

**Zoning Board of Appeals
Meeting Minutes
June 22, 2009**

Present: Judie Wright, Edward Morano, John Heath, Barney Natoli,
Kathleen Campbell, **Peter Mennis**

Absent: George Cleveland, Jeff Uhlig
Staff: Todd Dreyer, Amy Donnison, Jason Lawrence
Also Present: Ald. T. Bresina, Robert Carey

* Alternates with voting power are noted in **bold**.

Call to Order

The meeting was called to order at 7:00 PM by Chairwoman Wright. She stated that the Board is made up of volunteers to enforce the regulations put in place by the Common Council, and that they have up to 62 days to make a decision on the request before them. The decision that will be made is based solely on the information presented to them during the hearing process. The hearing is a request for an Area Variance for Robert Carey of 17 Francis Avenue to permit a 2 story, 2 car garage to be constructed where there is currently no garage on the west side of the property approximately five feet from the property line.

Public Hearing: Robert Carey:

The public hearing was opened at 7:02 PM. The following exhibits were entered into evidence:

1. Application from Robert Carey.
2. Community Development report dated May 29, 2009.
3. Drawings of plans provided by applicant
4. Photographs of property layout.
5. 239 Review submission form.
6. Copy of tax map of property.
7. No Correspondence received in support or in opposition of proposal.
8. No phone calls received in support or opposition of this proposal.
9. Public hearing notice (mailed to all properties within 500 feet of the applicant).

A. Donnison read the Community Development reports and noted that a response has been received from the Chenango County 239 Review Committee and reads as follows: The Chenango County Planning Board's 239-review Committee has completed the review of the above referenced proposal. The Committee has

approved the project with the following recommendation: Recommend staying with the 10 foot setback from property boundary. Chairwoman Wright wished to start by thanking the applicant for providing drawings that are above the quality of drawings which are often provided to the board.

Mr. Robert Carey, owner of 17 Francis Avenue stated that the he has owned the property for several years now and there has never been a garage on the property since he has owned it. The lot is small and parking is difficult when family is visiting. On street parking is utilized now but the proposed garage would allow for 2 vehicles parked inside and the extended driveway would then allow for 2 to 4 more vehicles to be parked off street. The design of the building was fashioned after a carriage barn on South Broad Street, Mr. Carey created the drawings and site plans himself. Mr. Carey stated that the lot is undersized and therefore it is difficult to meet the 10' setback requirements. If the proposed garage was located elsewhere it would make it difficult to turn around and pull out of driveway. Mr. Carey noted that this construction will also increase his property value as well as improve the general neighborhood. Mr. Carey recognized that one of the reasons for a 10' setback was fire safety due to the proximity of other buildings should there be a fire. He stated that the property at the rear of his has a steel shed that is the type used to house lawnmowers and bikes and on the west side of his property there is no structure at all.

Chairwoman Wright asked what the distance was between the pool and the proposed paved area on the plans. R. Carey stated approximately 7 feet.

E. Morano wished to disclose at this time that a member of his immediate family is employed by NBT which currently owns Mang Insurance – the employer of Mr. Carey and stated that he would remove himself from this evenings hearing if required or requested. The general consensus among the board members was that this would not be a conflict of interest and did not feel Mr. Morano needed to recuse himself.

E. Morano stated that he understood the lot was tight and inquired if any other locations on the property were considered as an alternative to requesting a 5' setback. Mr. Carey stated yes, he considered the eastern rear corner of his lot but that would require a loss of more yard space and would also then put the proposed garage in close proximity to 2 other structures in the event of a fire. Also stated that if the 10' setbacks were met in the present proposed location it would be closer to the pool making turning difficult and would also mean more blacktop on what could be usable yard space. He noted that the neighbor's garage on the eastern side of his property is approximately 1' from neighbor's western property line. B. Natoli understands the importance of a grassy backyard as opposed to a blacktopped one. R. Carey stated the above ground pool currently sits on a concrete pad. J. Lawrence stated that this pool has a 1' sand base upon which sits a concrete pad making this pool more permanent in nature than a blowup pool from Wal-Mart.

J. Heath inquired what the planned use for the 2nd floor is. R. Carey stated that he plans on using it for storage as well as doing some woodworking. Mr. Carey plans to run water and electric to the building. P. Mennis stated that he understands the constraints as the lot is legal non-conforming and asked if this had any bearing on the case coming before the zoning board. A. Donnison stated the main reason being that the proposal requested a setback of 5' rather than the required one of 10'. P. Mennis also inquired of the finish being planned for the outside of the structure. R. Carey said at this time T111 will be used and then later upgraded to vinyl siding.

