

## BOARD OF ZONING APPEALS MINUTES

A regular meeting of the Farmington Board of Zoning Appeals was held on Wednesday, July 2, 2008, in Council chambers, 23600 Liberty Street, Farmington, Michigan. Notice of the meeting was posted in compliance with Public Act 1976.

Chairperson Buyers called the meeting to order at 7:01 p.m.

ROLL CALL: Bennett, Buyers, Knol, Majoros.

ABSENT: Christiansen.

CITY OFFICIALS PRESENT: Director of Public Works Gushman, Building Inspector Koncsol, Recording Secretary Schmidt.

Chairperson Buyers explained to the petitioners that in order to approve the appeals presented before the Board at this meeting there would need to be approval from three out of the four Board members present due to the absence of Mr. Christiansen. Mr. Buyers gave the petitioners the choice of proceeding with their petition at this meeting or to reschedule their appeals at another meeting when there would be a full board. Mrs. Neikirk stated she and Mr. Neikirk would like to proceed with their petition at this meeting.

### Minutes of Previous Meeting

Motion by Majoros, supported by Bennett, to approve the minutes of the previous meeting of May 7, 2008. Motion carried, all ayes.

APPEAL OF: Mr. And Mrs. Gerald Neikirk  
32395 Valley View Cr.  
Farmington, MI 48336

Chairperson Buyers stated the petitioner was requesting a 9' variance to Sec. 35-73 so that a 14' x 15' sunroom can be built on the southwest corner of the home. City Code requires a 30' rear yard setback in an R1 district, however, the proposed sunroom would result in a 21' rear yard. It should also be noted that the existing home was built approximately 10' from the rear property line.

Mrs. Neikirk passed out pictures showing the improvements that have been made to their home since they have lived there and the location of their patio. She noted they enjoy the outdoors and their desire to construct a sunroom would enhance their property. She noted Section 35-215 of the Zoning Code and noted they were requesting a variance due to dimensional difficulty. She noted it would be difficult to meet the 30' rear yard setback since their home was built so close to the property line. She felt the sunroom would not obstruct the view of others and would enhance the view. Mrs. Neikirk stated that since the sunroom would be within the footprint of their property there would not be any danger to the public. She commented the house was built 10' from the rear property line and the request for a variance was not self-created. She noted the park area across

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the street from their home and that the sunroom would also enhance the look of the area. Mrs. Neikirk stated they would only be using 15' of the 26' noted.

Chairperson Buyers verified from Building Inspector Koncsol that the house predated the current ordinance and that is why it is 10 ft. from the property line. The Zoning Board did not authorize it to be that way. Mrs. Neikirk noted the house was built in 1956.

Chairperson Buyers asked if they were dealing with an expansion over nonconforming building, which could be analyzed under Sec. 35-206 under "expansion". Mr. Koncsol replied there is a possibility that there is some non-conforming. He stated he was looking at new construction under the current ordinance and that there is some latitude in dealing with the issue due to practical difficulty.

Mr. Bennett commented that to say it is an expansion of an existence would mean to him it would have to be at the back of the house and not an alteration to the house within the variance.

Mrs. Neikirk stated the builder is a Michigan based company who does quality work and they have been in existence for a long time.

Mr. Majoros asked how the design theme would tie in with the current look of the house regarding brick and colors. Mrs. Neikirk replied the colors of the new construction would be very close to the current house.

Chairperson Buyers verified the exit door would be to the rear of the property.

Chairperson Buyers stated approval letters had been received from Mr. and Mrs. John Pirko, 32249 Valley View Cr., Arthur Buck, 32375 Valley View Cr., and Marilyn Rohn, 32351 Valley View Cr. He noted one unidentified objection had been received.

Mrs. Neikirk noted the gazebo would be removed from the property.

Chairperson Buyers verified the picnic table and chairs would remain within the fenced area.

