



Rochester Hills

Minutes

Zoning Board of Appeals

1000 Rochester Hills Dr
Rochester Hills, MI
48309
(248) 656-4600
Home Page:
www.rochesterhills.org

Chairperson Ernest Colling, Jr.; Vice Chairperson Kenneth Koluch
Members: Deborah Brnabic, Bill Chalmers, Dane Fons, Dale A. Hetrick, Michael McGunn

Wednesday, July 12, 2017

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Colling called the Regular Meeting to order at 7:00 p.m. in the Auditorium.

ROLL CALL

Present 6 - Deborah Brnabic, Bill Chalmers, Ernest Colling, Dale Hetrick, Kenneth Koluch and Michael McGunn

Absent 1 - Dane Fons

*Also Present: Craig McEwen, Deputy Director of Building
Sara Roediger, Director of Planning
Sandi DiSipio, Recording Secretary*

APPROVAL OF MINUTES

2017-0311 May 10, 2017 Regular Meeting Minutes

A motion was made by Koluch, seconded by McGunn, that this matter be Approved as Presented. The motion carried by the following vote:

Aye 6 - Brnabic, Chalmers, Colling, Hetrick, Koluch and McGunn

Absent 1 - Fons

COMMUNICATIONS

- *Planning & Zoning News - May 2017 edition*
- *Administrative procedures for a dimensional variance*

PUBLIC COMMENT for Items Not on the Agenda

No public comment was heard on non-agenda items.

NEW BUSINESS

2017-0098 **PUBLIC HEARING - FILE No. 17-003**

Location: 260 Winry Dr., located on the north side of Winry Dr., south of Tienken Rd. and west of N. Pine St., Parcel Identification Number

15-10-205-037, and zoned R-4, One Family Residential.

Request: A request for a variance of 4.4 feet from Section 138-5.100 (Schedule of Regulations) of the Code of Ordinances, which requires a minimum side yard setback of 10 feet in the R-4, One Family Residential Zoning District. Submitted plans for a proposed addition and attached garage indicate a side yard setback of 5.6 feet.

Applicant: David & Wendy Taylor
260 Winry Dr.
Rochester Hills, M 48307

(Reference: Staff Report dated July 6, 2017, prepared by Sara Roediger, Director of Planning, and associated documentation were placed on file in the Planning Department and by reference becomes part of the record hereof.)

Chairperson Colling noted the applicants appeared before the Board a few months ago and revised their request. He read the request for the record, and asked the applicants to come forward and provide a summary of the request.

Mr. David and Mrs. Wendy Taylor, 260 Winry, Rochester Hills, the homeowners and applicants, came forward, introduced themselves and gave a summary of the request. Mr. Taylor indicated they still have a hardship on the lot size. At the last meeting, he explained it is not suitable for an attached garage unless a variance is granted. He has returned tonight to show more evidence as to why they should be par with the neighbors. There are seven variances that have been granted in his neighborhood and over 30 homes that have additions that are equal to what they are asking for. There are homes that have been granted permits, without having to get a variance. Mr. Taylor feels they are not being allowed to have the same thing the neighbors have. When he moved in 20 years ago, he thought he would be able to have what everyone else has, even though it's taken this long to accomplish his goal of being able to expand the house and make it livable for aging in place; i.e., one floor, upstairs laundry and an attached two-car garage. This is a necessity in older years. He does not want to leave the neighborhood and feels it's worth a second try to convince the Board of the hardship. The lot just doesn't allow for a two-car attached garage.

Chairperson Colling then called for a summary of the staff report.

