

**CITY OF NORTHVILLE**  
Board of Zoning Appeals  
January 6, 2016 – 7:30 PM  
City of Northville – Council Chambers  
215 W. Main Street

**I. CALL TO ORDER:**

Vice Chair Silvestri called the meeting to order at 7:30 p.m.

**II. ROLL CALL:**

Commissioners: Present: Michelle Aniol – Alternate  
James Bress  
John Callahan - Alternate  
Ryan McKindles  
Dominic Silvestri  
Jay Wendt

Absent: David Marold - excused  
Patti Mullen - excused  
Rolland Stapleton - excused

Also present: Don Wortman, Planning Consultant

**III. APPROVAL OF THE AGENDA:**

**Motion McKindles, support by Callahan, to approve the agenda as published.**

*Voice vote: Ayes: All. Nays: None. Motion unanimously carried.*

**IV. MINUTES OF PREVIOUS MEETING: July 1, 2015**

It was noted that the City Clerk had distributed a corrected set of draft minutes, in order to resolve font issues that had caused a portion of the originally distributed draft minutes to be unreadable.

**MOTION Aniol, support by McKindles, to approve the July 1, 2015 meeting minutes as corrected by the City Clerk.**

*Voice vote: Ayes: All. Nays: None. Motion unanimously carried.*

**V. CASES TO BE HEARD – BY CASE:**

- A. Case is called.
- B. Appellant presents case.
- C. Board questions & comments.
- D. Public comments on the case.

- E. A motion (usually to grant the variance) is made and seconded; discussed then voted upon; the results are announced by the Chair.

**VI. CASE #16-01**

**DAVID PAUL  
520 BUTLER  
NORTHVILLE, MI 48168**

**RE: 520 BUTLER**

**The applicant is seeking a variance to construct a new garage on an existing foundation in the side-yard setback on premises zoned R-1B, First Density Residential District, parcel number 48 001 03 0736 000. The City's Building Official has determined that a maximum side-yard variance of 1.5 feet is needed from Section 18.04 of the Zoning Ordinance to allow construction of the new garage in the side yard.**

Secretary Bress read the case, noting that the grounds for the appeal including a dimensional variance, and also that the appellant requested approval to expand, extend or enlarge a non-conforming structure. He read the appellant's statement regarding the zoning ordinance section for which a variance exception was requested, as follows:

*Article 18 Section 18.04 paragraph d of the City of Northville Zoning Ordinance.*

*No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than five (5) feet to any rear lot line.*

*I am requesting a variance to the 5 feet to any side lot line requirement. The garage expansion would result in a setback ranging from 4.15' to 3.5'*

A complete statement by the appellant regarding the variance request was attached to the application, as well of photographs of the existing garage, a schematic of the location of the new, expanded garage and a mortgage survey showing the location of the existing garage.

David Paul, appellant, was present on behalf of this application. He explained that the garage was in poor condition when he purchased the home. Additionally, the previous owner had cut and boxed some of the joists to make room for an overhead garage door opener, which was installed poorly. The roof was in bad shape. It was not a good garage and it needed to be replaced.

The property line was somewhat curved due to the nature of the adjacent railroad property. The existing garage was already encroaching on the setback limitation.

The entire garage structure needed to be demolished to the top of the foundation. The foundation was in decent shape, though there was a crack through it that could be grouted. Mr. Paul was planning small expansions on the north and south sides, in order to provide a little more storage.

Mr. Paul explained that he could not shift the garage to the west because of a large oak tree located 3 feet to the west of the garage. The diameter of the tree was approximately 16 inches, placing the edge of the tree 20 inches from the garage. Shifting the garage to the west would require removing the tree, thus conflicting with the City's Tree Preservation Ordinance. Expanding the garage south on the east side would most likely damage the root system of the tree.

Additionally, removing the tree would be costly because of the difficulty of getting equipment into that location. Replacing the tree would be difficult because of the number of existing large trees on this smaller lot.

Mr. Paul explained that since the existing foundation was over the setback limit, granting the variance would eliminate the expense of demolishing the existing foundation and building a new one.

Mr. Paul continued that shifting the garage over would also move it behind the house, bringing it into conflict with the concrete pad of the breezeway. It would be necessary to demolish and rebuild the existing breezeway in order to move the garage west. Also, shifting the garage to the west to achieve a 5-foot setback would set it behind the house making an awkward entrance into the garage.

Mr. Paul concluded that he would like to construct the new garage exactly over the existing foundation. The extension on the front of the garage was basically to give the short garage a little extra length. The addition off the back was simply for additional storage for items such as lawn equipment.

In response to a question from Member McKindles, Mr. Paul said he was only encroaching on the side yard setback. The rear yard setback was met. Planning Consultant Wortman confirmed that this was correct.

Member McKindles asked if a variance would be needed if the garage were simply rebuilt on the existing foundation. Planning Consultant Wortman explained that if the garage were removed to the foundations and then rebuilt, it would still not be in compliance, as a new structure would need a variance to remain in the present location.

