

THORNAPPLE TOWNSHIP ZONING BOARD OF APPEALS

Tuesday, September 24, 2018

1. The meeting was called to order by Chairman Tim VerHey at 6:01 p.m. at the Township Hall. Chairman VerHey welcomed those attending.
2. Present: Tim VerHey, Curt Campbell, Linda Gasper, Craig Stolsonburg and Martin Wenger. Also present: Catherine Getty, Stephanie Skidmore, Rick Kuiper, Celine Kuiper, Jason Bushman, Brad Hoger, and Karrie Hoger.
3. Chairman VerHey welcomed Craig Stolsonburg to the Board.
4. **MOTION** by Wenger, support by Gasper to approve the Agenda as printed. **MOTION CARRIED** with 5 yes voice votes.
5. **MOTION** by Wenger, support by Campbell to approve the October 10, 2017 Minutes. **MOTION CARRIED** with 5 yes voice votes.
6. Public Comments – No comments.
7. New Business
 - a. None.
8. Public Hearing
 - a. Variance #1075 – 9765 Taro Drive, 08-14-090-007-00
 - i. 28 ft. Front yard setback variance request; Front Yard Setback – Sections 6.5(b)(1).
 - ii. Getty provided an overview of the Variance request and indicated that the applicant 's property is located on 9765 Taro Drive in the Residential Estates (RE) Zoning District. The house is on a corner lot with frontage along Taro Drive and Stimson Road. The current house and garage were conforming when they were built in the early 1970's. Due to the changing ordinance setback requirements, the garage is now considered a legal nonconforming structure. The ordinance states that should a nonconforming building be destroyed to an extent of more than 55% of its replacement cost, it shall be reconstructed only in conformance with the provisions of the ordinance (Section 26.3(D)). The applicant is requesting a variance from Section 6.5(b)(1) to remove the existing detached garage and construct an attached garage within the front yard setback requirement on Stimson Road. The proposed attached garage would be placed over the same location of the old detached garage and would not sit closer to Stimson Road than the existing building. Because the subject property is located on a corner lot, the front yard setback requirement of 35' applies to both street frontages. The applicant is requesting a variance of 28' from the front yard setback requirement. VerHey inquired whether the existing house was in compliance with the ordinance. Getty stated the house is in compliance with existing ordinances. VerHey asked whether the garage can be pushed back to conform with the house. Getty stated that it might be a possibility, however, there may be issues with the house layout and current placement of the existing septic/well.

- iii. Applicant's comments: The applicant would like to rebuild the unattached existing garage. Currently, it is in disrepair and an eyesore to the neighborhood. The original trusses are not up to code, cracks are in the garage floor and water runs into the garage when it rains or snow melts. There are also holes in the wall going all the way through to the outside. The applicant does not want to make it any wider than it is, just a few feet deeper in the front and back.
- iv. VerHey opened the Public Hearing at 6:19 p.m. Getty indicated that she did not receive any negative comments from adjacent property owners. Kuiper lives directly behind the applicant and stated that the new garage would look nice and add value to the neighborhood.
- v. VerHey closed the Public Hearing at 6:21 p.m.
- vi. Deliberation: Gasper stated she felt that this variance request met all five of the Practical Difficulty tests such as an unattached garage that is falling down; would add value to the neighborhood and applicant's property; proposed variance would create an aesthetically pleasing appearance; and would repair of a dilapidated garage. Board agreed that the lots are small in this neighborhood; majority of garages are attached in this neighborhood; and the applicant's property is a small corner lot.
- vii. **MOTION** by Gasper, support by Campbell to approve Variance #107 based upon the following rationale:
 - 1. Strict compliance with a requirement for area, setback, width, building height, and other bulk or density regulation will have the effect of unreasonably preventing the property owner from using the property for a purpose permitted by the ordinance or would be unnecessarily burdensome. Is this a true statement? YES.
 - 2. Substantial justice would be achieved for the applicant as well as other property owners in the district if the variance is approved. Is this a true statement? YES.
 - 3. The requested variance is the least relief in order to afford substantial justice for the property owners involved. Is this a true statement? YES.
 - 4. The practical difficulty is due to uniquely identified characteristics of the property and not related to general conditions in the area of the property. Is this a true statement? YES.
 - 5. The practical difficulty is not self-created. Is this true statement? YES.
 - 6. Findings of Fact:
 - a. Unusually small lots with corner lot setbacks will cause undue burden on owners to build a useable sized garage.
 - b. Strict compliance with the rules would negatively impact this applicant's and neighbors' property values.
 - c. Under the circumstances for this corner lot, this is the least relief available and balances the area and property.
 - d. The practical difficulty is based upon the size of the lot and that it's a corner lot.

e. When this dwelling was built, it was legally conforming. When the current ordinance was implemented, it created this practical difficulty.

