

CITY OF NORTHVILLE
Board of Zoning Appeals
July 1, 2015 – 7:30 PM
City of Northville – Council Chambers
215 W. Main Street

I. CALL TO ORDER:

Chair Stapleton called the meeting to order at 7:30 p.m.

II. ROLL CALL:

Commissioners: Present: Rolland Stapleton – Chairman
Michelle Aniol - Alternate
John Callahan - Alternate
David Marold
Patti Mullen
Ryan McKindles

Absent: James Bress
Dominic Silvestri
Jay Wendt

Also present: Sally Elmiger, Planning Consultant

III. APPROVAL OF THE AGENDA:

Motion McKindles, support by Marold, to approve the agenda as published.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

IV. MINUTES OF PREVIOUS MEETING: May 6, 2015

MOTION McKindles, support by Callahan, to approve the May 6, 2015 meeting minutes as published.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

V. CASES TO BE HEARD – BY CASE:

- A. Case is called.
- B. Appellant presents case.
- C. Board questions & comments.
- D. Public comments on the case.
- E. A motion (usually to grant the variance) is made and seconded; discussed then voted upon; the results are announced by the Chair.

VI. CASE #15-03

**MICHAEL BLOUGH
4445 BROADMOOR
NORTHVILLE, MI 48168**

RE: 561 GRACE

The applicant is seeking a variance to construct a new garage in the required rear-yard that exceeds the allowable area on premises zoned R-1B, First Density Residential District, parcel number 48-001- 02-0004-000. The garage will also exceed the lot coverage allowance for the district. The City's Building Official has determined that a required rear-yard variance of 10.9% is needed from Section 18.04 and lot coverage variance of 4.3% is needed from Section 15.01 of the Zoning Ordinance to allow construction of the garage on the lot.

Member McKindles read the case, including the statement Applicant Blough had attached to the application in support of the variance request:

We are requesting a variance to construct a three car garage in the rear yard of our home at 561 Grace. The size of the garage will exceed the maximum allowable lot coverage and the allowable percentage of accessory structure in the required rear yard.

The size of the garage is necessary because of the number of automobile drivers in our family. With an expected five drivers and five cars in our household at any one time, a three car garage is a necessity. This will allow us to park three cars in the garage to minimize the number of vehicles in the driveway at any one time. This will allow for a cleaner look to the neighborhood. The additional space in the garage will be used for storage of bicycles as well as yard tools.

We have designed the garage to compliment the home which will blend harmoniously with the neighborhood. We meet the height requirements of the ordinance. The placement of the garage is similar to the other accessory structures in the neighborhood so this is not out of character with the surrounding homes. The new garage will be five feet off of the alley while a number of garages are much closer to the alley. The size is also comparable to the size of several other garages in the neighborhood.

This request is in keeping with the character of the neighborhood. Adherence to the ordinance presents a practical difficulty in parking cars and storing personal belongings and tools, will not adversely affect the neighborhood, will not impact public safety and welfare, presents no hazards or nuisance, is in character of the neighborhood and is the minimum variance needed to meet our requirements. We ask that you approve our variance request for this garage.

The application listed the following ordinance sections for which a variance was requested: 18.12.5 lot coverage and 18.04. b & c accessory structure.

Member McKindles said that there was a discrepancy between the ordinance sections listed in the announcement of tonight's hearing and the actual application. The public notice listed Section 15.01 for lot coverage. There was no discrepancy regarding Section 18.04.

In the discussion that followed, it was noted that the public notice was correct and the hearing could proceed.

Chair Stapleton said the variance as noticed for the required rear yard was 10.9%. However, he believed the required variance was actually 44%. The applicant wanted to occupy 593 square feet when the ordinance would allow 412 square feet. The increase of 191 divided by 412 was 44%. The lot coverage variance was similar – it was about a 14% increase, not a 4.3% increase. Had the notice gone out with specific dimensions, there would not be a problem. However, the percentages did not seem to be correct.

