

**TOWN OF NORTHFIELD
ZONING BOARD OF ADJUSTMENT
April 25, 2007**

MINUTES

Members present: Polly Mills Fife, Steve Bradbury, Kent Finemore, Ken Gorrell, Alternates Keith Murray and Debra Shepard. Also present: Dave Lorch, LRPC and Eliza Conde, Secretary.

Steve Bradbury moved, seconded by Ken Gorrell to accept the minutes of 12-27-06 as read. Motion passed.

Fred & Peg Shepard: Application for a variance to the terms of Article 7 Table 2 of the Zoning Ordinance to construct a 30'x30' garage within the front, side and rear setbacks at 35 Fiske Road (Tax Map R15 Lot 34-1) in the Conservation zone. (Debra Shepard recused herself from this discussion.) After reviewing the Planner's report, Ken Gorrell moved, seconded by Steve Bradbury to accept the application as complete. Motion passed.

Peg Shepard stated that they plan a single story garage located on the left of the existing home. The septic system is between the proposed garage location and the house. This lot was created before the zoning district was changed to Conservation. The only area on the lot that can meet the stricter setback requirements of the Conservation zone is behind the house where it is ledge. The proposed location does meet the setback requirements of the R1 zone. After clarifying with Peg Shepard that the location behind the house would not be suitable for the garage, Kent Finemore confirmed with her that the measurements as shown on the map will be adequate if the board sets footage limits.

Public hearing opened: Dennis Allen stated that he would be the most impacted as he is directly across the road from this lot. He had no problem with the location of the garage. Deb Shepard commented that the Shepards will be able to store all their equipment and vehicles inside the garage, including Fred's Harley. Todd Rodgers was in favor of the garage location. Public hearing closed.

Board members reviewed the criteria for a variance:

The proposed use would not diminish surrounding property values.

The proposed garage is not perceived to diminish the value of surrounding properties. There are other garages in the area.

Granting the variance would be of benefit to the public interest.

Granting the variance would not be a disbenefit to the public.

Denial of the variance would result in unnecessary hardship. Hardship, as the term applies to zoning, shall be met if all three of the following criteria are satisfied:

- a. *The zoning restriction as applied to the applicant's property interferes with the applicant's reasonable use of the property, considering the unique setting of the property in its environment.*

Alternate locations for the garage are not practical. The only area outside the setback boundary for the Conservation Zone is a small area past the house in the eastern portion of the lot. The required setbacks are due to a zoning change making the existing lot non-conforming. This request meets the setbacks of the R1 zone and is similar to other properties.

- b. *No fair or substantial relationship exists between the general purpose of the zoning ordinance and the specific restrictions on the property.*

Placing this garage near the side setback does not diminish the purpose of the Conservation District. The purpose of the District is to discourage scattered and premature growth and development.

This lot was formed prior to the establishment of the Conservation District which requires a minimum of 5 acres. With a 5-acre lot, the owner has many options to locate the garage outside the minimum setbacks.

- c. *The variance would not injure the public or private rights of others.*

Granting the variance would not infringe on the public and private rights of others. There are approximately 75' of trees between the location of the structure and the neighbor's lawn which offers some visual buffer.

Granting the variance would do substantial justice.

Denying the variance for a garage would not be considered an injustice since many house lots do not contain garages. However, the zoning district changed after the home was built.

The proposed use is not contrary to the spirit of the ordinance.

The construction of a garage would not be contrary to the spirit of the ordinance. The area is zoned for single family homes and garages are normal use for residences.

Ken Gorrell moved, seconded by Steve Bradbury to grant a variance to allow a garage measuring 30'x30', situated 65' from the front lot line and no less than 20 feet from the side lot line on the lot identified at Tax Map R15, Lot 34-1 Fred and Peg Shepard owner, located at 35 Fiske Road. **Motion passed.**

Todd Rodgers: Application for a variance to the terms of Article 7 Table 2 of the Zoning Ordinance to construct a 28'x48' garage within the front and side setbacks at 118 Greenwood Drive (Tax Map U9, Lot 35) in the Conservation zone. After

reviewing the Planner's report, Steve Bradbury moved, seconded by Ken Gorrell to accept the application as complete. Motion passed.

Todd Rodgers explained that he would like to build a 24'x48' single story garage with siding similar to his house. Kent Finemore asked why he chose this location when there is room elsewhere on the lot. Mr. Rodgers replied that it is the most logical place for the garage with the location of the existing driveway.

