

**SHIAWASSEE COUNTY
ZONING BOARD OF APPEALS
JULY 13, 2011**

Meeting Called to Order: Chair Henry W. Martin III called the regularly scheduled monthly Shiawassee County Zoning Board of Appeals (“ZBA”) hearing to order at 7:00 P.M. within the County Board of Commissioners’ meeting room located on the first floor of the Surbeck Building, 201 N. Shiawassee Street, in Corunna.

Roll Call: Present: Ann Gamboe Hall, Gerald Wardell, N. Brad Hissong, Willis Miller, and Henry W. Martin III. Absent: Jacob Raleigh and Larry Gramer. Also present: Linda Gene Cordier/Zoning Administrator and County Board of Commissioner Ron Elder.

Cordier informed the Chair that she did not receive word from Jacob Raleigh; however, she had received a voice message from Larry Gramer that he would be out of town this week and unable to attend the hearing.

Excused Absences: Chair Martin asked for a motion to excuse Gramer and that they would wait until next month on Raleigh. **Motion:** Hall moved to excuse Gramer from the hearing. **Support:** Miller. Motion carried: 5 ayes, 0 nays.

Confirmation of Legal Notice: Cordier informed the Chair that the legal notice for the evening’s hearing was published within the Shiawassee Independent on Sunday, June 26, 2011; proof of notice was on file. Chair Martin declared the hearing legally noticed.

Approval of Agenda: **Motion:** Miller moved to approve the agenda as printed. **Support:** Hall. Motion carried: 5 ayes, 0 nays.

Approval of Board Minutes: **Motion:** Hissong moved to approve the June 8, 2011 board minutes as printed. **Support:** Miller. Motion carried: 5 ayes, 0 nays.

Public Comment on Non-Agenda Items: None.

County Commissioner Comments: Commissioner Elder discussed the recent County Committee of the Whole meeting in relationship to P.A. 116 agreements, the County’s new website, an update on the Animal Control Facility, and that the commissioners would begin working on the 2012 budget in August.

Hall thanked Commissioner Elder for attending the “ZBA” hearings and keeping them apprised of what is in the works.

Old Business: None.

New Business:

Dimensional Variance Application #ZBA11-008

Applicant and Property Owner – Laura Pangborn

Site Location – 1090 East Bennington Road, Owosso, MI

Tax Identification – 78-011-08-100-004, Section 8, Shiawassee Township

Applicant’s Request – Construct a 24’x26’ attached garage with an 8’ breezeway addition to the existing single-family dwelling within the rear yard setback requirements of an A-2 Zoning District. Proposed – 19 feet from rear build line to rear property line.

Ordinance – Section 3.2., Schedule A., A-2 Zoning District, Rear Yard Setback – 60 feet

Variance Requested – 41 feet

Cordier provided a brief staff report in reference to the applicant's request. Cordier noted she and the applicant had met in her office to discuss her application request. The applicant was informed at that time that a variance would not be required if she constructed a detached garage. Cordier explained that a detached garage within a rear yard can be located 10 feet off the rear and side yard as long as it is 10 feet away from another structure within the A-2 district. The applicant informed her she wished to proceed with a variance for an attached structure.

The lot was created under the former Subdivision Control Ordinance prior to current Land Division Act sometime between 1982 and 1989. At that time, the Zoning Department would not have reviewed a proposed land division. The home is located on a 2.5 acre parcel, but due to the location of the home does not meet the minimum 60 feet rear yard setback requirement. The 1982 Zoning Ordinance, which would have been in effect at that time, required a minimum of 60 feet rear yard as well. A property file revealed that the prior owner applied for remodeling permits in 2004, which reflected one of the additions.

The home is considered nonconforming based on the fact the existing home does not meet the setback requirements; it is 29 feet from the rear lot line. The well is located directly behind the home and the septic and drain field are located between the driveway and east side of the home. As viewed in the drawing, there are exhaust fans extending out from the middle addition to the home. Two additions have been added to the existing two-story home which has created three (3) different roof lines.