Chairperson Buyers stated there are certain factors with this property that lean toward an approval of the petition due shallowness of the property.

Motion by Bennett, supported by Knol, to grant the request of a 9 ft. variance of Section 35-73 so that a 14' x 15' sunroom can be built on the southwest corner of the house. The petitioner has established that even with a grant of a variance the spirit of the ordinance will be observed, public safety security and substantial justice done because the variance stays within the visual frame of the present house. Motion carried, all ayes.

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APPEAL OF: Mr. and Mrs. Stanley Bawol  
33620 State St.  
Farmington, MI 48335

Chairperson Buyers stated the petitioner was requesting 3 variances to construct a rear addition, an attached garage with 3' overhangs and a covered rear patio to the following sections: Sec. 35-73 which requires a 10' side yard, a 4' side yard is proposed; Sec. 35-73 which required lot coverage of no greater than 30% which under the current plan would require a 34% coverage; and Sec. 35-39(a) which permits up to a 14" eave overhang is permitted and a 3' overhang is proposed.

Chairperson Buyers asked the petitioners if they wanted to proceed since there would need to be approval from three out four board members due to the absence of Mr. Christiansen. Mr. and Mrs. Bawol stated they would like to proceed.

Mr. Bawol passed out photos of their home when they purchased it and the appearance of the house at present. He noted approval letters, which were not mailed to the board from Earl and Johanna Thomas and Marybeth Williamson.

Mr. Bawol stated their lot is narrow. He presented a 3 dimensional model of the home and the proposed new construction. He noted their neighbor has concrete poured right up to the property line and if they park their car too close to the property line they are unable to open their doors to their vehicles. He would raise the concrete toward the fence to be in line with the neighbors.

Mr. Bawol noted the existing 1 car garage would be replaced and the new garage would not extend beyond the current garage. He stated the addition would not be out of proportion and not seen from the street. He discussed the overhang and 8' patio that would be behind the garage. He stated he was matching a lot of the architectural features in keeping with the house as it looks now. Mr. Bawol noted on the model, the location of a family room and garage. He described the parking spots for their vehicles. He stated they enjoy living in Farmington and that an attached garage would be beneficial. Mr. Bawol said he will meet all city codes and will be using engineered trusses. He noted if he created a turn around area it would use up a lot of the yard.

Chairperson Buyers questioned the overhang with a dash line around the perimeter. Mr. Bawol replied that is a roof overhang.

Mr. Majoros asked how deep it would go back to allow for a second vehicle. He noted it would be hard to maneuver. Mr. Bawol used the model to show where the door would be and showed how the vehicles would have to drive in. Mr. Marjoros noted if the home were sold the new owners might not have small vehicles that would fit into the proposed setting. Mr. Bawol commented the door would be 24 ft. across.

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Mr. Bennett asked what kind of access there would be to the back door. Mr. Bawol responded if they were having a garden party they would be able to access the garage. Mr. Bennett verified there would not be a driveway to the back garage.

Mr. Bennett asked if the petitioner were to build a 2-stall detached garage would he be seeking any kind of a variance. Mr. Bawol replied he would not. Mrs. Bawol stated she does want a family room/sunroom and did not know what the codes would be for a detached garage. Mr. Koncsol stated they could go back as far as the existing structure with a detached garage and noted it would cut into the garden area.

Mayor Knol stated since the petitioner's lot is so narrow there would not be a turning radius and noted the garage would have to be 3 ft. from the rear property line in order to accommodate a second vehicle. The neighbor on Cass would have to look at the back of the garage.

Mr. Bawol commented he wanted the design to be compatible and not overpowering.

