

CITY OF NORTHVILLE
Board of Zoning Appeals
February 1, 2017 – 7:30 PM
City of Northville – Council Chambers
215 W. Main Street

I. CALL TO ORDER:

Secretary Callahan called the meeting to order at 7:30 p.m.

II. ROLL CALL:

Commissioners: Present: Michelle Aniol
John Callahan
Jay Wendt
Lou Ronayne - alternate

Absent: David Marold - excused
Ryan McKindles - excused
Patti Mullen – excused
Dominic Silvestri - excused

Also present: Sally Elmiger, Planning Consultant

III. APPROVAL OF THE AGENDA:

Motion Aniol, support by Wendt, to approve the agenda as published.

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

IV. MINUTES OF PREVIOUS MEETING: January 4, 2017

Motion Wendt, support by Ronayne, to approve the January 4, 2017 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 #17-02

**CHESTER CZAPLICKA
619 CARPENTER**

The applicant is seeking a variance for additional lot coverage to retain a shed on premises zoned R-1B First Density Residential District, parcel number 48-001-02-0022-301. The City's Building Official evaluated the proposal, and has determined that the maximum lot coverage allowed for this parcel is 2,376 square feet. Retaining the shed would increase lot coverage to 2,440 square feet. Therefore, a variance for 64 square feet in area (or 0.8%) lot coverage is needed from Section 15.01 of the Zoning Ordinance to allow the shed to remain.

Secretary Callahan called the case. He noted information contained in the BZA Board Members' packets, and also a letter received from Joseph and Sondra Hoffman, 526 Carpenter Street, Northville, MI, dated January 19, 2017, regarding this case.

Chester Czaplicka, 619 Carpenter Street, was present on behalf of this application, which was to increase the allowable lot coverage in order to retain an existing shed on the site. He distributed a schematic of the landscaping in the rear yard, and briefly reviewed the proposed fencing and landscaping.

Mr. Czaplicka said that they had assumed they could use the center of the alley as their lot line for purposes of computing lot coverage. However the ordinance had conflicting language regarding this issue, and Planning Consultant Elmiger had explained that when there was a conflict in the ordinance, the stronger ordinance applied. Therefore they were seeking a variance.

Mr. Czaplicka said the Building Inspector had told him he might have to remove the shed, which brought them over the area structure limits. They had done everything they could, including shrinking the home's footprint, in order to keep the shed. He explained how they were controlling storm water on the site, including utilizing rain barrels. The shed brought them to just a little less than 1% over the lot coverage limits. They had constructed a home that was respectful of their neighborhood and Northville's historic nature.

Secretary Callahan opened the public hearing. Seeing that no one came forward to speak, Secretary Callahan closed the public hearing.

Member Aniol said that while she understood why Mr. Czaplicka wanted the shed, the BZA had certain criteria that had to be met in order to grant a variance, including meeting the standards of *practical difficulty* and *not self-created*.

Mr. Czaplicka reiterated that the ordinance was confusing and conflicting, and he felt this should be taken into consideration.

Planning Consultant Elmiger said the ordinance sections included Section 18.11.6 Lots Adjoining Alleys:

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

However, in Section 26 the lot area definition read:

Lot area: The horizontal area within the lot lines of the lot excluding public road right of way or private road right of way.

Section 18.01 Conflicting Regulations stated:

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions or any other law or ordinance imposes more stringent requirements than are imposed or required by this Ordinance, then the provisions of such ordinance shall govern.

Planning Consultant Elmiger further explained that the alley did have a City-owned public right of way. An alley was considered a road right of way. Also, it was not logical to include the area of a non-vacated alley in a property's lot area, as the lot owner did not own the alley.

In response to a question from Member Aniol, Mr. Czaplicka said they applied Section 18.11.6 "after the fact," i.e., after they had come in for approvals from the Building Official. Mr. Czaplicka pointed out that the shed existed before they had constructed their home, was not a public nuisance, and was attractive in appearance. He spoke about the efforts they had made to shrink the home's footprint, including the porch overhangs, and the need to have a 2-car garage.