Alternate Aniol further explained that if a non-conforming structure was destroyed by an act of God – fire, storm, etc., it could be rebuilt without a variance. But the deliberate demolition and rebuilding triggered the need for a variance.

Alternate Aniol confirmed with Planning Consultant Wortman that in the R1-B District, even though the garage was connected to the main structure via a breezeway, the garage was still considered a detached structure because the breezeway was not habitable. For a detached structure the rear and side yard setbacks were 5 feet.

Planning Consultant Wortman said that the breezeway was not considered habitable by the Building Official because it did not have the 7-foot ceiling clearance, was only 70 square feet, was not heated, etc. The Construction Code was applied when determining whether a breezeway such as this one was habitable space. The Building Official had determined that the garage would be defined as detached.

Member Bress asked when the garage was built. Mr. Paul said he was not sure when it was built; the garage was there when he purchased the home 10 years ago. The construction was poor and the wiring was old.

Member Bress cautioned that the foundation might be so old that it did not meet current standards, and might have less than the minimum required footings.

Member McKindles said that the state of the foundation would be something the Building Official would need to verify prior to permits being issued. Planning Consultant Wortman agreed.

Mr. Paul asked if the foundation had to be removed, would the variance, if granted, still apply? The need to construct the garage in the proposed location would not change. Member Bress said he thought the variance would still apply.

Member McKindles wondered if the Chesapeake & Ohio Railroad had been noticed regarding this variance request. Planning Consultant Wortman said the City Clerk notified the owners of the adjacent properties, including Chesapeake & Ohio (probably Chessie Systems on the notification list).

Alternate Aniol asked about the picket fence that was outside the boundaries of the subject property. Mr. Paul said this was a pre-existing condition, and was there before he purchased the home. Alternate Aniol asked if the variance were granted, would Mr. Paul be amenable to relocating the fence so it was on the property line and thus be brought into conformance.

Planning Consultant Wortman said it was not clear who actually owned the fence. Member Bress was concerned that the fence was not related to the requested variance. Mr. Paul said he would remove the fence if necessary. However, he would not be able to put the fence on the property line because of a large Crimson Maple that was close to or directly on the property line.

In response to a question from Alternate Aniol, Mr. Paul said he maintained the property between his property line and the fence. Neighbors took care of the south side, and part of the fence was used for the neighbor's garden.

Vice Chair Silvestri opened the public hearing. Seeing that no one wished to speak, he closed the public hearing.

Member Bress indicated that he was ready to make a motion to approve the variance as requested.

Alternate Aniol asked if bringing the fence into conformance could be added as a condition of approval. Member Bress said that he did not want to add this condition, as he felt it was not related to the requested variance.

A discussion of process followed. Planning Consultant Wortman said that findings of fact could be part of the motion, so that only one motion needed to be offered.

**MOTION Bress, support by McKindles, to approve the request as presented this evening, based on the following findings of fact:**

- There are practical difficulties including man-made constraints in that the existing non-conforming garage had been there for a long time.
- Substantial justice would be done to the applicant as well as to other property owners in the district.
- The problem is not self-created, in that the need for the variance did not result from the actions of the applicant.
- The applicant is asking for the minimum variance necessary.
- The BZA has evaluated the request, and determined it would not have an impact on public safety or create a public nuisance.

Vice Chair Silvestri asked for a roll call vote.

**Aniol                    yes**

**Bress**            **yes**  
**Callahan**       **yes**  
**McKindles**     **yes**  
**Silvestri**       **yes**  
**Wendt**           **yes**

**Motion carried unanimously. The application was granted.**

**VII. PUBLIC COMMENTS:**

None.

**VIII. DISCUSSION:**

None.

**IX. ELECTION OF OFFICERS:**

Secretary Bress said that according to the City Clerk he was first appointed to the BZA on June 2, 1986. He was going to take a “30 and out,” and would be resigning at the end of his term, July 1, 2016. He related some of his history on the Board, and concluded by saying he felt it was time for him to step aside.

Vice Chair Silvestri thanked Secretary Bress for his long and valuable service.

Regarding the election of officers, it was the consensus of the Board that the election of officers be postponed until Chair Stapleton could be present. Planning Consultant Wortman said the bylaws called for an election the first meeting of the year. However, with the absence of the current chair at tonight’s meeting, it was wise to postpone.

**MOTION Aniol, support by Bress, to table the election of officers until the next meeting of the BZA.**

*Voice vote: Ayes: All. Nays: None. Motion Unanimously Carried.*

**X. ADJOURNMENT:**

**Motion Bress, support by McKindles, to adjourn the meeting at ~~7:31~~ 8:01 p.m.**

*Voice vote: Ayes: All. Nays: None. Motion Unanimously Carried.*

Respectfully submitted,

Cheryl McGuire, Recording Secretary

Approved as amended 4/6/16