Mayor Knol requested clarification of the 3 variances. Mr. Koncsol stated the existing survey shows current ordinances for residential calls for 6 ft. on one side, which the petitioner has. He would need 6 ft. on one side and 10 ft. on the other side or flip flop it regarding the wall. He noted the overhang constitutes a different provision whereas, the overhang, according to the current ordinance are allowed to be 14 inches without any due consideration for what they are. Discussion followed regarding fire codes and the overhang issue. Mr. Koncsol stated since the overhang is a 3 ft. projection they have to account for that as compared to the 14 inches that is allowed. He stated a 2-story square building is being pushed to the ground and the increased overhang creates the issue.

Mr. Bennett verified that according to the design the overhang would be 1 ft. from the property line.

Chairman Buyers asked if a detached garage were built in the location of the current garage would there be the same footprint or an enlarged footprint that would necessitate a variance or could he build close to the line with a detached garage as it is now. Mr. Koncsol replied it would be fine and noted it would have to be behind the back edge of where the house is.

Mr. Bennett verified if the garage was moved back and there was a breezeway it would still be an attached garage.

Mr. Majoros discussed the back overhang and questioned the size over the door. Mr. Bawol responded he felt an overhang does a lot of good for a house and he liked the balance of it. Mr. Bennett asked if the overhang was 14 inches on the sides, what kind of action would have to be taken to allow the width of the overhang on the back. Mr. Koncsol replied the overhang could be reduced in the back.

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Mrs. Bawol wanted to maintain an amount of integrity regarding the back yard. She stated the green space was important to the setting.

Mayor Knol noted the petitioner has a very narrow lot and she can see some practical difficulties regarding the lot with a 2-car garage. She suggested a 2 ft. overhang on the sides instead of 3 ft. and 7 ft. on the back instead of 8 ft. Mr. Koncsol responded that it would get it close to the 30%. Mayor Knol stated there would still be a need for a variance.

Mr. Bennett asked if a 10 ft. side yard was granted and they went to a 14-inch eve that would take away the need for the other 2 variances.

Chairperson Buyers stated that as presented before the board, the garage covers 34% of the lot. He then reviewed options to accomplish the required 30% lot coverage. If 279 sq. ft. could be eliminated there would not be a need for variances 2 and 3 and they would just have to deal with a side yard setback. He commented if the overhang could be adjusted to 14 inches all around it would be easier for the board to approve. Mr. Buyers noted the petitioner would be getting rid of an old garage, which is a safety hazard. He commented the Bawols wanted to remain in Farmington and commended them for the upgrades they have made to their property. He stated the petitioner needed to request the minimum variance necessary to make a reasonable use of the property. He noted the overhang might fit that requirement. Mr. Buyers requested the Bawols supply further information for the overhang besides aesthetics. Mr. Bawol replied he wanted a 3 ft. covered walkway on the outside of the structure. He commented he could trim the overhang back. He commented there is no difference as seen from the street. Public Works Director Gushman stated they could go to 14 inches on the west side and that would give them 73 sq. ft. He noted it would have to be trimmed all the way around.

Mr. Bennett asked if the board needed to vote on each variance or as a package. Chairperson Buyers responded the board should vote on each variance for the record.

Mr. Bennett asked if the board approved one and not the others would this kill the project. Mr. Buyers replied it would.

Mr. Bennett stated the attached garage is something that has come into the structures within the community and he could grant a reasonable variance, but had difficulty with the other requests.

Discussion followed regarding the cutting back of the overhangs on the sides and rear of the structure. The board discussed a revised overhang of 14 inches on each side and 4 ft. on the rear. The reduction of the overhangs size would reduce the lot coverage by 265 ft.

The board discussed various combinations of reduction to the overhangs to bring the request close to compliance. Mr. Bennett suggested that the motion contain precise numbers to preserve the 8 ft. overhang and then bring the other dimensions into

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compliance with the requirements of the ordinance. Discussion followed regarding the petitioner reappearing before the board at another date with their adjustments to the plan.

Mr. Bennett asked what the requirements are to hold a special meeting. Mr. Konesol replied there would be a charge of \$500 for a special meeting. Mr. Bawol stated he would like to get the issue resolved at this meeting.