Secretary Callahan asked if the access to the garage was from the alley. Mr. Czaplicka said the access was from the alley. They had placed the garage there in order to blend with other similar configurations in the neighborhood.

In response to a question from Member Aniol, Planning Consultant Elmiger said the house was 1847 square feet and the garage was 525 square feet, for a total of 2372 square feet, leaving 4 square feet under the maximum allowable lot coverage.

Mr. Czaplicka gave further details of the house layout and design. He emphasized the competing language in the ordinance as already noted.

Member Aniol said that while the home was beautiful the request still did not meet the requirements for granting a variance. Mr. Czaplicka had known ahead of time that this problem existed.

Alternate Ronayne asked if the shed met setback requirements. Planning Consultant Elmiger said that the Building Official had not called out a setback deficiency.

Alternate Ronayne said he liked the home and the shed, and he understood the shed was existing. However, the BZA's challenge was that it had to follow the guidelines for granting a variance. This application did not seem to meet those guidelines.

Mr. Czaplicka said the competing language in the Ordinance created their hardship.

Discussion was held regarding how lot coverage was calculated.

Secretary Callahan asked for findings of fact, and Member Aniol offered the following:

While the home on this property was beautiful it was difficult to find reason to grant this variance based on the criteria required:

1. Practical difficulty unique to this property did not exist.
2. Granting a variance would not do substantial justice to other property owners in the district.
3. The reason for the variance was self-created.

Mr. Czaplicka commented that the shed was an existing structure on the property. They had shrunk their footprint as much as possible. Last, there was competing language in the Ordinance. He also spoke to the value and expense of the property.

Alternate Ronayne referenced Section 25.04 Powers and Duties, regarding the necessity for the BZA to make its decision based on the requirements for a dimensional variance.

Mr. Czaplicka spoke again to his opinion that there had been practical difficulties and conflicting ordinance language. He was requesting the minimum variance necessary.

In response to a question from Member Aniol, Planning Consultant Elmiger said that maximum lot coverage per Article 15, Section 15.15.01 was 30% for lots in the R-1B District that were not undersized. This lot – at 7920 square feet – was not undersized.

Member Aniol observed that the lot area definition was very specific:

The horizontal area within the lot lines of the lot excluding public road right of way or private road right of way.

However, the definition of alley did not mention *right of way*:

Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

The fact that the definition of alley said that it was not intended for general traffic circulation did call into question whether an alley was defined as having a public road right of way. The ordinance did not define road right of way. Generally speaking a road right of way was for general traffic circulation.

Member Aniol continued that she did not find that the application met the criteria for granting a variance under the ordinance as explained this evening. However, perhaps the application before the Board was subject to interpretation of what the ordinance actually meant. Perhaps there was no conflict between Section 18.11.6 Lots Adjoining Alleys and the definition of lot area and alley.

Planning Consultant Elmiger said that the BZA could not make an interpretation of ordinance language this evening, because the meeting was not noticed for this. The appropriate process was to table this application, and then give public notice that an interpretation of the ordinance was being requested.

Member Wendt asked if the property owners to the rear had paved the portion of the alley there. Mr. Czaplicka said the rear property owners had paved the alley.

Planning Consultant Elmiger advised that the same members who were sitting on the Board this evening had to be present when the application was brought back to the Board. She noted that the Planning Commission would also be discussing what their intent was in terms of Section 18.11.6 – did they want this to mean all alleys, or just vacated alleys?

Member Aniol said she would not be at the March meeting.

MOTION Aniol, support by Ronayne, to table Case #17-02 to the April meeting.

Secretary Callahan asked for a roll call vote.

Aniol	yes
Wendt	yes
Callahan	yes
Ronayne	yes

Therefore the motion carried unanimously.

VII. PUBLIC COMMENTS:

None.

VIII. DISCUSSION:

None.

IX. ADJOURNMENT:

Motion Aniol, support by Ronayne, 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 submitted 4/5/2017