A site visit revealed that a driveway running parallel with the road extends from the east drive to the west. The applicant was asked if it was feasible to install a driveway along the west property line and construct the garage and breezeway to the west side of the home. The applicant stated that she installed the drive running east/west for safety reasons for entering and exiting the property. To the best of her knowledge the former owner filled in a low area along the west side and wasn't sure if anything had been buried there. The applicant also indicated that an addition to the west side of the home would not have a smooth traffic flow pattern. Cordier stated she asked the applicant to bring a floor plan this evening for room designations. The applicant had also indicated that she has proposed the garage and breezeway to the north as possible due to vents, septic and drain field, and the existing kitchen and bathroom windows.

Chair Martin asked the applicant if she had additional comments on her request.

Ms. Pangborn passed out a floor plan to the board. She indicated that she agreed with Ms. Cordier's presentation of her request. The home is an older home with two additions and three roof lines. It was her request to have an attached garage, but still have it aesthetically appealing but yet blend in with the home.

Chair Martin opened the floor for public comment in support of the request. Hearing none, the floor was opened for public comment in opposition of the request. Hearing none, Chair Martin asked for township input. Cordier stated no correspondence had been received from the township. Chair Martin closed the public hearing for board deliberation.

Board discussion: The board discussed whether or not the exhaust vents could be relocated, repositioning the garage further to the north and redesign the roof line of the three roofs, or turning the garage with the doors facing east.

Ms. Pangborn explained that if the garage were repositioned to the north, it would block the view from the kitchen and bathroom windows. She would be looking out to a garage wall. She indicated that since

she purchased the home, she has lost about \$40,000 due to the economy and housing market. In researching the proposed garage addition, she was informed it would only raise her value about \$10,000.

The board discussed the fact if the variance were to be granted, it would be considered an expansion of a non-conformity. The ordinance clearly states a non-conformity should not be increased to a greater non-conformity. It was noted the applicant attempted to purchase additional land to the south of her, but the owner did not want to sell. The land now appears to be in foreclosure.

Ms. Pangborn stated she would consider reducing the size of the garage to 24' x 24'.

Chair Martin asked the applicant if she would like to have her request postponed for one month to allow her time to redesigning the garage, roof lines, and moving the garage further to the north with a building contractor.

Ms. Pangborn replied no; she felt the board should continue on with her request this evening even though she felt it was probably going to be denied.

Chair Martin asked her if she was sure; the board was willing to postpone this for one month. Denied application requests cannot come back before the board for one year unless newly found evidence has been submitted within eight (8) days after the hearing.

Ms. Pangborn stated the board could continue she didn't want to postpone it.

Findings of Fact:

1) *How the application of the Zoning Ordinance creates unnecessary hardship or practical difficulty in the use of the petitioner's property.*

Staff: The applicant purchased the home with the additions. The detached garage can be placed closer to the rear and side lot line if it is not attached to the home. The existing nonconforming home does not meet the minimum required rear yard setback requirements. Due to the staggered roof lines and location of the septic and drain field prohibit the proposed addition to be moved forward.

ZBA Findings: Suggestions were given to the applicant to eliminate the increase of the nonconformity. A non-conformity should not be increased. Board concurred with all findings.

2) *Identify the unique physical circumstances or conditions or exceptional topography that create practical difficulties.*

Staff: The parcel depth is 311.46 feet with the existing home setting to the rear of the property (the back of the home is 29 feet off the rear lot line). The applicant has attempted to purchase additional property to the south of her rear lot line, but the owner does not want to sell any land.

ZBA Findings: The home is situated more to one corner on a larger lot. The house is already too close to the rear lot line (29 feet). The garage can still be built as a detached garage and comply with zoning ordinance setback requirements. Board concurred with all findings.

3) *Specific findings (characteristics of the land) showing that because of the physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance. That the authorization of a variance is, therefore, necessary to enable the reasonable use of the property and that the condition is specific to this property and not general to other properties in the area.*

Staff: Due to the layout and location of the existing home, it appears this is the only feasible location to attach it to the home.

ZBA Findings: There are other options; the traffic flow would be through the family room if the addition were built on the west side, if it could be redesigned so it would not increase the nonconformity (in line

with the existing back line of the dwelling) by positioning the garage further north, and it can be built without a variance if detached. Board concurred with the findings.

4) *Finding that the practical difficulty was not created by the applicant and is related only to property that is owned or occupied by the applicant.*

Staff: The existing nonconforming home and parcel was created prior to ownership of the applicant. Two additions and three different roof lines have added additional hardship for adding a garage to the home. The nonconforming home already sets too close to the rear lot line.

