

CITY OF NORTHVILLE
Board of Zoning Appeals
November 1, 2017 – 7:00 PM
City of Northville – Council Chambers
215 W. Main Street

I. CALL TO ORDER:

Chair Silvestri called the meeting to order at 7:10 p.m.

II. ROLL CALL:

Commissioners: Present: Michelle Aniol
John Callahan
David Marold
Ryan McKindles
Patti Mullen
Dominic Silvestri
Jay Wendt

Absent: None

Also present: Sally Elmiger, Planning Consultant
Brent Strong, Building Official

III. APPROVAL OF THE AGENDA:

Motion Aniol, support by McKindles, to amend the agenda to include *Approval of 2018 meeting dates* under Item 8. Discussion.

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

Motion McKindles, support by Callahan, to approve the agenda as amended.

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

IV. MINUTES OF PREVIOUS MEETING: October 4, 2017

Motion Marold, support by McKindles, to approve the October 4, 2017 meeting minutes as published.

Voice vote: Ayes: All. Nays: None. Abstentions: 1 (Callahan). Motion carried 6-0-1.

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 #17-12

MATT & SARAH PYZOHA 254 LINDEN STREET

To consider two variance requests on premises zoned R-1B, First Density Residential District, at 254 Linden Street, Northville, Michigan, 48167, parcel number 48-002-01-0461-000. The applicant is seeking two variances to expand a non-conforming building (Section 22.01). The building is currently located 5.2 feet from the property line in the side yard setback. The applicant is seeking a 1.8 foot variance from Section 15.01, Schedule of Regulations, which requires a 7-foot setback for a principal building from a side property line. The applicant is also seeking a 2.45 foot variance from Section 15.01, Footnote 16, to locate the building addition in the average front yard setback. The average front yard setback for this property is 16.75 feet. The proposed addition is located 14.3 feet from the front property line.

Member McKindles called Case #17-12, noting that the application included a survey and a letter dated September 27, 2017 from the applicants.

Matt Pyzoha, 254 Linden Street, was present on behalf of this application, as was architect Mike Schuyler, Legacy Custom Builders, Northville MI. Mr. Pyzoha said that they hoped to add an extension on the front of their home to serve as a breakfast/dining nook. They had been utilizing their center kitchen island as their dining area but as their family had grown they needed to have a true dining location.

Mr. Pyzoha said that without including the home on the corner of Randolph and Linden for front yard averaging, they would be within the requirement and not need a variance. They were set 2 feet further back than most of the homes on the street.

Chair Silvestri asked how the front yard average calculation had been accomplished. Building Official Strong said that the applicants had originally done their own calculations, after which Mr. Strong did a site visit. At that time it became apparent that the applicants had not used the home that faced Randolph, but that home needed to be used as it had 2 front yards. A corrected calculation yielded the need for a variance as described this evening.

Chair Silvestri summarized that the determination of the front yard setback was 2.45 feet. That included the calculation for the average front yard setback that encompassed the house that was on the corner.

Mr. Schuyler pointed out that the 1.8-foot side yard variance represented an extension of the existing nonconformity.

Mr. Pyzoha said that they were on an extremely narrow lot. The proposed addition would not be infringing any further on the side yard nonconformity.

In response to questions from Chair Silvestri, Mr. Pyzoha said the distance between the property line and the existing home was 5.32 feet. The new addition would not be encroaching any further into the side yard setback than the existing nonconformity. The variance for the front yard setback would, however, be enlarging a nonconformity.

Mr. Schuyler reiterated that the current home would be set back further than the other homes facing Linden Street. It was only because they had to use the side front lot of the home on the corner that they needed a variance.

Member Mullen said the house on the corner was newer construction.

Chair Silvestri asked if the applicants wanted the 2 variance requests considered together. Mr. Pyzoha said they needed both variances in order to proceed.

Chair Silvestri asked the applicants to explain why they met the criteria for a variance.

Mr. Pyzoha explained that currently they had no gathering place for their family, and no room for a kitchen table of any size.

Chair Silvestri asked if the lot itself presented any difficulties or in any way was unique. He pointed out that the Pyzoha's purchased the home with its current configuration.

Mr. Schuyler said that the applicants had assumed their home met setback requirements. They purchased the home 8-9 years ago that had been newly renovated, and they assumed it was conforming. Recently when they prepared to go to the Historic District Commission with their proposed changes, they discovered that the home was not conforming, and now they were seeking variances in order to add needed space to the home.