Michael Blough, owner, was present on behalf of this application. George Hartman, Hartman Architects, 6905 Telegraph Road, Suite 101, Bloomfield Hills MI 48301, was also present.

Mr. Hartman asked about the change in Ordinance Section numbers. Alternate Aniol explained that for the public notice the section numbers had been corrected.

Mr. Hartman explained that they were seeking two variances. The first was for maximum allowable lot coverage. They were constructing a new home and would like to construct a new garage as described in the submitted letter and application. They were allowed 3,150 square feet of lot coverage. They were proposing a 3-car garage with 3,417 square feet.

Mr. Hartman said they were using half the alley in their lot coverage calculations. This resulted in 32.5% lot coverage, less than the 34% indicated on the drawings, because the drawings did not include half the alley.

Planning Consultant Elmiger said the applicant was correct regarding using half the alley. Section 18.11.6. stated:

In calculating the area of a lot that adjoins an alley or lane, for the purpose of applying lot area requirements or this Ordinance, one-half (1/2) the width of such alley abutting the lot shall be considered as part of such lot.

The Building Official had not included one-half the alley in his letter giving calculations resulting in the amount of necessary variance. In actuality, the applicant was requesting a lesser variance than originally noticed.

Mr. Hartman said that they also had an issue with garage placement. They were required to have no more than 25% of the accessory structure in the required rear yard. They exceeded that. This was the second variance request.

In response to comments from Chair Stapleton, Planning Consultant Elmiger clarified that the applicant had requested a variance from the percentage of required rear yard an accessory structure could occupy. They were not asking to have the building closer to the property line. Instead they were asking to have more of an accessory building in the required rear yard. The Ordinance permitted a building to occupy 25% of the required rear yard. The applicant was asking for a 44% increase of the 25%, as noted earlier by Chair Stapleton.

Mr. Hartman said there was a question as to where the rear setback line should be calculated, since they were allowed to use half of the alley width for lot coverage calculations. The ordinance did not specify whether they could use half the alley for setback determination. If the alley were vacated, the placement of the garage would not exceed the allowable amount in a required rear yard.

Chair Stapleton said it would require the ordinance to have affirmative language in order to use half the alley for a setback determination.

In response to a question from Member McKindles, Mr. Hartman said he was asking for an interpretation regarding rear yard setback abutting an alleyway. Chair Stapleton repeated that half the alley could not be used in setback determinations.

Mr. Hartman directed the Board's attention to documentation in their packets regarding placement of accessory structures up and down the alley. There was a quite a variety of garages and sizes in the area; some appeared to be nonconforming. Some of the newer ones appeared to need a variance though variances were never granted. The size of the structure being proposed tonight fit in with what was already in the neighborhood.

Mr. Hartman said that regarding lot coverage, their proposed size was not excessive in terms of going over the limit. Their research showed that several homes in the neighborhood already exceeded the allowed lot coverage. He presented some aerial photos from Google Earth that demonstrated his point, which was that what they were proposing was not excessively different than other structures in the neighborhood.

Chair Stapleton pointed out that the applicant was requesting a dimensional variance. Per the application, the applicant alleged that strict application of the provision of the Zoning Ordinance would result in practical difficulties upon the owner, because of the unique physical characteristics or other extraordinary or exceptional conditions of the property. What were the practical difficulties in this case?

Mr. Hartman said the practical difficulties were the family lifestyle, the number of children in the family, the number of vehicles that they had, and necessary access to those vehicles. What they were requesting was not inconsistent with other construction in the area, both existing and new. They were not asking for an excessive amount – just an extra 260 square feet of garage area in order to park vehicles inside and to maintain storage. There were already garages in the area that were larger, or closer to the alley, or exceeded the 25% permitted in the required rear yard.

Chair Stapleton asked what were the unique physical characteristics or other extraordinary conditions of the property that would justify granting this variance request.

