

**SHIAWASSEE COUNTY ZONING BOARD OF APPEALS
BOARD MINUTES – AUGUST 10, 2011**

Meeting Called to Order: Vice-Chairman Larry Gramer called the regular monthly Shiawassee County Zoning Board of Appeals (“ZBA”) public hearing to order at 7:04 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, Michigan.

Roll Call: Present: Ann Gamboe Hall, Gerald Wardell, Willis Miller, and Larry Gramer. Absent: Jacob Raleigh, Henry W. Martin III, and N. Bradley Hissong.

Excused Absences: Cordier informed Vice-Chair Gramer that Jacob Raleigh had contacted the office and left a message that he was unable to attend tonight’s meeting. Henry Martin had contacted her on Tuesday and stated he was in Ohio and would be unable to make it back for the meeting. Cordier stated the office had not received a call from Brad Hissong.

Motion: Willis Miller moved to excuse Jacob Raleigh and Henry W. Martin III from tonight’s hearing. **Support:** Gerald Wardell. Motion carried: 4 ayes, 0 nays.

Confirmation of Legal Notice: Cordier informed Chair Gramer that the legal notice was published within the Shiawassee Independent on Sunday, July 24, 2011 and proof of publication was available for review. Chair Gramer noted the hearing was legally noticed.

Approval of Agenda: **Motion:** Ann Gamboe Hall moved to approve the agenda as printed. **Support:** Willis Miller. Motion carried: 4 ayes, 0 nays.

Approval of Board Minutes: Chair Gramer noted the minutes would be reviewed for approval at the next regular meeting after it was noted that the members had not received a draft copy. Cordier explained that the packets were mailed out with a memo stating the minutes would be mailed separately. Cordier apologized stating she thought she had mailed them out separately.

Public Comments on Non-Agenda Items: None.

Commissioner’s Comments: County Commissioner Ron Elder informed the board that the commissioners were working on the budget for 2012 and discussed the first six-months of this year. He noted the economy remained fragile and that any state cuts would eventually trickle down to the county. Elder noted that the department heads were doing a good job in trying to scale down department costs.

Old Business: None.

New Business:

Dimensional Variance Application #ZBA11-009

Applicant/Owner – Phillip Baumchen

Site Location – 4900 Brown Road, Durand, MI 48429

Tax Identification – 78-012-11-300-005, Section 11, Vernon Township

Request – Construct a 22’x22’ attached garage with a 5’ mudroom/breezeway addition within the front yard setback requirements from a public road right-of-way

Proposed Setback – 24 feet from the road right-of-way

Ordinance -- Section 3.2.; Schedule A, R-1A District: 40 feet from right-of-way

Variance Requested – 16 feet

Mr. Baumchen informed the board that he was seeking approval to construct a 22'x22' attached garage with a five (5) foot breezeway. He discussed the setback from the centerline of the road and stated he had talked to someone within the office by phone. The garage would be 57 feet from the centerline, but the staff report says 24 feet.

Chair Gramer noted that the site plan reflected the change had been made showing the 57 feet from centerline, but ordinance states from right-of-way, which would be 33 feet from center line of Brown Road; the 24 feet would be the accurate figure in terms of the variance needed of 16 feet.

Mrs. Baumchen noted this was the only location that the garage could be built. Her mother is 80 years old and has resided in Nevada for the last 25 years. She has fallen twice, which now requires her to use a walker. A place is needed to get her mother in and out of a vehicle that would be free from snow or ice when she comes to live with them.

Mr. Baumchen added that his mother-in-law has had a broken arm and hip. Baumchen continued with why the garage had to be built in this area of the property. The County had put in a drainage ditch to the north of the home when they re-did Lansing Road. If the garage were built on that side; a new driveway would need to be installed.

Chair Gramer said he had originally thought of maybe bumping the garage back and along the southern end of the home within the 22 foot setback; seeking a zero clearance setback variance instead. Gramer said he now realized that would not be an option due to the fact the well was located within this area. Gramer asked if there were any questions from the board before he asked for the staff report.

Hall asked what the required side yard setback would be.