Ms. Roediger stated this case was heard by the Board back in March, and the applicant has returned with a modified request. They have provided new evidence and were hoping to get a decision by the full Board. The applicant has provided a list of at least 30 properties in the neighborhood (consisting of 192 homes) that have similar additions. The subdivision was platted in 1955, with primarily 70 and 80 foot lots. The applicant's lot is a little narrower than the majority of the lots in the neighborhood because it is located at the very beginning of a bend in the street - the front lot width is narrower than the rear lot width. Staff was tasked with figuring out how the 30 homes with similar additions happened. Staff spent many hours behind microfiche and microfilm machines trying to discern how these additions have evolved over the last 50 years. The records of the 70's and 80's are not quite as organized as today, but staff did

their best. An analysis was provided in the staff report of the 35 homes in the subdivision with additions. Seven homes were granted a variance very similar to what is being asked for this evening (excerpts from minutes that could be found were included in the packet), 11 instances where the homes did not need variances, 5 homes are located in the City of Rochester (staff has no access to those records, but for the purpose of establishing the commonality and character of the neighborhood, it is important to include these 5 homes in the analysis), and 12 addresses have additions staff's files don't reflect (it could be additions done without permits, or the files are not microfilmed). For the purposes of trying to prove the requirements and review criteria that the Board is bound to look at, one which is substantial justice of the applicant to the surrounding properties, Ms. Roediger thought regardless of how the homes got to the current physical make-up of what they are today, they all create the physical layout and make-up of the neighborhood and add to its character and status. Staff feels very comfortable that substantial justice would be served by the variance if granted. There are other criteria that needs to be considered in terms of unique circumstances - the staff report indicates this is a fairly unique development in the city in that the subdivision has narrower lots. The narrow lots in this subdivision combined with the other homes in the subdivision that have similar circumstances and have additions, make this a pretty unique circumstance on this property. Staff spoke with the City Attorney who suggested some revisions to the draft motions, so amended motions have been provided to the members tonight.

Mr. Chalmers asked for clarification that seven variances have been granted. Ms. Roediger verified that staff found records of seven variances that were approved, and 35 homes with additions out of the 192 original homes.

Mr. Hetrick asked for clarification that the zoning for the R-4 district has not changed since around 1972. The Board is dealing with the same zoning and the same setbacks that the Board was dealing with back in the 70's. Ms. Roediger stated that in terms of side yard setback, that is correct. Staff pulled ordinances dating back to 1941 and it was very consistent that a side yard setback for a primary structure has to be 10 feet from the property line, and a detached accessory structure could be 5 feet from the property line. Those requirements from the City of Rochester Hills and Avon Township have been consistent throughout time.

Chairperson Colling commented that the zoning ordinances requirements, i.e., "the strict letter of the law" have changed significantly and did change significantly in 1984 when the City Charter was approved. The zoning ordinances in Avon Township used to be a small brochure, they are quite substantial by today's standards.

The Chair opened the public hearing at 7:15 p.m. There being no one wishing to speak, the public hearing was closed at 7:15 p.m. and the floor was opened for Board discussion.

Mr. Taylor stated that in 2010 a neighbor of his at 287 Winry had a garage and put an attachment from the garage to the house. He received a permit for the work, which was called a garage addition. This is primarily what he would like,

and doesn't understand how he needs a variance when the neighbor was allowed to do the work. The neighbor's garage is 5 feet from the property line.

Mr. Colling indicated that the standard for an attached garage is 10 feet from the lot line. When it's detached, it's considered an accessory structure and has a different set of rules and needs to be 5 feet from the lot line. When you attach the garage to the house, it becomes part of the house and must have a 10 foot side yard setback. He finds it hard to believe that the neighbor either did not have to apply for a variance or someone missed it or mis-measured the property. Without a 10 foot setback from the side yard, that permit would not have been approved.

With regard to the 35 homes, the Chair said rather than debate the 12 homes with additions but no information on record - whether they are illegal, legal or other - he's lumping these in with the other 11 homes that needed no variance, because it doesn't matter at this point, they are built. The way the ordinance reads, if you don't need a variance and your property supports the building envelope, then you are entitled the permit. The problem comes into play when the property doesn't support it. Mr. Colling commented the applicant is not the first individual with a pie-shaped lot in the City that has come before the ZBA for a variance, and was denied. The fact that the applicant's structure is 7.2 or 7.6 feet off the back end of the garage from the lot line, and 5.6 off the front end from the lot line - once this structure is attached to the house, the 10 foot standard applies. He understands the applicant's addition, but it created a situation where a different set of standards apply to the side yard set than when the garage was originally built. That is the reason for the variance.