Member Callahan asked what characteristics of the lot that were unique that would lead the Board to make a decision in favor of the requested variance.

Chair Silvestri added that the applicants needed to address the 5 criteria for granting a variance.

Mr. Schuyler said the practical difficulty was that the lot was only 45 feet wide and the home was already nonconforming in terms of the side yard setback. To do any kind of addition required that the side yard setback variance be approved. Regarding the front yard setback, if only the homes were used that faced Linden, they would actually be about 2 feet further in from the street than those homes. The corner home that faced Randolph created a hardship for this applicant, in that that home skewed the front yard setback calculations. They could not put the addition anywhere on the property without requiring variances.

Member Aniol thought the practical difficulty requirement had been met. However, the survey showed a number of nonconformities, including a driveway and a fence that encroached on the neighbor's property. Were the applicants interested in cleaning up those nonconformities? If an approving motion included a condition that the fence and asphalt driveway be corrected, would the applicants accept that? Mr. Pyzoha said they would accept those conditions.

Regarding substantial justice, Mr. Schuyler said they had a list of 5 neighbors who had signed off on this proposed addition, and he gave that list to the Board.

In response to a question from Member Wendt, Mr. Pyzoha said they had not yet appeared before the Historic District Commission.

Member Wendt noted that the ordinance required that 35% of the property be green space. Did the applicants meet that requirement? Mr. Schuyler said they would conform to the green space requirement.

Planning Consultant Elmiger said that based on calculations done this evening, she thought the applicants met the 35% green space requirement, though this was not totally certain. They did meet the lot coverage requirement. Member Mullen pointed out that if the applicants needed a little extra green space, they could remove the concrete to the north of the garage.

Member McKindles asked the applicant to address why this was the minimum variance necessary. Mr. Pyzoha said they were adding a very modest addition. They were incorporating the area of their existing front porch, adding about 5 more feet to get the eating/dining area, and then adding a new front porch a few feet beyond that.

Mr. Schuyler further explained that the eating area would add the absolute minimum space to accommodate a small table and chairs, and give enough room to walk around them. The porch had to be added back on in order to meet Historic District standards. Regarding the elevation, the only change would be to add a small gable over the front door entry that would delineate that space, along with adding an arched area that should add more curb appeal.

In response to a question from Member McKindles, Mr. Schuyler described the current interior of the home and how it would be changed by the proposed addition.

In response to a question from Member Aniol, Mr. Schuyler said the addition would be about 93 square feet.

Chair Silvestri indicated he was ready for a motion.

MOTION Aniol, support by McKindles, in the matter of BZA Case #17-12, 254 Linden Street, to grant an 1.8-foot side yard variance and a 2.45-foot average front yard setback variance as requested to accommodate the proposed addition, subject to the following conditions:

- 1. Encroachments be removed by bringing in the nonconforming fence along the south side, bringing in the asphalt driveway along the south side, and removing the concrete patio along the north side of the property.**
- 2. The Historic District Commission's approval of the proposed addition.**
- 3. Removal of the concrete on the east side of the garage or the applicant demonstrating to the Building Official that the property is in compliance with the green space requirement.**

And based on the following findings of fact, as noted in the Carlisle/Wortman review letter:

- 1. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to the other properties in the zoning district or in**

- the general vicinity, including the irregular shape of the lot, its narrowness and its nonconforming size in terms of required square footage and width.
2. The granting of this requested variance would do substantial justice to the applicant as well as to the other property owners in the district, as the proposed addition would be set back more than the houses two to the east and two to the west.
 3. The problem and resulting need for the variance did not result from the actions of the applicant or his predecessor, as this is a nonconforming situation to begin with.
 4. The requested variance is the minimum necessary to permit reasonable use of the land.
 5. The granting of this variance would not have a negative impact on public safety or create a public nuisance.

Seeing that there was no further discussion, Chair Silvestri asked for a roll-call vote.

Aniol	yes
Callahan	yes
Marold	yes
McKindles	yes
Wendt	yes
Mullen	yes
Silvestri	yes

Therefore the motion **carried unanimously**.

CASE #17-13

**CARRIE & JOSEPH ZIELINSKI
718 THAYER BLVD.**

To consider a variance request on premises zoned R-1B, First Density Residential District, at 718 Thayer St., Northville, Michigan, 48167, parcel number 48 003 02 0041 003. The applicant is seeking a variance to replace and expand a non-conforming garage (Section 22.01) on an existing foundation that is located 1.9 feet from the property line in the side yard setback. The applicant is seeking a 3.1-foot variance from Section 18.04, Accessory Buildings and Structures, which requires a 5-foot setback for an accessory structure from a side or rear property line.