Cordier stated the ordinance requires a 20-foot side yard setback, but noted if the board approved this site plan it would in essence be approving the site location of the attached garage as shown. Preston agreed, noting it was essentially two (2) variances, but it could be considered as one based on the concept because typically an attached garage is built at the same time the home is built. This home was built without an attached garage, plus there are other noted constraints prohibiting the location for an attached garage. It can be considered as one variance if it shown that this is the only feasible location that it can be built.

Cordier noted the legal description notes a Consumers Energy Easement and wondered if he knew where the easement was.

Baumchen replied it was located along the northeast corner of the property.

Chair Gramer asked for the staff's report.

Cordier stated the applicant was asking for a 22'x22' attached garage with a 5' breezeway for storage of shoes, boots, and coats. A 40-foot front yard setback is required; the applicant is asking for a 16-foot variance. Cordier said she had talked to Mr. Baumchen a couple of times by phone. She suggested placing the garage on the north end of the home with a new drive, however; Mr. Baumchen had informed her that they would need to add a bedroom addition on the north end of the home for his mother-in-law. She suggested moving the garage further north to meet the 20-foot setback, but noted there was an underground gas line. The current drawing reflected it would be 8-feet from the gas line. She spoke with the Mechanical Inspector about setbacks from the gas line and was informed if it was a copper line the building could be built right next to it. However, nothing could be built over top of it. Although she hadn't discussed the feasibility of eliminating the breezeway to attach the garage directly to the home so a lesser variance would be needed she said she had questioned whether or not the breezeway could be

relocated along the southwest area behind the garage. Cordier said it has since been noted the well is located in this area so relocation of the breezeway wasn't an option. The home was built approximately in 1945. There are currently two small accessory structures on the property (10'x10' and 6'x12') and a swimming pool behind the home. The County drainage ditch, Consumers easement, and location of the home have limited the owner's ability to build without the need of a variance.

Gramer added that it would also create some very uneven roof lines.

Cordier continued that the property directly to the south is the neighbor's rear yard and was overgrown with weeds. The applicant stated the neighbor didn't want to sell any of the land. The proposed garage, if approved, doesn't appear to be creating a vision problem for traffic traveling north to the Lansing Road intersection.

Baumchen informed the board that if the garage were moved further over to the north, they would be looking out of the kitchen window directly into the garage. Right now they look out the kitchen window at the driveway.

Hall questioned the size of the garage and wondered if that was a typical size for a two-car garage or if it could be scaled down.

Gramer replied that the applicant has scaled it down as much as possible. It would be a tight fit for two-cars and still be able to get out of a vehicle and use the service door. Gramer asked Cordier if she had received any correspondence.

Cordier stated she hadn't received any correspondence, no telephone calls from the adjoining neighbors, and no correspondence from the township.

Gramer stated he would proceed with the Findings of Fact.

Wardell questioned the fact there was just a board quorum and that a unanimous vote would be needed to pass the request.

Preston explained that the board would need a unanimous vote to pass this. However, if it were a 3-to-1 vote; the motion would die. A motion would then be required to either table it for one (1) month until a full board was present or a motion to deny the request. This could be handled after the Findings of Fact.

Chair Gramer informed the applicant that he had the option of requesting it be tabled for one (1) month so a full-board would be present to vote on it. If it were to be denied; an application could not be resubmitted for one year unless new evidence was submitted that had not been brought forward at this hearing.

Baumchen replied he would like to proceed with this tonight. He needed to start working on this garage as quickly as possible and didn't want to wait another month.

Findings of Fact: Section 18.4.6 of the Ordinance:

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

Staff: The existing home and parcel is considered a legal non-conforming parcel which existed prior to the adoption of the 1982 Zoning Ordinance per the 1982 Tax Roll Book. The existing home is currently in compliance with the setback requirements from both Lansing and Brown Roads. Because of the irregular shaped corner lot, the home was positioned within close proximity of its southern boundary.

Location of the house, septic field, tank, and drainage ditch play a role in where, if any, an addition can be built.

ZBA: A practical difficulty exists. Although it may be feasible to relocate the ditch, it was put in by the County when they re-did Lansing Road in 1985. The board concurred with staff's findings.

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

Staff: The topography (~~drainage ditch~~), irregularly shaped corner parcel which is located on a former State highway (Lansing Road) and secondary road (Brown), location of septic field and reserve area, and location of the existing home to the southern boundary line hinders an attached garage in line with the front build line.