Mr. Hartman said they were taking advantage of the alley space in order to be able to put the third car garage in. They had made the garage as small as practicable for the family to be able to utilize it properly.

Mr. Blough added that the idea was to provide some maneuverability on the property. They decided to move the garage to the back of the property, thus creating something similar to the house to their immediate right. Visually the garage would look better at the rear of the property.

Alternate Callahan asked if this was a custom built home. Mr. Blough said it was. Alternate Callahan asked if Mr. Blough understood the lot coverage requirements when the home was designed. Mr. Blough said he did. Alternate Callahan asked if the three-car garage was planned at the time the home was designed. Mr. Blough explained the current garage request was the result of a process they went through as the home was planned and constructed. Their needs had changed, and a 2 or 2.5 car garage just wasn't going to meet their needs for vehicle and accessory storage.

Alternate Callahan commented that they had chosen the size for the footprint of the house. They could have chosen a smaller footprint in order to have a larger garage. Mr. Blough pointed out that the footprint included the exterior covered porches.

Mr. Hartman added that there were three porches on the property. If the roofs were removed, the proposed garage would not exceed lot coverage requirements. They could have left the porches without roofs, built the garage, and then added porch roofs at a later date. Alternate Callahan said that this would then have required a separate variance.

Mr. Blough said that they had focused on the main structure. As they planned the garage, they felt a 2.5% variance was a reasonable request.

Alternate Aniol asked the applicant to explain further the purpose of the aerial photo distributed this evening.

Mr. Hartman said that 605 Grace was immediately north of this site. Based on his calculations that home, which had been added on to several times, and which had two garages – one attached and one detached – had about 3400 square feet of lot coverage, or more than the ordinance allowed, yet no variance was issued for that property.

Chair Stapleton said that without concrete evidence that information was hearsay. He said that some time ago the City Council had reduced lot coverage from 35 to 30%, because of complaints by residents that large homes were replacing smaller ones, blocking sunlight, etc. Did the applicant have a comment regarding this?

Mr. Hartman said he could not comment regarding this issue as he had not been involved. Mr. Blough said that they had only given the Board one example of another home with similar area coverage. However, there were other new homes that also appeared to exceed lot coverage.

Chair Stapleton again said these claims were hearsay.

In response to a question from Member Mullen, Mr. Hartman said the garage did have a 2nd story with a staircase; this was simply for storage. Member McKindles confirmed with the applicant that this would not be plumbed.

Chair Stapleton opened the meeting for public comment.

Donald Beyer, 560 Grace, said that he lived directly opposite this property. They had a significant amount of large homes going up in their neighborhood. They had lived there 20 years, and had added on and invested heavily in their property. He felt overbuilding represented a threat to their property value, because their home would be viewed as a tear down instead of a purchase for a home. A neighbor had been approached multiple times by builders to purchase her property at a lower price in order to tear it down. Mr. Beyer asked why the garage was not in the original submitted plans. He gave other history regarding Mr. Hartman asking for variances.

In response to a question from Mr. Beyer, Planning Consultant Elmiger addressed front yard averaging in terms of required setbacks. Covered porches would be included in the front yard averaging. Mr. Beyer asked that the City confirm that the front porch met setback requirements.

Mr. Beyer concluded that he opposed the variances requested this evening.

George Hartman, 376 First Street, speaking personally and not on behalf of Mr. Blough, asked that claims regarding his past history would not affect the Board's decision this evening.

Alternate Aniol said that this area in Cabbagetown was unique in the City in that it had active, useable alleys. Traditionally an active alley meant you could access an accessory structure from the front or rear of the property. For those areas in the City that didn't have alleys, it was logical to have a restriction on required rear yards. It did not seem that the same restriction should apply where there was an active alley. With that said, she did not think the applicant had a practical difficulty for the additional lot coverage. Inconsistencies throughout the community did not meet the claim of practical difficulty.

Chair Stapleton asked for a motion.

