

CITY OF NORTHVILLE
Board of Zoning Appeals
July 5, 2017 – 7:00 PM
City of Northville – Lower Level Meeting Room
215 W. Main Street

I. CALL TO ORDER:

Secretary Callahan called the meeting to order at 7:00 p.m.

II. ROLL CALL:

Commissioners: Present: Michelle Aniol
John Callahan
David Marold
Jay Wendt
Douglas Bingham – alternate
Lou Ronayne - alternate

Absent: Ryan McKindles (excused)
Patti Mullen (excused)
Dominic Silvestri (excused)

Also present: Sally Elmiger, Planning Consultant

Note: No public were present.

III. APPROVAL OF THE AGENDA:

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

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

IV. MINUTES OF PREVIOUS MEETING: June 7, 2017

Motion Bingham, support Wendt, to approve the June 7, 2017 meeting minutes as published.

Voice vote: Ayes: 5. Nays: None. Abstained: 1 (Ronayne). Motion carried 5-0-1.

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 #17-09
DAVID & SHANNON BOYD
718 GRANDVIEW**

To consider a variance to construct a new garage on the same site as the existing garage on premises zoned R-1B First Density Residential District, parcel number 48-003-02-0020-004. The City's Building Official evaluated the proposal and has determined that a four (4) foot side yard variance is required from Section 15.01 of the Zoning Ordinance.

Member Aniol called Case #17-09, and reviewed the items in the Members' packets.

David and Shannon Boyd, owners, 718 Grandview, Northville, were present on behalf of this application. Mr. Boyd explained that they were seeking a variance from the setback on the west side of their lot, in order to construct a new garage in the same place as their existing garage, which was old and very small. The new garage would be 2 feet wider and 6 feet longer than the existing one, to better accommodate bicycles, lawn mowers, cars, etc.

In response to a question from Secretary Callahan, Mr. Boyd explained that to accommodate the larger garage and the setback on the west, a large spruce tree would need to be removed. Their preference was to keep the large tree. Per the Building Inspector, a building of this size would not require a full footing – a rat wall was acceptable. Hopefully the tree could be saved.

Planning Consultant Elmiger addressed the 5 criteria that the Board of Zoning Appeals needed to consider:

1. *Practical difficulty.* Generally practical difficulty referred to such things as the exceptional narrowness or shallowness in the shape of a lot, exceptional topographic conditions that would make it difficult to meet the setback requirements, and other similar elements. The lot in question was regular in shape, a rectangle, and it met the size and width requirements of the zoning ordinance. Therefore the shape of the lot didn't create a practical difficulty. If it weren't for the tree there would be plenty of space for a garage that met dimensional requirements in the back yard. Further, it was Planning Consultant Elmiger's opinion as a landscape architect that the construction of the new garage, which would result in a building 2 feet closer to the tree, would harm the tree's root structure and the tree would not survive more than a year or two. Therefore the tree did not create a practical difficulty.
2. *Substantial justice.* Since the tree would likely need to be removed a few years after construction, the variance did not provide substantial justice to residents who had followed the setback requirements.
3. *Not self-created.* Since the tree would likely not survive the construction process, the need for the request was self-created.
4. *Minimum variance necessary.* If the garage was constructed on the existing footprint, the minimum variance necessary was requested. However, the question was whether a variance was needed at all, since the site was sufficiently large to accommodate the garage in another location.
5. *Impact on public safety and or create a public nuisance.* There would be no impact on public safety. However, the tree would be very close to the new garage, and could possibly damage the new garage in the future.

Planning Consultant Elmiger concluded that since the variance request did not meet all 5 criteria, it was her recommendation that the variance be denied.

Secretary Callahan asked if the applicants would be expanding the garage further into the setback area. Mr. Boyd said they would not.

Mr. Boyd continued that if they were required to push the garage further to the east, it would be difficult to get in and out of the garage, as the driveway was on the far western edge of this lot. Also, no one really knew if the tree would survive or not; they would like to give the tree a chance. Considering that the garage had been in its location for a very long time, he didn't think this was an especially burdensome issue for the neighborhood or the City.

Member Aniol pointed out that the primary reason given for requesting the variance was to preserve the tree. Enlarging the garage in its present location would expand a nonconformity.

Member Aniol said that when she first reviewed the request she had done so without looking at any of the reviews. On her own, she had questioned whether the tree would survive the construction. It was true the applicants would have to navigate their driveway in order to access the garage if placed 4 feet to the east. However, the 30 feet from the back of the house to the garage provided more than adequate area to maneuver around the home. She questioned whether the request met the conditions for granting a variance.