Member McKindles called the case, noting that in support of their application the applicants had supplied a title insurance policy, the offer to purchase the real estate, and a series of sketches and photographs of the property in addition to a mortgage survey. There was also a letter from neighbors James and Mary Miller, 726 Thayer Boulevard, in support of the applicant's request.

Joseph and Carrie Zielinski, 718 Thayer Boulevard, were present on behalf of this application to construct a new, larger garage in the same location as the existing garage.

Mr. Zielinski said that they had submitted a marked-up survey after receiving the September 23, 2017 Carlisle/Wortman review letter, showing a ravine and electrical wires on the northern portion of the property.

Chair Silvestri asked who had taken the measurements shown on the marked up survey. Mr. Zielinski said that Mr. Jekabson did the original survey, and he had further marked up the survey to show the ravine and electrical lines.

Chair Silvestri said the survey showed there was 18 feet from the current garage to the electrical line easement. Mr. Zielinski agreed. The distance from the proposed garage to the easement would be about 8 feet.

Building Official Strong explained that there was an assumed easement where there were any electrical lines.

Planning Consultant Elmiger said that she had never received the revised drawings showing the electrical wires and the ravine and therefore had not reviewed the revised submission. Mr. Zielinski said he had submitted the required 16 copies.

Mr. Zielinski said that they were constructing a replacement garage. The existing garage had been so dilapidated that they had been able to simply push it over. The foundation was crumbling and would be removed, and a new foundation constructed. The new garage would be 1.9 feet from the west property line, as the prior garage had been, and therefore they were requesting the 3.1-foot variance from the 5-foot setback requirement. Ms. Zielinski further explained that the footprint would not be identical – they were extending the garage to the east as well as to the north.

Mr. Zielinski said they would have a practical difficulty meeting the 5-foot side yard ordinance requirement, as they would have a hard time actually getting in and out of the garage. With the existing garage, they couldn't even open the doors and they had never parked inside it.

Chair Silvestri noted that the proposed garage would be 20 feet from the back of the home. The applicants were saying that would be too short an area to move the garage over 5 feet and still be able to utilize it? What prevented the applicants from moving the garage further to the north and the east, so that variances were not needed? It appeared they had 8 feet to work with to the north.

Mr. Zielinski replied that moving the garage further north would conflict with the easement for the wires.

In response to a question from Chair Silvestri, Building Official Strong said the applicants had to be at least 6 feet away from the closest power line. He had done a site visit and confirmed the measurements. The applicants were proposing to go as far north as they could, without Mr. Strong having to deny the plans while the owners sought permission from DTE. This was not an ordinance requirement, but represented the assumed easement for DTE.

Member Aniol asked why a full survey had not been done – only the garage was shown on the survey.

Mr. Zielinski explained that they had requested a west side survey only.

Member Aniol said she thought the garage could be moved over to meet the side yard setback requirements.

Mr. Zielinski said if they moved the garage to meet the 5-foot setback requirement, it became very challenging to back out of the garage without risking the vehicle or the house.

Member Aniol said she thought 20 feet was a lot of room to maneuver; that was 2 times a parking space.

Ms. Zielinski pointed out that they had a truck, a larger vehicle.

Chair Silvestri asked why the applicants were requesting a 34-foot depth. If the depth of the garage were only 30 feet they would have 4 more feet to utilize, and would perhaps not need a variance.

Mr. Zielinski said they wanted to make sure their existing vehicles could fit in there. They wanted room for one car and storage for such items as a snow blower, patio furniture, grill, wheelbarrow, etc.

Member Silvestri said this seemed like a fairly large structure, with no exploration of alternative designs to reduce or resolve any need for a variance. Had the applicants looked at alternative designs?

Mr. Zielinski said they had looked at additional size differences. They measured the car, made sure the car doors could open, and then added square footage for storage for the items as described. They were requesting to place the new garage the same distance from the property line as the existing garage, and enlarge it a little to the north and east.

Member Mullen thought a smaller garage would still need a variance.

Chair Silvestri reiterated the need for exploring alternative designs.

Mr. Zielinski said that their driveway was very narrow on a nonconforming lot. Ms. Zielinski added that they had taken some practice drives trying to imitate the location of the proposed garage. They would still be very close to the house, and they wanted to protect their bay window and their vehicles.

