public has no other view rights over the property.

The standard for a variance is not one of absolutes or impossibility. Instead, courts have framed the question of whether a variance is requested as a result of a 'practical difficulty' or an 'unnecessary hardship'. See e.g. Martel v. City of Vancouver, 35 Wn. App. 250 (1983). The purpose of a variance is to allow exceptions in appropriate

ATTACHMENT 8
2007-00030/31/2007-00004

circumstances, most commonly to area requirements such as setbacks (see below). *Hoberg v. Bellevue*, 76 Wn. App. 357 (1994).

There are two types of variances: use variance and area (or bulk) variances. A use variance would permit a use not otherwise allowed outright or conditionally in the applicable zone. An area variance permits variation from setbacks, height restrictions and the like. In this case, the applicant seeks an 'area variance'. The type of variance is important because courts, and consequently local jurisdictions, "generally approve area variances upon a lesser showing of hardship or practical difficulty than is required for a use variance." *Martel v. City of Vancouver*, 35 Wn. App. 250, 256.

Finally, generalized neighborhood discontent or disagreement with a proposal is not a sufficient or legal basis for denial. *Maranatha Mining v. Pierce County*, 59 Wn. App. 795 (1990). The public comments focus on a desire to retain current views over Lake Washington. There is no evidence that the proposed improvements would result in significant loss of view for properties located across the public road and uphill. However, as noted above, the general public's right to view is protected by the view corridor. This right is not impacted by the variance. Apart from this view corridor, the few comments reflecting general displeasure or disagreement with the variance are simply not sufficient to support a denial. These comments do not refute the need and justification for the variance as described in the original application.

Specific Response to Deitch Comments

The majority of comments submitted regarding this variance come from the neighboring property owner to the west, Mr. Deitch. Mr. Deitch's property benefits from a 15 foot access easement over Mr. Stephanus' property. It is important that the proposed variance not only is specifically designed not to impact the view corridor, but also entirely avoids this easement area. Apart from this easement and his general benefit of the view corridor as a member of the community, Mr. Deitch has no legal right to any additional view, open space or other aesthetic control over the applicant's property.

First, in response to the comments from Mr. Deitch's architect, Brian Brand, the need for the variance is not as one-dimensional as the simple garage dimensions. While the existing garage dimensions are too restricted to accommodate two standard passenger vehicles in each garage (one garage for each of two stacked units), equally significant is the need to maneuver and use garage for standard size vehicles. Mr. Brand does not dispute that the existing garages, particularly the lower, are difficult at best to enter/exit for parking even a single standard size passenger vehicle.

As a result of the maneuvering limitations, the upper and lower garage can each only accommodate one standard-size vehicle, i.e. one enclosed parking space for each unit. *See also Travers letter, attached.* In contrast, commonly accepted residential parking standards provide for two to three enclosed parking spaces for a home. This variance does not seek anything beyond this common standard: the variance would result in two *useable* enclosed parking spaces for each dwelling unit.

Second, as noted above, Mr. Deitch enjoys a 15 foot access easement. Apart from this easement and the view corridor, there is no legal basis for Mr. Brand's assertion that Mr. Deitch enjoys a 34 foot, 6 inch wide open space.

Third, we note that Mr. Brand and Mr. Deitch do not address the benefits of this variance on the Deitch property. As a result of this variance, Deitch's privacy will be increased. While the City may feel that such a consideration is not relevant; Mr. Deitch's assertions related to any open space or views outside the view corridor are equally irrelevant.

Fourth, Mr. Brand accurately notes in his email that the property to the north of Mr. Stephanus encroaches into its setback virtually to the property line. As a result, Mr. Deitch apparently looks to Mr. Stephanus to overcompensate for this situation.

The purpose of setbacks is to ensure safety considerations such as fire separation. The City's zoning code operates to impose a 34 foot-6 inch side yard setback on Mr. Stephanus' property. These setbacks are excessive; the side yard setback more than doubles the standard 15 foot setback.

The reduction of that setback to 21-feet (a) significantly exceeds the standard 15-foot setback, (b) does not affect the existing driveway shared by Mr. Deitch as the existing retaining wall running along that driveway will be unchanged, and (c) retains more than 20 feet of separation between structures on Mr. Stephanus' property and the property to the north.

Apart from the foregoing, we would note that the current variance application is well reduced from the original design discussed with you prior to the application. The variance proposal was reduced to the absolute minimum necessary so as to eliminate all impacts on the view corridor and provide the maximum side yard setback while allowing for appropriate and standard enclosed parking consistent with any other like property.