Mr. Koluch asked if there was any way to squeeze a two-car garage into the building envelope. Has someone actually measured and said it couldn't be done. Mrs. Taylor said a two-car garage will not fit with the required 10 foot side yard setback. You couldn't get a car into the garage because it would be so close behind the house.

Mr. Colling asked what the setback is from the back of the garage to the rear property line. Mr. Taylor replied 35 feet.

The Chair asked the applicant if the new garage would be built partially on the foundation of the existing one-car garage. Mr. Taylor stated no, he will demolish the existing and build new including new concrete.

Mr. Colling then asked if the new garage will be the same distance from the side lot line as the existing one-car garage. He also what the current side yard setback is for the existing garage. Mrs. Taylor replied the current garage is approximately 12 feet from the lot line - it's well inside the 10 foot envelope. The proposed garage is 5.6 feet from the lot line.

Mr. Hetrick confirmed the survey shows the existing garage is well within the building envelope for an attached structure.

Mr. Colling commented the applicant is not just attaching the current garage to the house, the current garage will be demolished. The applicants confirmed that

statement.

Mr. Koluch asked if anything is preventing the applicant from adding on to the existing garage. Mrs. Taylor explained the structure is not sound and it needs to come down. It's very small and only big enough for a compact car. It is more like a storage structure than a garage.

Chairperson Colling said the proposed structure is away from the 35 foot lot line - two or three feet. Theoretically, the proposed garage could be moved back two or three feet and still meet the rear yard setback requirement.

Staff clarified the proposed garage is 1.4 feet away from the 35 foot setback requirement.

Mr. Colling asked if there was a way to position the garage to make it work. Mr. Taylor clarified the hard part is that the rear entrance to the house and the steps are on the back corner right as you turn from the driveway, so the problem is you can't move the garage behind the house, meet the 10 foot setback requirement and attach it, because there would be no way to enter the addition. Mrs. Taylor asked if the garage were moved back to the 35 foot rear yard setback line, they then would be asking for a lesser variance?

Chairperson Colling said there may be another way to position the garage to take full advantage of the building envelope and lessen the variance, or perhaps not need a variance at all.

***** Enter Member Fons - 7:25 p.m. *****

Mrs. Taylor agreed that by moving the garage back two feet, they could decrease the variance request.

Mr. Colling indicated the proposed garage is 24' deep and 20' wide on the front and 26' wide on the back wall. This is a large two-car garage, and the minimum size recommended for a two-car garage is 20' x 20', and 24' x 24' is optimum. He wonders if by manipulating the size of the garage from 26' wide and pushing the structure back a bit, it might not need a variance at all.

Mr. Taylor stated the opening of the garage, allowing two feet from the far edge requiring the variance - if that is moved to the 10 foot line, and then adding the 20 foot for the opening on the garage door - it would put the structure past the door into the house, so he would still be exiting outside the house in order to get into the garage.

The Chair asked for clarification that the garage door is 20 feet. Mr. Taylor explained garage doors are somewhere between 16 and 20 feet, but if you have a two foot side, he needs 20 feet so that when you pull into the garage he has 2 feet to step out of the car. Mrs. Taylor said the garage is 20 feet on the front, it will be 24 feet inside. They made it as small as they could on the front.

Mr. Hetrick asked if anyone from staff has thoughts on adjusting things, because he suspects staff has had conversations with the applicants about how

to adjust the design such that it may possibly fit.

Mr. McEwen stated he did not have a chance to look at designs. He knows what they are proposing works with a 16 foot door, with two feet on each side. Making it any narrower in the front and getting a two-car entry would be difficult, unless they angled it in.