Alternate Aniol asked about process. Since the public hearing notice contained errors, was it appropriate to take action this evening or should the action be postponed so that the Building Official could be present to address the errors discussed. Did the hearing need to be re-noticed?

Regarding the lot coverage request, Planning Consultant Elmiger said the error actually reduced the variance requested. Regarding the variance request from the requirement that an accessory structure may not occupy more than 25% of the required rear yard, this could be calculated both ways – a 44% increase from what was allowed, or the fact that the accessory building would occupy 10.9% more of the required rear yard.

Chair Stapleton said the percentage was actually 14.4%, not 10.9%.

Planning Consultant Elmiger said it was up to the Zoning Board of Appeals as to whether the request should be re-posted. However, it might be a moot point if the variance for the lot coverage was not granted.

Chair Stapleton asked the applicant if he wanted the Board to vote on both variance requests together, or if he wanted a separate vote on each one. Mr. Blough said that since both variances were necessary, he would like a single, combined vote on both requests.

MOTION by Callahan, support by Aniol, to approve both requests for variances as corrected.

Mr. Hartman interjected with a question: if the application were tabled and had to be re-noticed, would it be delayed two months? Planning Consultant Elmiger said she thought this was correct.

Chair Stapleton said there was a motion on the floor. He asked for a roll call vote.

Marold	No
Mullen	No
McKindles	No
Stapleton	No
Callahan	No
Aniol	No

Motion failed 6-0. The application was denied.

MOTION McKindles, support by Callahan, that the Board approve the following findings of fact:

1. Lot area was 9,960 square feet plus one-half the alley. The applicant was seeking a variance in order to have greater than the 30% permitted lot coverage.
2. Applicant was seeking a variance in order to occupy greater than 25% of the required rear yard.

3. During discussion and contemplation of the application, the applicant was unable to demonstrate practical difficulty.

Chair Stapleton asked for a roll call vote:

Marold	Yes
Mullen	Yes
McKindles	Yes
Stapleton	Yes
Callahan	Yes
Aniol	No

Motion regarding findings of fact carried 5-1 (Aniol opposed).

VII. PUBLIC COMMENTS

Jeffrey Wilseck, 612 Grace, Northville, MI and Nancy Berg, 111 Baseline, took part in a round table discussion with the Board regarding process. How was a purchaser to know that a variance would be needed for something like this? Board comments reflected that city staff worked with homeowners and purchasers to help them understand ordinance regulations regarding their properties. In tonight's instance, the plans had changed and a larger garage than that permitted by ordinance was later desired.

VIII. DISCUSSION

Zoning Criteria Ordinance Amendment

Planning Consultant Elmiger explained that the Planning Commission had suggested two changes to the proposed amendment to Dimensional Variance Criteria, under the paragraphs related to 3. *Not self-created*:

- Delete: ~~immediate~~ before predecessor.
- Delete: ~~iii. Making improvements in violation of the ordinance.~~

Alternate Aniol asked why there was a need to define *not self-created*. Planning Consultant Elmiger said that over time the BZA felt it would be helpful to give some examples to guide decisions as to whether or not a variance request was for a self-created problem.

The consensus of the Board was to accept the two suggested changes, and Planning Consultant Elmiger said that this would be sent on to City Council.

Other

A round table discussion was had with the Board and public regarding the issue of tearing down small homes and replacing them with larger ones. Maintaining a diverse housing stock was critical. Residences other than single family might be provided closer to down town. People wanted to live close to down town but they wanted subdivision houses, and this created conflicts. Some issues resulted in new home construction that completely built out a lot, creating problems with massing and rhythm. The Planning Commission was actually the body where zoning ordinance changes began.

IX. ADJOURNMENT:

Motion Aniol, support by Mullen, to adjourn the meeting at 8:32 p.m.

Voice vote: Ayes: All. Nays: None. Motion Unanimously Carried.

Respectfully submitted,

Cheryl McGuire, Recording Secretary

approved as published 1-6-2016