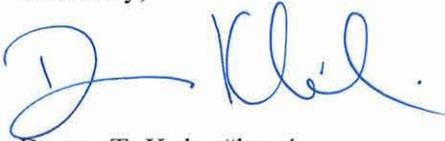
Alternative Design

After review of the collective public comments, Mr. Stephanus has worked to create an alternate design that would still accommodate the needed enclosed parking but provide such in a different configuration. The alternative design submitted today do not resolve the practical difficulties that exist on the property for the stacked dwelling units, as this design would provide parking on solely the lower level. However, this alternative design will accommodate more realistic enclosed parking than currently exists on the site and is a reasonable accommodation of the neighboring property owners' concerns.

Therefore, we submit this alternative design for your review. We maintain the original variance proposal as the primary design as such is truly the minimum necessary to accommodate parking for the stacked dwelling units. However, in the event you recommend denial of the original design, we request that you to make a recommendation on the alternative design as well.

Thank you for the opportunity to provide this additional information.

Sincerely,



Duana T. Koloušková

Direct Tel: (425) 467-9966

Email: kolouskova@jmmlaw.com

cc: John Stephanus
Mark Travers, Travers Architects

1950-1 letter to Clauson 7-11-07

Mark Travers

Architect

July 9th, 2007

Ms. Stacy Clauson, Planner
Planning and Community Development
City of Kirkland
123 Fifth Ave.
Kirkland, WA. 98033

RE: File # ZONO6-00030, Stephanus

I am writing on behalf of the owner, regarding the comments received in response to the proposed Variance.

It appears that the major issue of concern raised in public concern letters is the upper portion of the proposal which adds garage space on the East side of the building at the upper level. There appears to be no concern regarding the proposed second floor office addition, located on the East side of the building. Likewise, there appears to be no substantive objection to the proposed garage addition at the lower level.

The comment letters that have been entered into the public record by neighbors or on behalf of neighbors, share a common theme; the loss of a view. For the record, it is necessary to point out that the current proposal does not encroach into the view corridor. In fact the proposed addition stops short of being right up to the required view corridor, by several feet. The variance request is for a setback reduction, only. Clearly, any additional view due to the easement or required setback is something that the neighbors and or general public have come to feel entitled to. Currently there are landscape features and a retaining wall that are located within the easement and view corridor.

While the current configurations of both garages are theoretically adequate in area, the maneuvering space is inadequate. The inadequate maneuvering space results in significant limitation on the use of each garage to a single vehicle. This is the Germaine point of the request for a variance.

206.763.8496 P
206.328.3238 F

Why Too Que
Building
2315 E Pike Street
Seattle, WA 98122

www@marktraversarchitect.com

Z:\John Stephanus\Memo\Variance-07092007.doc

ATTACHMENT <u>9</u>
<u>ZONO6-00030/S11207-0001</u>

As is argued in the public comment letter by Brian Brand of Baylis Architects, it is possible for the owner to park vehicles in the driveway. However it is customary within a community of a high standard to park in an enclosed garage, which of course would benefit the public welfare. Visually it is unquestionably more appealing to view a well designed pattern of fenestration on a building as opposed to randomly parked automobiles in a driveway. Finally, the applicant is entitled to a garage useable for at least two vehicles (standard residences now commonly accommodate three vehicles) both for protection of the vehicles over time from the elements as well as vehicle safety.

The side yard easement that would be reduced due to the proposed stacked garage is, as Ms. Koulouskova pointed out in the application material, currently more than double the required 15'. The proposed configuration does not impose itself upon the existing access easement or the pedestrian access easement. To my knowledge there is no requirement within the zoning code to provide "open space" as indicated in Mr. Brand's letter.

The variance is appropriate for the minimum amount of work necessary to accommodate vehicles per unit in enclosed garages.

The standard size automobile during the time that the original building was designed has changed. The maneuvering room of current sport utility vehicles is more demanding. Moreover, the design of the original building failed to provide adequate maneuvering clearances in the first place which constitutes a hardship.

In summary, the proposed variance request represents the minimum scope of work necessary to meet the off street parking requirements for the duplex. The enclosure of vehicles within a garage will actually enhance the visual appeal for the surrounding community at large. Accommodating the minimum amount of parking on site cannot be considered a special privilege, if so; it is a special privilege that many of the neighboring properties now enjoy.

Finally, after in depth consideration of the public comments and the limited options for the site, we have prepared an alternative design for the City to consider. This alternative design extends the lower garage to the West as opposed to the "stacked design". This alternative creates other practical complications for the property and the stacked dwelling units. However, the applicant submits this alternative in an attempt to be flexible in the design dialogue. Please note that this alternative does not replace our original proposal as this alternative comes at a significant loss in the accommodation of enclosed parking but instead is submitted as an alternate method of accommodating some of the needed enclosed parking.

Sincerely

Mark Travers, Architect AIA

A handwritten signature in black ink, appearing to read "Mark Travers". The signature is written in a cursive, somewhat stylized font.