Chair Silvestri said that if the garage were shorter, they could have more than 20 feet to maneuver. Did this variance request represent the minimum request necessary?

Ms. Zielinski said they would still need the same variance on the west side. She pointed out that the original Carlisle/Wortman review letter was based on incorrect information. A site visit had not been made for that review and the ravine and electrical wires were not considered.

Chair Silvestri noted that the survey had not shown either the wires or the ravine; Carlisle/Wortman could not be faulted for not initially reviewing what had not been on the plan. He asked who made the measurements of the location of the wires and the ravine.

Mr. Zielinski said Mr. Jekabson had done the original survey, and later Building Official Strong was there when Mr. Zielinski added in the calculations regarding the ravine and wires.

Member Aniol suggested turning the garage. She thought if the garage were turned, setback requirements could be met and variances would not be necessary.

Discussion followed. Mr. Zielinski reiterated that they did not want to turn into the garage, and they needed the space as requested.

Chair Silvestri said if the applicants were willing to move the garage and reduce its size or change its configuration, they would not need a side yard variance. A different configuration might yield the same square footage, but result in a narrower structure.

Ms. Zielinski said that the neighbor on their right side had a garage positioned just like their garage would be. There were 4 lots in a row that were narrow, and all their garages ran north and south, and were all nonconforming.

Member Aniol asked Building Official Strong if the lots being discussed were all nonconforming. Building Official Strong said he did notice the garages on both sides of the subject property did appear to be right on the property lines. Those were all 40-foot lots.

Regarding practical difficulty, Mr. Zielinski said the lot was exceptionally narrow and was already nonconforming. The topography of the ravine and the electrical wires constituted their practical difficulty.

Regarding substantial justice, Mr. Zielinski said there was not enough available space for a conforming garage with the footprint they desired.

The hardship was not self-created. They were not using the existing foundation. The original review letter said the site was sufficiently large to build a garage without seeking variances. However, with the ravine and the electrical wires, they could not choose another location.

Member McKindles asked how tall the garage would be. Mr. Zielinski said the garage would be 19'6" at its peak. It would be somewhat higher than the existing garage. They would also be pouring more concrete in order to accommodate the larger footprint.

Seeing that there was no further comment, Chair Silvestri indicated he was ready for a motion.

MOTION Aniol, support by McKindles, in the matter of BZA Case #17-13, 718 Thayer Boulevard, to grant a 3.1-foot variance from the requirement that an accessory structure must be set back 5 feet from a side or rear property line, in order to construct a new garage as proposed, based on the following findings of fact:

- 1. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to the other properties in the zoning district or in the general vicinity, specifically the narrowness of the lot, the existing wires, and the topography caused by the ravine limits the ability to provide options or alternatives to what is being proposed.**
- 2. The granting of this requested variance would do substantial justice to the applicant as well as to the other property owners in the district, as based on confirmation by the Building Official adjacent properties have similar garages that appear to have nonconforming side yard setbacks.**

3. **The problem and resulting need for the variance did not result from the actions of the applicant or his predecessor, because the alternatives for turning the building or changing the dimensions although keeping the same square footage won't work.**
4. **The requested variance is the minimum necessary to permit reasonable use of the land.**
5. **The granting of this variance would not have an impact on public safety or create a public nuisance.**

Chair Silvestri asked for a roll-call vote.

Aniol	yes
Callahan	no
Marold	yes
McKindles	yes
Wendt	yes
Mullen	yes
Silvestri	no

Therefore the motion **carried 5-2** (Callahan, Silvestri opposed).

CASE #17-14

**JAMES C. ALLEN
557 CARPENTER**

To consider a variance request on premises zoned R-1B, First Density Residential District, at 557 Carpenter, Northville, Michigan, 48167, parcel number 48-001-02-0025-002. The applicant is seeking a variance to replace and expand a non-conforming garage (Section 22.01) that will be located 1.0 foot from the property line in the side yard setback. The applicant is seeking a 4.0-foot variance from Section 18.04, Accessory Buildings and Structures, which requires a 5-foot setback for an accessory structure from a side or rear property line.

Member McKindles called Case #17-14, noting that Mr. Allen had provided a copy of a warranty deed to the property, and also provided a letter dated September 29, 2017 that outlined reasons why he was seeking the variance request. In that letter Mr. Allen went through the 5 criteria necessary for a variance. In addition, Mr. Allen had provided pictures and sketches of the property, including a picture of where the landmark tree referenced in his application was situated on the property, where the existing garage was and where the proposed garage would go in the context of the overall parcel.