ZBA: The board concurred with staff's comments provided the wording "drainage ditch" be removed after a lengthy discussion on setbacks from easements, possible assessments, engineering that was involved with the construction of the ditch and future additions to the north end of the home.

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: Homes within the immediate area appear to be older homes with attached garages maintaining the minimum 40 foot setback requirements. The existing conditions on the property may hinder the applicant from adding on without the need of a variance.

ZBA: Concur with staff's comments.

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 property is considered legal non-conforming and the practical difficulty was not created by the applicant.

ZBA: Concur with staff's comments.

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: It would not create a vision problem for traffic traveling north along Brown to the intersection of Lansing Road. The property directly south of the applicant's parcel appears to be the owner's rear yard with their main access being directly onto Lansing Road and is currently overgrown with weeds.

ZBA: Concur with staff's comments.

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: An attached garage is a permitted use by right within the R-1A District by Zoning Permit approval provided setbacks can be met.

ZBA: Concur with staff's comments.

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 proposed development would otherwise comply with the zoning ordinance for an attached garage.

ZBA: Concur with staff's comments.

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

Staff: There appears to be no error in judgment or procedure made.

ZBA: Concur with staff's comments.

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

Staff: Similar non-conforming homes within the area may wish to expand. The least amount needed for the variance needs to be considered for the attached garage before rendering a decision.

ZBA: They have exhausted all possible options on the property. The breezeway will only be five (5) foot in width; the two-car garage has been scaled down to as small as possible to be functional. No precedence would be set as the board has made sure the least amount needed to deviate from the ordinance had been reached. Board concurred with the 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: There appears to be no anticipated impact if approved.

ZBA: Concurred with staff's comments.

Motion: **Ann Gamboe Hall** moved that the dimensional variance request from the front yard setbacks within the R-1A Zoning District for Attached Garages (Section 5.3.1.A., and Section 3.3., Table 3-2) as outlined within the 1999 Shiawassee County Zoning Ordinance, as amended, submitted by Phillip Baumchen (applicant/property owner) regarding Tax Id.78-012-11-300-005, Section 11, Vernon Township, and located at 4900 Brown Road, Durand, MI to allow for a **22'x22' attached garage with a five (5) foot breezeway/mudroom addition**, a variance of **16 foot**, be **approved** 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.**

Discussion: Preston recommended including language within the motion to accept the eight (8) foot side yard setback or a statement to accept the site plan as submitted with an eight (8) foot side yard.

Amended Motion: **Ann Gamboe Hall** moved to amend the motion to include a southern side yard boundary variance of eight (8) foot. **Miller supported amendment.**

Roll Call to Approve: Willis Miller, Gerald Wardell, Ann Gamboe Hall, and Larry Gramer. Nays: None. Motion carried: 4 ayes, 0 nays.

Cordier informed them of the ordinance regulation of an eight (8) day waiting period from date of motion before applying for a zoning permit. Cordier also stated if they planned to start construction on the bedroom addition as well, she would recommend they amend their zoning application to include the addition otherwise it would require a separate permit.

Baumchen noted they would not be able to start the bedroom addition until next spring and thanked the board for hearing their case.

Interpretation of the Ordinance: None.

Zoning Administrator's Report: Cordier stated the cut-off date for applications for the September public hearing was last Thursday, August 4th. As no applications were received, she asked Chair Gramer if he wished to cancel the meeting in September. Chair Gramer called for a motion to cancel the hearing.

Motion: Ann Gamboe Hall moved to cancel the September 14th “ZBA” hearing. **Support: Willis Miller.** Motion carried to cancel the September hearing due to lack of business; 4 ayes, 0 nays.

Board Member Comments: None.

Public Comments: None.

Adjournment: Motion: Ann Gamboe Hall moved to adjourn. **Support: Gerald Wardell.** Motion carried; 4 ayes, 0 nays. Meeting adjourned at 7:50 p.m.

Recording Secretary: Linda Gene Cordier

Larry Gramer
Larry Gramer, Vice Chairman
Zoning Board of Appeals

November 9, 2011
Approval Date