J. Wright asked if any of the neighbors had been contacted. R. Carey stated he has spoken to the ones on either side of him and they have no objections. E. Morano inquired about parking – would this help eliminate some off street parking? R. Carey stated that currently there is only enough room in his driveway for 2 cars. If this proposal is approved he would have 2 parking spaces available in his garage as well as at least 2 more parking spaces still available for visitors that currently must park on the street.

J. Wright asked Mr. Carey if he felt there was any additional information the board should know to make their decision. R. Carey stated no, that he believes they have all the details.

Public hearing closed at 7:35pm.

I. Findings and Determinations: 17 Francis Avenue:

1. Request for an Area Variance to construct 22' X 26' 2 story detached garage approximately five feet from the western and southern property line in an R-1 zone.
2. There is no existing garage on the property.
3. The new garage would be located at the end of an existing driveway and would be widened to accommodate new structure and to provide a turn around area.
4. This lot is substandard in that it does not meet the open space requirements for a lot in an R-1 zone.
5. There are several lots in the neighborhood with similar characteristics, substandard in dimensions and square footage.
6. Neither support nor opposition received for this proposal by the Planning Office.
7. Applicant stated he spoke with neighbors on either side and there was no objection.
8. Proposed structure would take some visitor parking off the street.

9. Chenango County 239 Review Committee recommends having structure meet the 10' setback.
10. Applicant stated that the structure would increase his property value as well as improve the neighborhood.
11. There is a metal 8' x 8' shed approximately 1' from property line on neighbor's lot at the rear of subject property.
12. Applicant is trying to keep as much usable yard space as possible and does not wish to have any more than necessary covered with blacktop.
13. Neighbor on the east side has a structure 1' from the property line bordering the applicant.
14. Neighbor on the west side has no structure anywhere near the property line.
15. This proposal would be an improvement to the property and neighborhood.
16. Property has approximately 8% lot coverage.
17. Character of the neighborhood is primarily single family residences.
18. Area Variance Considerations:
 - a) an undesirable change in the character of the neighborhood would not be created due to this addition;
 - b) the benefit sought by the applicant may be achieved through another method, however it may be at a greater expense because the garage could be situated closer to the center of the lot, thus meeting setback requirements;
 - c) request is considered substantial because the requested variance is 50% of the setback requirement;
 - d) no adverse effect or impact on the neighborhood or district would be created;
 - e) the difficulty was self created.

Discussion:

E. Morano noted that the structure could be located to meet the 10' setbacks on all sides required by the zoning ordinance as there is enough property space available. E. Morano noted that he believed it is difficult to maneuver around and construct a building with a 5' setback. P. Mennis agreed and said it is possible that the neighbor on the west side of applicant's property would later apply to also build a structure close to the property line. K. Campbell reminded fellow members that if a neighbor wished to build within the setback area they too would have to come before the zoning board. B. Natoli stated he felt the proposed building was a great looking structure and can understand why applicant wants it as close to property line as he can get to minimize the loss of yard space.

Chairwoman Wright stated that the board has discussed many times in the past about setting precedents to granting variances if there are other alternatives available. However, it is noted that it is a small lot and will the applicant still get what he is trying to obtain if the 10' setbacks are met.

K. Campbell stated that she will be abstaining from voting this evening as she lives 2 doors down from the applicant and feels it would be a conflict of interest.

J. Heath also noted that the applicant's goal of constructing this garage can be achieved while meeting the setback requirements but also noted he can understand why he wishes to have a variance. E. Morano stated that he would still have the same amount of yard space or green space it would just be located in a different area. P. Mennis agrees that the same yard space would be available just different location if setbacks are met. P. Mennis asked to have what the boards considered to be 'substantial' which is #4 on items to be considered for an area variance. E. Morano stated that it is 50% of what is allowed. P. Mennis asked for clarification on this by asking if applicant had requested to build 7 ½ feet from property line then the answer to the 'substantial' item would have been no. B. Natoli stated yes and that so would a 5 ½ foot request.

B. Natoli made a motion to accept the applicants request to construct a 2 story 2 car detached garage 5' from the western and southern property lines of his lot. E. Morano seconded the motion.

Motion Denied: 1 aye; 4 nays.

Ayes –B. Natoli

Nays – J. Wright, E. Morano, J. Heath, P. Mennis

II. Adjournment:

There being no further discussion, the meeting was adjourned at 7:58pm on a motion made by E. Morano, seconded by k. Campbell. Ayes All. Carried.