Alternate Bingham agreed, saying that right now he would vote against granting the request as presented. However, he would like to save the tree. Was there a creative way to both construct the garage and save the tree? Could the tree's root system be protected or could the building be designed in such a way that the tree would be impacted less? The garage could be turned, or there could be a jog in the side of the building that would give the tree more room.

Member Aniol asked if the applicants had thought about moving the garage closer to the house, in order to meet the setback and save the tree.

Ms. Boyd said they had not looked at moving the garage closer to the house. However, he felt doing so would restrict maneuverability more.

Alternate Ronayne asked if the garage could be pushed further to the rear. Mr. Boyd said that would result in removing the shed, which he wanted to keep.

In response to a question from Member Aniol, Mr. Boyd said they used the shed for storage.

In response to a question from Alternate Ronayne, Secretary Callahan said no correspondence had been received. Mr. Boyd said their neighbors to the west were away.

Mr. Boyd said the requested garage was substantially the same size as the old garage – only 2 feet wider and 6 feet deeper – in exactly the same location. To him it seemed reasonable to have a garage in the current location. Having the tree survive would be an added bonus and they had every interest in preserving the tree, but they could not guarantee that the construction would not harm the tree just as there was no way for the Board to definitively conclude that the tree would not survive. He asked that the variance request be approved.

Member Aniol asked about mitigation options should the tree be removed. Planning Consultant Elmiger said the applicants could replace the tree as required by the Tree Protection Ordinance, or place money in the tree fund, or do a combination of both. She explained that the formula for replacing this landmark tree would require planting five 8-foot tall evergreens. If a contribution to the tree fund were made instead, each replacement tree would be valued at \$430.00 each, requiring a contribution of \$2,150.00. A combination of tree plantings and tree fund contribution would be acceptable.

Ms. Boyd asked if they don't get the variance, and removed the tree in order to construct the garage, would they still have to replace it. Planning Consultant Elmiger said they would.

Member Aniol discussed offering an approving motion, with the condition that if the tree did not survive, the applicants would replace it as required. Mr. Boyd said they were comfortable with replacing the tree if it died.

Secretary Callahan indicated that he was ready to entertain a motion.

MOTION Aniol, support by Marold, in the matter of BZA Case #17-09, 718 Grandview, to grant a 4-foot side yard variance from Section 15.01 of the Zoning Ordinance, in order to allow the applicants to construct a new garage on the same site as the existing garage, with the following conditions:

- **If the existing pine tree doesn't survive for a minimum of 3 years, and is certified at that time by a certified arborist to be unsustainable, the applicant will replace the tree in accordance with the tree protection ordinance.**

Mr. Boyd asked what would happen if the tree died because of an infestation, and not because of construction. Ms. Boyd noted that the tree was not a spruce tree, but was a type of pine.

Planning Consultant Elmiger explained the process for mitigating the removal of a landmark tree, including scoring the health of the tree based on certain defined criteria.

Member Aniol thought the tree should also be evaluated before construction began. Planning Consultant Elmiger agreed. Therefore a second condition was added to the motion:

- **The existing pine tree be evaluated by a certified arborist prior to submitting the building permit, and the resulting report be submitted at the time of building permit submission.**

And based on the following findings of fact:

- 1. The location of the existing pine tree presented a practical difficulty.**
- 2. Substantial justice was provided, as because of the tree there wasn't any lesser variance that could be given.**
- 3. The request was not self created because the City did like to have trees preserved.**
- 4. The request was for the minimum variance necessary.**
- 5. The requested variance would not have an impact on public safety.**

Secretary Callahan asked for a roll call vote:

Ronayne yes
Bingham yes

Callahan **yes**
Aniol **yes**
Marold **yes**
Wendt **yes**

Therefore the motion carried unanimously.

VIII. PUBLIC COMMENTS:

None.

IX. DISCUSSION:

Member Aniol explained that she had changed her position on the variance request during the course of the meeting, and made the motion the way she did, in order to avoid postponing action and having the applicant come back with an arborist's report on the current condition of the tree.

X. ADJOURNMENT:

Motion Marold, support by Wendt, to adjourn the meeting at 7:39 p.m.

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

Respectfully submitted,

Cheryl McGuire, Recording Secretary

Approved as published 08/02/2017