Mr. Bennett stated he did not want to deny the back overhang.

In response to a question by Mrs. Bawol, the board discussed various modifications to the plan and details of the motion.

Discussion followed regarding the pitch of the roof.

Chairperson Buyers noted the board needed to address the 3 requests for variances.

Mr. Buyers stated they were in receipt of the following: We the undersigned have seen a scale model of the garage/family room addition proposed for 33620 State St. We are aware that the proposed design includes a variance from the Farmington building code in that the attached garage will be set back from the property line of 33623 State St. (Thomas residence) by four feet instead of six feet. We do not feel that allowing for this variance will have any adverse affect on us or our property. Mr. Buyers noted the printed names and signatures on the form for approval: Susan and John Lightner, 33608 State; MaryBeth Williamson, 33614 State; Earl C. and Johanna Thomas, 33632 State; Jennifer Eagle and Jared Frisk, 33652 State; Jane and Chuck Frost, 23660 Cass; Todd and Michelle Hoffmeyer, 33714 State; Dona Kroc, 33639 State; Debbie Horner and Robert Stgkovich, 33625 State; Julie and Marcio de Castro, 33617 State; and Brigid Lisko, 33703 Macomb. He noted additional statements of approval.

Chairperson Buyers asked if there were any comments from the audience regarding the request. There were no comments.

Motion by Bennett, supported by Knol, to grant the request for the variance of Stanley Bawol, 33620 State Street, to Section 35-73 for a 10 ft. side yard variance is required, based on: (a) petitioner has established that compliance with the strict letter of the restrictions of the ordinance would unreasonably prevent the use of the property or be unnecessarily burdensome, (c) that the petitioner has established that the need for the variance is not self-created, (d) that the petitioner has established that the proposal will not interfere with the public safety and welfare, and that (e) the petitioner has established that the use would relate harmoniously in the physical and economic sense of the adjacent properties. Motion carried, all ayes.

Motion by Bennett, supported by Knol, the request by the Bawols for a variance to Sec. 35-39(a) to allow for a 14" overhang, and deny the design that suggests a 3 ft. overhang that would be more aesthetically pleasing, since the petitioner has not: (a) established compliance with the strict letter of the restrictions of the ordinance would unnecessarily

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prevent the use of the property; and that the petitioner (c) has not established that the need for the variance is not self-created and (f) that the petitioner has not established that the proposed use represents the minimum variance necessary. Motion carried, all ayes.

Mayor Knol stated she would support the variance for the 34% due to criteria that the petitioner meets. Chairperson Buyers concurred with Knol.

Motion by Bennett, supported by Majoros, to grant the request or variance from Sec. 35-73, allowing maximum lot coverage of 30% for all structures, therefore, 4% lot coverage variance is requested and granted that: (b) petitioner has established unique circumstances regarding the subject property; (d) the petitioner has established that the proposed use will not interfere with the public safety and welfare; (e) the petitioner has established that the use would relate harmoniously in the physical and economic sense with adjacent properties; and (g) the petitioner has established that, even with a grant of the variance, the spirit of the ordinance will be observed, public safety secured, and substantial justice done. Motion carried, all ayes.

Mr. Bawol thanked the board for their decision.

Mr. Bennett stated the board takes every issue very seriously and they do what is best for the community.

Mayor Knol commended the Bawols on the model that was used to demonstrate what the structure would look like and to show the practical difficulties of the property.

Chairperson Buyers concurred with Mayor Knol.

In response to a question by Mayor Knol, Mr. Bawol stated the structure would be roughed in by the end of summer.

**PUBLIC COMMENT**

There were no public comments.

**ADJOURNMENT**

Motion by Majoros, supported by Knol, to adjourn the meeting. Motion carried, all ayes.

The meeting adjourned at 8:45 p.m.

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John D. Koncsol, Building Inspector