

CITY OF SYLVAN LAKE
ZONING BOARD OF APPEALS
JULY 18, 2007

A Meeting of the Zoning Board of Appeals, was held on Wednesday, July 18, 2007, opening at 6:45 p.m. at the Sylvan Lake Lutheran Church, 2399 Figa, West Bloomfield.

Present: Galacz, MacGillis, Menuck, Nechal, Storrie
Absent: None

Also Present: City Manager Martin and Clerk Clippert

APPROVAL OF AGENDA

Moved by MacGillis, seconded Galacz, to approve the Zoning Board of Appeals Agenda for July 18, 2007, as presented.

Yes: All
No: None

MOTION CARRIED

VARIANCE REQUEST

Z-003-07

Property: 2435 Renfrew
Petitioner: Janice & Robert Danielson
Zoning Ordinance Sections: 78-607 Corner Lot setback on the side street in residential districts and 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, on July 11, 2007 at the request of the petitioners, to grant a variance from the zoning ordinance to allow the construction of an addition on the rear of the house.

Nechal asks everyone if they received their packets from City Hall and asks John to comment about what is in the packet. Martin states that the packet contains Mrs. Danielson's notes that she had written while she was waiting to talk to Martin. They were things that she had thought of and he forwarded them to the ZBA so they could review them. Martin stated that he has the letter from the City Attorney, Paul Bibeau, with his recommendation. Nechal asked if everybody has had a chance to look at the letter from the attorney and stated that it basically says that the ZBA should treat this application the same as any other. Storrie stated, to confirm the record, that the letter from the City attorney indicates that neither the Michigan Persons with Disabilities Civil Rights Act nor

the Federal Fair Housing Act are applicable to this variance request and they should not be considered by this Board.

Storrie states that a letter from Janice Danielson's Doctor was requested but not provided. Mrs. Danielson states that she does not have the letter from her doctor but that she took her medical records to the City Attorney. Discussion takes place regarding Mrs. Danielson's medical records and Storrie states that the Board does not want or need to see her records, but that the Board did request a letter from Mrs. Danielson's doctor stating the nature of her disability and when her surgery is scheduled, if any. Mrs. Danielson states that she understood that the city attorney was going to review her medical records. Martin states again that the letter from the City Attorney indicates that disability does not apply to this application. Storrie states that the nature of the disability and the medical records are no longer pertinent.

Mrs. Danielson states that she is indeed disabled and that the Michigan statute does apply to the application. Storrie states that the City Attorney does not agree with the legal conclusion that Mrs. Danielson is drawing. Mrs. Danielson indicates that she contacted her attorney already, but not for this issue. Storrie says that it is his suggestion to the Board that they follow the recommendation of the city attorney and that he has a motion if the Board is ready to hear it.

Nechal stated that he wants to know if anyone has any additional questions for the petitioner and notes that the petitioner has brought additional information. Nechal invites the petitioners to discuss the diagram and the additional information they brought in with them. Mr. Danielson produces a chart of the house showing how the house functions, where the garage and stairways are located and where they would like to put the addition on. Mr. Danielson states that a lot of the variances granted in the past were given because the garage was on the opposite of the house. Mrs. Danielson states that garages on tri-level houses are often located on the other side.

Nechal asks how long the petitioners have owned the property. They respond that they moved in in 2006. Nechal asks if the Danielsons investigated alternatives regarding the stairwells and they respond that they had a contractor come to the house and that the stairwells are back to back and they are not long enough and they cannot widen them.

Mrs. Danielson states that if the Board is not making its decision based on the disability, then they just want a room on the main level like everyone else and they just want a variance like all the others.

Galacz asks if the garage, the living room and the patio are all on the same level and the Mr. Danielson states yes. The Danielson's are asked if her car is in the garage, she

responds no and that she usually parks on the street on Stratford. The Danielsons produce pictures of the back of the house to better see what they are dealing with. The Danielson's expound on the difference in the properties in the area and what one person can do, another cannot. Menuck emphasizes that each piece of property is different and that just because one person is able to build a room does not necessarily mean that the next person can do the same thing. Mrs. Danielson states that she understands and continues to discuss her neighbor's property. Galacz asks if the Danielsons could put their addition in another location on the back of their house and Martin states yes. Mrs. Danielson states that it is difficult to bring heat into the garage so they cannot put it on the other side of the house.

Nechal asks if there are any more questions. Storrie moves to deny the request for the rear and side yard setbacks because the applicant has not shown a practical difficulty for the following reasons:

1. There are no exceptional or peculiar circumstances or conditions applicable to the property that do not apply generally to other properties in the City. Specifically, the lot is 85 feet wide and 130 feet deep and the building is approximately 67 feet wide, which is well in excess of the 30 foot requirement.
2. The alleged practical difficulty does not include substantially more than mere inconvenience and/or an inability to attain a higher financial return because there are reasonable alternatives available to the petitioner. Specifically, they could locate the proposed addition in another location on the back of the house and/or use a stair lift system to aide Mrs. Danielson with her recovery from her future anticipated surgery.
3. The grant of the variance will be materially detrimental to the public welfare or adversely affect the surrounding properties in the district because the proposed addition would be in very close proximity to the side street, Stratford, and would require a significant 24 foot side yard setback.

Yes: Nechal, Menuck, Storrie, Galacz

No: MacGillis

MOTION CARRIED

The Danielson's ask if they have to take down the existing porch. Martin states no and that the porch is grandfathered in, but they cannot replace it. The Danielson's question the Board and ask if they can get the minutes right away so they can give them to their attorney. The Board informs Mrs. Danielson that she can get a copy of the motion once the minutes are approved. The Board confirms that the meeting was tabled previously to

investigate this matter further. The Board informs her she can get a copy of the minutes once they are approved. The Board informs her that it will probably be a couple of weeks to get the minutes and they inform her of the procedure for creating the minutes and approving them. The Board informs the petitioners that they can inform their attorney that the Motion was denied and that the minutes will be available at City Hall when they are approved.

DISCUSSION OF BYLAWS

Discussion regarding redoing the Bylaws. Nechal questions why they are redoing the Bylaws. Martin responds that he talked to Carol Risati and she said she had some ideas, and he didn't realize they were going to be "OK, lets start over". He doesn't know how necessary the changes are. Martin suggests making one small change or just wait and look at the whole thing. Discussion regarding amendment.

Storrie moves to have Article XI - Parliamentary Practice, Section 11.1 of the proposed bylaws added to the Bylaws for the City of Sylvan Lake ZBA.

Yes: Nechal, Menuck, Storrie, Galacz, MacGillis

No: None.

MOTION CARRIED

ADJOURNMENT

Moved by Storrie seconded Galacz, to adjourn the meeting.

Yes: All

No: None

MOTION CARRIED

The meeting adjourned at 7:13 p.m.

Scot Storrie, Secretary