7. **ROLL CALL VOTE:** Campbell, yes; Gasper, yes; Stolsonburg, yes; VerHey, yes; Wenger, yes. **MOTION CARRIED.**

b. Variance #108 – 650 S. Broadway, 08-14-027-008-00

- i. Section 5.5(b)(1) Front Yard Setback
- ii. The subject property is located at 650 S. Broadway in the General Commercial “C” Zoning District. Getty stated that this property is a corner lot, so it must meet setback requirements for both roads. In addition, these structures are meant to be demonstration models and temporary. The applicant operates a commercial landscaping and property management business at this location. The applicant placed two “demo models” of accessory buildings on the parcel which his business now sells. The applicant was unaware that these structures would need to meet setback requirements as accessory structures. The applicant is requesting a variance from Section 12.6(b)(1) to continue to display the accessory building “demo models” within the 50 ft. front yard setbacks from Broadway and Misty Ridge Drive. Because the property is located on a corner lot, the front yard setback requirement applies to both street frontages. The applicant is requesting the following variances: 1) Building “A” (open sided pavilion style building) – Broadway Street: 26-foot front yard setback variance and Misty Ridge Drive: 4-foot front yard setback variance. 2) Building “B” (2 stall garage style building) – Broadway Street: 16-foot front yard setback variance.
- iii. Stolsonburg inquired whether this was discovered through an enforcement issue. Getty stated that it wasn’t an enforcement issue and the applicant didn’t realize that these structures needed to be approved prior to installation. In addition, applicant is concerned whether these structures would sell due to visibility issues in other locations on the property. Further, the applicant stated that these temporary structures may be damaged if located in another part of the property due to semi-truck deliveries. Stolsonburg asked whether the variance would remain with the property or the applicant. Getty stated that the variance would remain with the property. In addition, Wenger and Bushman discussed whether these structures are anchored down.
- iv. VerHey opened the Public Hearing at 6:46 p.m. Getty indicated that she did not receive any negative comments from neighboring property owners. No public comments.
- v. VerHey closed the Public Hearing at 6:46 p.m.
- vi. Deliberations: Board discussed the Variance and the Non-Use Dimensional Variance Checklist.
- vii. **MOTION** by Verhey, support by Gasper to approve Variance #108 based upon it meets the following standards; and with the condition that this variance is limited to temporary structures that are moveable, not permanently attached, not to exceed the current size of the existing temporary structures, and not further encroach on setbacks:

1. Strict compliance with a requirement for area, setback, width, building height, and other bulk or density regulation will have the effect of unreasonably preventing the property owner from using the property for a purpose permitted by the ordinance or would be unnecessarily burdensome. Is this a true statement? YES.
2. Substantial justice would be achieved for the applicant as well as other property owners in the district if the variance is approved. Is this a true statement? YES.
3. The requested variance is the least relief in order to afford substantial justice for the property owners involved. Is this a true statement? YES.
4. The practical difficulty is due to uniquely identified characteristics of the property and not related to general conditions in the area of the property. Is this a true statement? YES.
5. The practical difficulty is not self-created. Is this true statement? YES.
6. Findings of Fact:
 - a. Unreasonable to move structures to any other part of the property since it would decrease potential sales of temporary buildings and setback is greater than what is necessary for temporary building structures.
 - b. NTA Property Management is the only landscape supply company in the area and not granting this variance would not allow him to conduct his business.
 - c. Proposed placement of the structure is least relief and only place that the company can place these structures to allow for potential sales and product's safety.
 - d. The practical difficulty is due to uniquely identified characteristics of the property such as it's a corner lot and that it is a business along M-37.
 - e. This issue is not self-created due to the parcel's topography and the current location is the only place to see these structures from M-37 and ensure its safety.
7. **ROLL CALL VOTE:** Campbell, yes; Gasper, yes; Stolsonburg, yes; VerHey, yes; Wenger, yes. **MOTION CARRIED.**
9. ZBA Member Comments:
 - a. None.
10. Adjournment: **MOTION** by Gasper, support by Wenger to adjourn the meeting at 7:15 p.m. **MOTION CARRIED** with 5 yes votes.

Respectfully submitted by:

Curt Campbell

Secretary

Stephanie L. Skidmore

Recording Secretary