Mr. Colling's point is by moving the garage back as far as it can go toward the rear lot line and turning it a bit, which may mean changes to the entry, he feels the applicant could make it work. He asked if the applicants have explored alternatives. Mrs. Taylor said yes, they talked with the person that completed their survey. He said even if the garage was moved back more, in order to get the 20 feet in front, it still will need some level of variance, because the side will not be 10 feet from the lot line, even with pushing the structure back.

Mr. Colling noted it would be a lesser variance that requested.

Mr. Taylor said having the ability to drive into a garage on an angle can also be a problem. He does not see how it can be built on an angle. Mr. Taylor did not directly ask the builder who designed the plans to see if the proposal could be modified. He designed the best rendering he could come up with to build the structure, and because he needed a variance, they came to the Board before the blueprints were completed.

Chairperson Colling indicated it's the Board's job to minimize the variance as much as possible if there is to be a variance. Mr. Taylor does not see how he can move the garage back two feet and gain enough to knock off four feet.

Mr. Colling said he doesn't think they will be able to knock off four feet, but feels the variance could be reduced some.

Mr. Hetrick commented that moving the garage back to the minimum rear yard setback could be a condition of approval. It's likely true that moving the structure back wouldn't get the applicants the side yard setback they need to make it work, but moving it back would reduce the variance request somewhat. Mr. Taylor indicated he has no problem with moving the garage back to the setback.

Mr. Colling indicated the issue is that the variance runs with the land. Once it's granted it's there forever. With regard to unique circumstances, they aren't unique within the community, as the Board has had a number of lots that are pie shaped requesting variances that were ultimately denied. People can modify their plans to fit the building envelope.

Mrs. Taylor is willing to move it back. Mr. Taylor does not have the layout of the house and is not sure how much will be gained by going back two feet. He might only gain 6 inches or one foot.

Mr. Koluch went through some of the criteria for granting a variance. The applicant has to show unique circumstances of the problem, the problem is not self-created, the spirit of the zoning ordinance should be observed, and granting

a variance will do substantial justice. Mr. Koluch seems it's unfair because the neighbors did it ahead of time, the applicants can't do it now if the variance is denied. Not only can the applicants not do it now to match what their neighbors have, no one else in the subdivision will be able to do it either. The Board would be setting precedent if denied for every single person in the neighborhood to never be at a match with the lucky 25% who were able to build an addition to their house. He feels this makes it a unique circumstance. There are a lot of people who have attached their garage in this subdivision. He doesn't feel granting the variance will cause a snowball effect giving everyone in the subdivision a green light to start building. He feels the size of the lot makes it not self-created; there is such a small area with a small house and there is only so much you can do with it. He doesn't think the spirit of the ordinance would be tainted by granting a variance with conditions, because many lots already have the same condition.

Mr. Colling does have an issue with it, because it's not just this subdivision. The Board represents all of Rochester Hills and there's no guarantee when you buy a lot that you can do anything you want on it. There are other individuals that have similar wants within the City that have been denied. In terms of practical difficulty - that is generally something with the land, a feature of the land that came with the land, that the applicant has no control over. In this case, while the pie shaped lot makes it difficult to build the proposed structure, it is not a practical difficulty by this definition. In reading through the minutes of the seven variances that were granted, six had no findings, and one had findings but no mention of a practical difficulty. The one variance that cited a practical difficulty was granted in 1984, which came after an ordinance change that required practical difficulties in ZBA findings. He is trying to find a practical difficulty for this lot that would stand up in a court of law and prevent somebody else from the City using this case to say these applicants were granted a variance and it wasn't warranted, so I want my variance granted as well.

