

CITY OF SYLVAN LAKE
ZONING BOARD OF APPEALS
JANUARY 14, 2009

A Meeting of the Zoning Board of Appeals, was held on Wednesday, January 14, 2009, opening at 6:50 p.m. at the Sylvan Lake Community Center, 2456 Pontiac Drive, with Chairman Storrie presiding.

Present: Galacz, Alternate Holly, Storrie, Menuck, MacGillis
Absent: Nechal

Also Present: City Manager Martin and Clerk Clippert

APPROVAL OF AGENDA

Moved by Menuck, seconded MacGillis, to approve the Zoning Board of Appeals Agenda for January 14, 2009, as presented.

Yes: All
No: None

MOTION CARRIED

VARIANCE REQUEST

Z-001-09

Property: 2366 Pontiac Drive
Petitioner: William Piontkowski
Zoning Ordinance Sections: 78-296 Area, height, bulk and placement requirements

In accordance with the provisions of the Zoning Ordinance, a Public Hearing was held by the Zoning Board of Appeals at the request of the petitioners, to grant a variance from the zoning ordinance for a rear-yard setback variance, to allow the construction of a new construction of a new home at 2366 Pontiac Drive.

All property owners within 300 feet of the parcel in question having been duly notified of the hearing and the hearing published as required by PA 110 of 2006; Chairman Storrie opened the hearing. Proof of mailings and required proof of application are in the file.

Bill Pionkowski, petitioner, provided a history of the house. It was built in the 1950's. He is the third owner of the house. He has lived there since 1988. In 1999 he received a variance for this non-conforming structure. Now he asking the zoning board for a variance on how the front and rear yard perspective are looked at. He explained when the variance in 1999 was granted they made Ferndale the front yard because this would be a lesser variance. The existing structure will not be more non-conforming than it already is. The proposed construction does meet all the zoning requirement and has a smaller lot coverage. Piontkowski would like to reestablish where his front yard is, which is Pontiac Drive. He is a long time resident who would like to stay in Sylvan Lake. He explained his hardship is two fold. The design he is proposing is conforming

in every way except for the addition. He has an ecological problem with throwing it into a landfill when it doesn't need to go there. He can't add a second floor to the existing house because the foundation may not be safe. The beam in the basement which goes through the center of the house, has a crack in it. He has to tear it down and start over. The new design goes with neighborhood and meets all the other zoning requirements.

Paul Samartino added the basement is dilapidated. He agreed it doesn't make sense to tear down a room which is only 10 years old. The room will be resided and tied into the house. Structurally nothing will be done to it.

Galacz questioned if the basement was under the master bedroom. Piontkowski clarified it is a crawl space.

The board discussed why the front yard was changed to Ferndale during the 1999 variance. Prior to the 1999 variance the front yard was Pontiac Drive. Samartino provided a plat map and showed the houses along Pontiac Drive all had their front yards on Pontiac Drive. Martin explained in 1999 it logistically fit better having the front yard as Ferndale. Holly added, that is an option corner lots have.

MacGillis feels the ordinance was put in place for this specific reason. Martin clarified, the biggest thing with corner lots is to maintain a 30 foot front yard setback on both street fronts, which he has done.

Menuck questioned if section 78-113 (1) would cover this, no such structures may be enlarged or altered in a way which increases their nonconformity. Such structures may, however be enlarged or altered in a way which does not increase nonconformity. Martin explained this is where his problem was; the structure is there and is not being altered. It is not being enlarged and is not making a nonconforming structure more nonconforming. However, they are removing the majority of the house. Martin felt the safe thing to do was to have the zoning board look at it.

Storrie is not certain the ordinance applies to what is being discussed. It protects properties when the ordinances changes. He read section 78-113(a). Menuck stated this structures was already there so this section would apply.

Storrie feels section (b) doesn't apply because it has a 1960 cut-off date. The first section may apply. The board should go through the practical difficulty standard and that analysis will decide whether the variance should be granted. Menuck argued it is not whether the statue covers it. It is what comes first the horse or the cart.

MacGillis asked Piontkowski how he felt about tearing down everything. Piontkowski stated he would like to keep this room. It is a part of the design and a perfectly good room.

Holly feels the practical difficulty is with the collapse of the basement. Storried agreed this would meet the requirements for the variance. It is not self created, unnecessarily burdensome, it does not effect adjacent property owners, and plight of property.

Menuck discussed the lesser degree of a variance when Ferndale was the front yard.

MacGillis asked the petitioner if the crawl space walls have been looked at. Piontkowski stated they are ok since it was built in 1999.

Chairman Storrie opened the meeting to the public.

Eric Wiegand feels it would be a big improvement to the neighborhood and hopes it will be granted.

Menuck discussed restricting the petitioner from altering the footprint in any way and restricting them from putting a second story over it.

Storrie recommended approving the rear yard variance for 2366 Pontiac Drive for 16.5 feet because the applicant has met the burden of showing a practical difficulty for the following reasons:

1. Strict compliance with the restriction would be unnecessarily burdensome on the property owner.
2. The variance as proposed would do substantial justice to the proponent and the adjacent property owners, as evidence by plans the proponent has provided and also the fact that there are members of the public here tonight which support this variance.
3. The plight of the property is due to unique circumstances, specifically the inability to add a second floor to the existing structure because of the water problems and existing problems with the foundation.
4. The problem with the property is not self-created by proponent, however, the granting of the variance is expressly conditional upon the proponent and subsequent property owners not changing either the foot print or height of the existing nonconforming structure.

Moved by Holly, seconded Galacz, to approve Chairman Storrie's recommended motion as stated by Chairman Storrie.

Yes: Holly, Menuck, Storrie, Macgillis, Galacz

No: None

MOTION CARRIED

ADJOURNMENT

Moved by Galacz seconded Holly, to adjourn the meeting.

Yes: All

No: None

MOTION CARRIED

The meeting adjourned at 7:23 p.m.

Nicole Menuck, Secretary

Dennise Clippert, City Clerk