

Minutes of the regular meeting of the Fairport Zoning Board, held July 22, 2013 at 7:00 p.m., in the Board Room, Village Hall, 31 South Main Street, Fairport, New York.

PRESENT:

J. Himmelberg
M. Fortner
D. Davis
E. Wierzbicki
Sean Gibbons (alternate)
G. Wolf, Attorney
J. Steen, Code Enforcement Officer

OTHERS PRESENT:

William Grube
Deborah Blossom
Kevin Feor
Scott Dent

ABSENT:

T. Nadler
P. Cantwell (alternate)

Area Variances

William J. Grube, owner of premises at **41 Briggs Avenue** in the R-B Residential District, for variances pursuant to sections 550-49A(4) and 550-50A(1) such that the driveway is wider than the garage to which it leads by more than two feet on each side and has a side yard setback of less than ten feet.

The secretary read the legal notice as it appeared in the Daily Record on July 10, 2013.

Mr. Grube explained why he is requesting to widen his driveway. Currently his driveway is five feet two inches from the south property line and single car in width. One car is stored in the garage and he has the need to park his truck, utility trailer and two other cars. His driveway as it exists cannot accommodate all of his vehicles. Widening the driveway at the north and the south side will allow for double width eliminating issues in the winter months when not allowed to park on the street.

J. Himmelberg expressed concern with the driveway expanding closer to the south lot line and asked about an existing tree in that direction. The tree is near to both driveways; 41 and 43 Briggs Avenue and on the property line making the tree property of both parcels. There was discussion prior to the meeting between Mr. Grube and the property owner to the south, 43 Briggs Avenue, regarding removal of the tree. Mr. Grube felt that the tree is not healthy and offered to pay for removal and replacement of the tree. The neighbor did not agree.

D. Davis commented that there are a lot of vehicles in the driveway and asked if the utility trailer was considered out door storage. It was explained that it is not outdoor storage and not a recreational vehicle since it is licensed and registered and legal to remain in the driveway.

E. Wierzbicki questioned if the request to expand the driveway to the north would be in front of a door that enters the garage or the home. It was explained that the exterior door being questioned is a "man" door that enters into the garage not the house directly. Ms. Wierzbicki also asked if there is any water pooling on the property and where snow can be pushed to in the winter; it was explained by Mr. Grube that drains were put in place on the property to correct water issues he once had and snow would be pushed into his front yard.

Chair Himmelberg opened discussion to the audience.

Debra Blossom, resident and owner of 43 Briggs Avenue appeared and shared photos of the area where Mr. Grube would like to expand his driveway. She stated that she does not like where he parks his trailer and felt the proposed driveway expansion would be too close to the tree shared by both properties. She would like the tree to remain for the purpose of shade on her home.

M. Fortner stated he observed that many driveways on Briggs Avenue are larger than what Mr. Grube has at his property and asked what size Ms. Blossom's driveway is and how close it is to the property line. Ms. Blossom stated that she does not know the size of her driveway; approximately one and one half car in width.

Mr. Fortner stated that he felt an Arborist should be consulted to look at the tree and determine if it is healthy.

J. Himmelberg asked Ms. Blossom if she would have an issue with the driveway being expanded if the tree were not there. She explained that she does not like where the trailer is parked and moving that closer to her is a concern. It was explained to Ms. Blossom that a larger vehicle could legally be parked in that location and be in compliance. Ms. Blossom stated that she is not opposed to the driveway being expanded to the north.

E. Wierzbicki asked Ms. Blossom what distance she would be accepting of to expand the driveway to the south. Ms. Blossom responded that a distance that would not harm the tree roots would be acceptable, she estimated one foot.

Chair Himmelberg suggested temporary adjournment of the application to move next on the agenda allowing for Mr. Grube to consider the option of hiring and paying for an Arborist to make a determination of the health of the shared tree.

Motion was made by M. Fortner, seconded by D. Davis, and it was unanimously resolved to temporarily adjourn the discussion.

Chair Himmelberg re-opened the discussion.

Mr. Grube stated that he would be willing to pay for a mutually agreed upon Arborist to determine the health status of the shared tree. Once the evaluation is complete he would like to return to the Zoning Board for a decision of his request to expand his driveway. Ms. Blossom is willing to accept the determination of the Arborist and consider removal and replacement of the tree between her and Mr. Grube's property.

Motion was made by J. Himmelberg, seconded by D. Davis, and it was unanimously resolved to adjourn the application until the August 26, 2013 regular meeting.

ADJOURNED

Feor Construction, as agent for **Scott Dent**, owner of premises at **9 Dewey Avenue**, in the R-B Residential District for a variance from section 550-8 (Attachment 1) to permit the construction of an addition having a rear yard setback of ten feet instead of thirty-five feet.

The secretary read the legal notice as it appeared in the Daily Record on July 12, 2013.

Kevin Feor and Scott Dent describe the requested variance. A new attached garage will be built, the existing garage will be removed and a second story addition will be added. The proposed plan will require less asphalt and create more lawn area.

J. Himmelberg stated that the new garage would be set five feet from the property line and would be compliant if detached.

E. Wierzbicki asked what benefit Mr. Dent and his family would have from this addition and said she did not believe a two car garage was consistent with the neighborhood. Mr. Dent explained that he and his wife would now be able to park inside of the garage and still have two remaining parking spots on the driveway if needed.

Water pooling and drainage was discussed. It was explained that there is some pooling of water at the rear of the lot far to the back.

No one else wished to speak. The public hearing was closed.

Checklist for consideration of Area Variances:

1. *Will an undesirable change be produced in the character of the neighborhood, or will a detriment to nearby properties be created by granting the variance?* No, the neighborhood was described as Potter & Dewey Avenue from James Street to Church Street (4 members agreed -1 disagreed) E. Wierzbicki felt massing was off and the addition would be inconsistent with the character of the neighborhood.
2. *Can the applicant achieve the desired end by some means other than a variance?* Yes, if the garage were detached; but not allowing for exact needs to be met. (all members agreed)
3. *Is the requested variance substantial?* Yes, however the request is mitigated by the shape and uniqueness of the lot.
4. *Will the proposed variance have an adverse impact or effect upon physical or environmental conditions in the neighborhood or district?* No. (all members agreed)
5. *Was the need for a variance self-created?* Yes. (all members agreed)
6. *Would a decision to grant the application be inconsistent with a prior decision of the board?* No. (all members agreed) The side abuts to the rear of lots and is a flag shape

There were no objections from neighbors.

Motion was made by D. Davis, seconded by M. Fortner to approve the variance request as submitted. A roll call vote was taken, D. Davis, M. Fortner, J. Himmelberg and S. Gibbons voted "aye", E. Wierzbicki voted "nay". Motion passed.

APPROVED

Minute Approval

Motion was made by J. Himmelberg, seconded by D. Davis, and it was unanimously resolved to approve the minutes of the June 18, 2013 special meeting. All voted for the motion except S. Gibbons, not at the June 18, 2013 meeting, he abstained.

There being no other business the meeting was adjourned at 8:21 p.m.

Respectfully Submitted,

Deborah L. Fuller, Secretary
Zoning Board of Appeals