Mr. Hetrick feels the practical difficulty is the lot size itself, which is smaller than the others in the subdivision. The other thing is the lot is pie shaped which prompts the challenge at the front end of the garage. If it's moved back a couple of feet, you might get 10 foot on the rear of the garage, but not on the front. He believes this is where a practical difficulty exists. Even though the ZBA agreed to things in the 1970's that did not have practical difficulty, they discovered that either it was an existing garage that had a 5 foot setback for a detached structure or someone added to their home and created a practical difficulty because the change in ordinance from 5 foot to 10 foot was outside the control of the property owner. He feels this is a practical difficulty to build the attached structure to a detached garage. Not the applicant's problem, but one that clearly was a practical difficulty to those who built and attached their structure in the past. The other thing that was always in the findings was that the ZBA would find that there was not going to be any detriment to the subdivision by granting a variance. That was very consistent in the findings of the variances that were granted in the past. This finding also applies to this case.

Mr. Colling stated relative to no detriment to the neighborhood - there was never any doubt of that, but the issue in the findings was that the lot line didn't change - what they had is a detached structure that they attached to the house, which is

an entirely different situation that tonight. When he sees that the lot line didn't change, what the ZBA was saying is that it didn't matter to them; they are going to ignore the zoning ordinances, because the ordinance at that time still specified that an attached garage should be ten feet from the lot line, not 5. The distance never changed. Mr. Hetrick doesn't feel the Board ignored it; they saw a difficulty in building it. Mr. Colling pointed the Board didn't say difficulty, they said the setback didn't change, there was nothing about a practical difficulty until 1984. Mr. Hetrick indicated what they said was it went from a 5 foot to a ten foot setback, and they had to grant the variance.

Ms. Brnabic agrees that not much discussion was recorded in minutes from the 1970's for the approved variances in this subdivision which would have offered a better or more complete understanding of the decision process that they made back then. The first variance was approved in 1970 for an identical situation. As time went on, approved variances occurred in 1972, 1973, 1974, two in 1979 and 1984. If any reason was stated it was due to the lot size or the houses being small. The problem did come up with the 5 feet if the structure was detached and the ten feet necessary if attached. Because some people then with a proposed addition, had the problem of connecting the addition to their detached garage, which fit the setback until it was attached. The previous minutes only included motions and the finding of lot size. The Board had realized they set a precedent in the area because the existing structures in the area were situated similarly and similar variances were granted to afford property owners similar rights to surrounding properties. There was almost no objection from the Building Department to approve these variances to allow the applicant to enjoy his property rights. A precedent was set in the 70's. She questioned if the ordinance in effect back then include the requirement for a practical difficulty or an unnecessary hardship. Staff provided past ordinances for this section, and Ms. Brnabic feels it's appropriate to start with the 1967 ordinance because the first variance was granted in 1970. The ordinances were similar from 1967 through 1986 with only remote differences. She read the 1967 ordinance - "owing to special condition, a literal enforcement of the provisions of the ordinance would involve practical difficulties or cause unnecessary hardships within the meaning of the ordinance, the Board shall have the power upon appeal in specific cases to authorize such variation or modification of the provisions of this ordinance with such conditions and safeguards as it determines, as may be in harmony with the spirit of the ordinance so that the public safety and welfare be secured and substantial justice be done. No such variance or modification of the provision of this ordinance shall be granted unless it appears beyond a reasonable doubt that all the following facts and conditions exist." The 1967 ordinance had conditions A - D, and as time followed, it was only conditions A - C, until the current ordinance. Condition A was that there was an exceptional or extraordinary circumstance or condition applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same district or zone; Condition B is that such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity; Condition C is that the granting of such variance or modification will not be materially detrimental to the public welfare or material injurious to the property or improvements in such zone or district in which the property is located. The Condition D that is not included in the future ordinances was that

the granting of such variance will not adversely affect the purpose or objectives of the comprehensive plan for the Township of Avon. Also included is what we still have today - that there is an adequate supply of light and air, etc. The only difference Ms. Brnabic saw going through the years was the Condition having to do with the Township. In 1977, one sentence was removed - "unless it appears beyond a reasonable doubt". In each ordinance they were saying the situation would have to involve a practical difficulty or cause an unnecessary hardship. In 1986, the only thing that was different was the phrase "within the meaning of the State Law and of this ordinance". It was part of the ordinance back then, so how the Board made the decision and how they justified granting the variance could have been that they looked at the small lots as unusual. She notices a lot of the variances were granted to properties that had 70 foot lots. Ms. Brnabic commented the applicants have lived in their home for over 20 years and seeing similar additions in the neighborhood, probably didn't realize their proposed addition would require a variance.