Dave Lorch pointed out that this again is a lot that existed before being rezoned to the Conservation zone. Although the existing home is within the 100 foot setback, if the garage were to be attached to the house it would be less non-conforming than the proposed location. Kent Finemore asked Mr. Rodgers if he would be able to meet the R1 setbacks of 20' and 35'. He can be 20' from the side, but it wouldn't fit to have 35 feet in the front. He noted that the measurement of 27 feet is from the edge of the pavement, rather than the edge of the right of way.

Public hearing opened: Abutter Barb Lawrence phone earlier stating she had no objection. Public hearing closed.

Steve Bradbury commented that the zoning district changed after this lot was created. Kent Finemore stated that in fact the building could be located on the lot and meet the setback requirements. Polly Mills Fife expressed concern about the distance from Hidden Lane and that trees would have to be removed along the stone wall. She commented that having space for six cars on a one acre lot may be too much. She didn't believe that the location of the turnaround in the driveway was enough reason to require the proposed location. Ken Gorrell stated it is not an unreasonable use of the property. Kent Finemore agreed with Polly stating that he would like to see the setbacks be at least the 20 and 35' requirements of the R1 zone. Mr. Finemore also expressed concern that this building is large enough so that it could become a residential unit in the future. The zoning ordinance does not allow that, however, some times these things happen without permission. He stated he wanted it clear that this application is for a garage only and cannot become a living unit.

After discussing the fact that this is a corner lot with two roads, Keith Murray asked if it is possible to meet the 35 foot setback on both sides. It would not be possible to meet those setbacks in the area of the proposed location. Ken Gorrell stated that he believed that this is a reasonable use of the property and substantial justice is done when allowing people the reasonable use of their property. Polly Mills Fife commented that the two applications for this meeting were similar in that they are on lots that have had the zone changed, but the previous application was able to meet the setback requirements of the R1 zone. Just because the zoning changed for this lot and he can't meet the current

setbacks, it is not reasonable to completely ignore the setback concept of allowing space between properties.

Ken Gorrell argued that old homes were built close to the road, this is not a heavily traveled road, the lot does not support any other location for the garage and the proposed use is not contrary to the spirit of the ordinance. Kent Finemore replied that part of the spirit of the ordinance is adhering to the setbacks so as to not infringe upon abutters.

The Board reviewed the criteria for a variance:

The proposed use would not diminish surrounding property values.

If the garage is used to store automobiles, boats or snowmobiles, it would not impact the neighborhood. But if it were later used as a barn to house livestock or as a living unit, it could impact the surrounding properties. There is an existing 2 car garage, therefore this building could have a different use in the future.

Granting the variance would be of benefit to the public interest.

The proposed garage would not offer any disbenefit to the general public.

Denial of the variance would result in unnecessary hardship. Hardship, as the term applies to zoning, shall be met if all three of the following criteria are satisfied:

- d. The zoning restriction as applied to the applicant's property interferes with the applicant's reasonable use of the property, considering the unique setting of the property in its environment.*

The property does not contain any unique features. The garage could be located on the lot outside the setbacks, however it would be inconvenient.

- e. No fair or substantial relationship exists between the general purpose of the zoning ordinance and the specific restrictions on the property.*

Placing this garage within the side and front setbacks does not diminish the purpose of the Conservation District. The purpose of the District is to discourage scattered and premature growth and development.

- f. The variance would not injure the public or private rights of others.*

The proposed garage would not interfere with the rights of individuals or the public.

Granting the variance would do substantial justice.

The garage serves as additional storage space. Denying the variance would not deprive the applicant of any substantial need. Closed storage is preferable to exposed equipment and vehicles on the lot. The setback restrictions are difficult to meet on this lot.

The proposed use is not contrary to the spirit of the ordinance.
The proposed garage would make the lot appear more developed.

Ken Gorrell moved, seconded by Steve Bradbury to grant a variance from the front and side setback for Tax Map U9, Lot 35 located at 118 Greenwood Drive, Todd Rogers owner, to construct a garage measuring no more than 28' by 48' and located no less than 25' from the Greenwood Drive property line and no less than 20' from the Hidden Lane property line. **Motion passed.**

Kent Finemore explained to Mr. Rodgers that if he discovers that he can't fit the garage within these parameters after measuring from the property lines, he would need to come back to the board for a further variance.

Respectfully submitted,

Eliza Conde, Secretary