ZBA Findings: Concurred with staff's findings.

5) *A statement of the impacts of the variance if authorized, the property values, use and enjoyment of the property in the neighborhood or district, and on the public, health, safety and welfare.*

Staff: If approved, it appears there would be no impact on the neighborhood or public, health, safety and welfare within the area.

ZBA Findings: Concurred with staff's findings.

6) *The proposed variance does not permit the establishment of any use which is not permitted by right within the district or any use or dimensional variance for which a special use permit is necessary.*

Staff: Attached garages and breezeways are a use permitted by right within the A-2 district without requiring a special use permit.

ZBA Findings: Concurred with staff's findings.

7) *Findings on whether the proposed development complies with the requirements, standards, or procedures given in the Zoning Ordinance or an interpretation of the disputed ordinance provisions, if applicable.*

Staff: The home and additions did not meet the rear yard setback requirements of the 1982 Zoning Ordinance nor do they meet the setback requirements from a rear lot line within the 1999 Zoning Ordinance as it exists.

ZBA Findings: Concurred with staff's findings.

8) *Findings on any error in judgment or procedure in the administration of the relevant zoning provisions.*

Staff: It appears that under previous land division laws prior to 1997; the administration would not have been required to review proposed divisions for minimum lot size and setback requirements. Verification that the prior owner even contacted staff for minimum code requirements is not known.

ZBA Findings: Concurred with staff's findings.

9) *The possible precedents or affects which might result from the approval or denial of the variance or from the appeal.*

Staff: Each application is reviewed and considered on its own merits and circumstances and unless an application is identical to this particular request, it should not be considered precedent setting.

ZBA Findings: The home is already nonconforming based on the setback from the rear lot line. A non-conformity should not be increased to a greater nonconformity. Granting of the variance creating an even larger nonconformity would be setting precedence. The board concurred with all findings.

10) *Findings on the impact if the appeal is approved, on the ability of the County or other governmental agency to provide adequate public services and facilities and/or programs that might reasonably require in the future if the appeal is approved.*

Staff: It appears there would be no additional impacts on governmental agencies if the variance were approved.

ZBA Findings: Concurred with staff's findings.

Discussion: The board again asked the applicant if she wished to have the request postponed for one month allowing her a chance to reconsider other options that might make the request so it wasn't increasing the nonconformity of what already exists.

Ms. Pangborn replied that she had informed them to proceed; she doesn't want to look out of her kitchen window at a wall. It's clear the request is going to be denied; however appearance wise it wouldn't look right moving it forward. She would have to decide if she wanted to stay there or put the home up for sale.

Motion: Ann Gamboe Hall moved the Dimensional Variance Application Request (ZBA11-008) seeking relief from the rear yard setback requirements within the A-2 Zoning District for principal structures as outlined within the 1999 Zoning Ordinance, Section 3.2., Schedule A, submitted by **Laura Pangborn** (applicant/property owner) regarding Tax Id. #78-011-08-100-004, Section 8, Shiawassee Township, and located at **1090 East Bennington Road, Owosso, MI** to allow for a "24'x26' attached garage and 8' breezeway addition to be **19 feet** from the rear lot line (a variance of 41 feet), be **denied** pursuant to Section 18.4.5. of the 1999 Shiawassee County Zoning Ordinance, as amended, and based on the Findings of Fact within Section 18.4.6. **Support:** Willis Miller.

Roll Call: Ayes to Deny: Gerald Wardell, N. Brad Hissong, Willis Miller, Ann Gamboe Hall, and Henry W. Martin III. **Nays:** None. Motion carried to deny: 5 ayes to deny, 0 nays.

Interpretations of the Zoning Ordinance: None.

Zoning Administrator Report: The next public hearing will be August 10th. One application had been received.

Board Member Comments: None.

Public Comments: None.

Adjournment: Motion: Hall moved to adjourn. **Support:** Miller. Motion carried: 5 ayes, 0 nays. The public hearing adjourned at approximately 8:00 P.M.

Recording Secretary: Linda Gene Cordier

Henry W. Martin III
Henry W. Martin III, Chairman
Zoning Board of Appeals

November 9, 2011
Approval Date of Minutes