James Allen, 557 Carpenter, was present on behalf of this application. Greg Presley, Presley Architecture, 108 N Center Street, Northville, MI was also present.

Mr. Allen explained that he had a 33-foot wide lot that contained a landmark tree. His garage had deteriorated and he needed to remove it. The existing garage did not have footings or a rat wall. He proposed to build the new garage so that its eaves and gutters were not on his adjacent neighbor's property. Using illustrations, he showed where the garage would need to be built if it met ordinance requirements. With the 5-foot setback he would have to completely replace his landscaping, including established plants and pavers, his available yard would decrease, and the construction would be within 2 feet of the 30-inch walnut tree, thus likely damaging in beyond repair.

Mr. Allen pointed out that with the proposed garage there would still be just 31.86% lot coverage. The existing garage was probably built in the early 1940s and moved to its current location in the 1980s.

Mr. Presley pointed out that this was a 33-foot wide lot, so they were starting with a nonconforming lot and they were improving that nonconformity by moving the garage so the eaves and gutters were on their property. Also, their proposal would preserve the landmark tree.

Chair Silvestri thanked the applicant for the analysis and breakdown of the reasons for the variance request.

Member Aniol asked for further information as to why building the garage to conform to the ordinance would harm the landmark tree. Mr. Allen explained that constructing a conforming garage would put the driveway within 2 feet of the tree's trunk. Also the elevation by the tree would have to be removed, damaging the roots.

In response to a further question from Member Aniol, Mr. Allen showed the center of the landmark tree on the provided schematic.

Member Aniol asked what the 2nd floor of the garage would be used for. Mr. Allen explained it would be used for storage. He was trying to minimize the footprint while maximizing storage.

In response to a comment from Member Mullen, Mr. Allen said he was constructing a one-car garage in order to minimize the footprint of the garage.

Member Aniol asked about the utility pole on the property. Mr. Allen said that pole was on the southwest corner of the easement.

Discussion followed. Mr. Allen described how they had negotiated with DTE several years ago so that the walnut tree would not be trimmed.

Member Mullen asked the width of other properties in the area. Mr. Allen said there were three 33-foot wide properties, then one that was 45 feet wide, and then properties moved to a 60-foot width.

Chair Silvestri called for a motion.

MOTION McKindles, support by Callahan, in the matter of BZA Case #17-14, 557 Carpenter, to grant a 4.0-foot variance from the requirement that an accessory building must be set back 5 feet from a side or rear property line, based on the following findings of fact:

- 1. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to the other properties in the zoning district or in the general vicinity, specifically the unique shape of the lot, in particular the narrowness of the lot and also the presence of the landmark tree in the northwest corner.**
- 2. The granting of this requested variance would do substantial justice to the applicant as well as to the other property owners in the district for the reasons stated on the record.**

3. **The problem and resulting need for the variance did not result from the actions of the applicant or his predecessor, such as the uniqueness of the lot as far as shape, narrowness and the presence of the landmark tree.**
4. **The requested variance is the minimum necessary to permit reasonable use of the land.**
5. **The granting of this variance would not have an impact on public safety or create a public nuisance.**

Chair Silvestri opened the public hearing.

Neighbors Randall Kupfer, 551 Carpenter, Brent Flewelling, 561 Carpenter, and Greg Swanson, 542 Carpenter, spoke in support of this variance request.

Chair Silvestri closed the public hearing and asked for a roll-call vote.

Aniol	yes
Callahan	yes
Marold	yes
McKindles	yes
Wendt	yes
Mullen	yes
Silvestri	yes

Therefore the motion **carried unanimously**.

VIII. PUBLIC COMMENTS:

None.

IX. DISCUSSION:

Approval of 2018 meeting dates.

Chair Silvestri noted that a tentative meeting schedule for 2018 had been presented to the Board, with BZA meetings held on the first Wednesday of the month. However, the regular July meeting fell on July 4.

After discussion, Member Aniol offered the following motion:

MOTION by Aniol, support McKindles, that the 2018 meeting schedule be adopted with the July 4 meeting rescheduled to July 11.

Planning Consultant Elmiger advised that she would not be available on July 11; someone from her firm would be able to attend in her place.

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

X. ADJOURNMENT:

Motion Aniol, support by McKindles, to adjourn the meeting at 8:35 p.m.

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

Respectfully submitted,

Cheryl McGuire, Recording Secretary

Approved as published 12/06/2017