Mr. Taylor didn't know his addition would require a variance, because the house next door, directly behind him and kitty-corner behind him, all have similar additions. Mrs. Taylor said the unique thing about the subdivision is that they are all small houses, so when they moved in three of their neighbors were original owners and had built the home. She is hoping to have this subdivision come back to what it could be. A lot of young people are moving in and updating the homes to make them beautiful.

Ms. Brnabic thought maybe the Board back in the 1970's thought the variance was necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the area. She feels that some of the difficulty for today's Board is that currently for a dimensional variance, the practical difficulty is stated differently than back in the 70's.

Chair Colling stated the Board has to be consistent from the standpoint that a precedent was probably set, but he's not sure it was a good precedent or if it was the right thing to do. If all the properties that were granted variances in the past were small lots, or if there was some shape issue with the lot, then he could agree why the Board approved the variances. But in many cases, it was done simply because of the applicant's desire to build an addition to connect the garage. By today's standard, that type of variance would not be granted. The Board has to balance between today's standard and what happened in the past. He still comes back to the fact that other pie shape lots exist in the City and it does not make this situation unique enough to stand on its own. The Board's task is to find a unique, practical difficulty that will stand on its own and separate this case from anything going forward, because anyone else in the subdivision is going to have to be granted a variance to do the same thing.

Ms. Brnabic asked the applicants if they read the section of the ordinance that explains the criteria the Board has to follow today in order to grant a variance. Mrs. Taylor replied yes.

Chairperson Colling noted there is a large tree that sits right off the driveway that could be considered a unique circumstance because it affects the driveway size and shape. It limits where the applicants can place a garage on the property.

Mr. Taylor said the rear door of the house limits the placement of the addition.

Mr. Colling's goal is if a variance is granted, he wants to get it reduced to the minimum possible, which will probably require some changes in the proposed plan. Mr. Taylor indicated he does not have a firm plan yet, and will work with staff as much as he can. He then pointed out many houses in the neighborhood had an existing garage which they attached to the house. The key to his case is not so much that he can't have a garage, but it's the attachment that becomes a problem. He understands this but out of all the homes that don't have information on them, how many were approved as a permit instead of approved with a variance.

The Chair indicated this is unknown and the only way to guesstimate would be to go out and measure the footprint of the home on each property. Some of the homes with additions sit right on the lot line, so he assumes they should have had a variance and didn't, and assumes they were built without a permit. The homes that don't sit on the lot line we can only assume they sit far enough from the lot line to meet the criteria.

Mr. Taylor displayed a photo of a neighboring house that completed an addition in 2010, where the garage is five feet from the lot line. Mr. Colling said the photo shows the garage is canted on an angle to the house. The garage was detached and the owners built the addition on the back of the house closer than 10 feet to the garage. Mrs. Taylor indicated the garage is connected to the addition. Mr. Colling said the roofs are not connected. Mrs. Taylor clarified the roofs are connected. This house just sold and the listing indicated the addition was called a garage addition. Chairperson Colling said the Building Department would not have allowed the addition to happen without a variance. Mr. Taylor stated the addition was done with a permit dated 8/12/10 and inspections were completed. This information was taken off the City's website. He doesn't understand how this would be permitted without a variance. Mr. McEwen said he would not have approved a permit for the proposed work today, and is not sure what happened back in 2010 as he was not with the City.

Chairperson Colling wishes the Board had an actual final building plan of the home so they could see where changes could be made. If the Board is going to grant a variance and minimize it, they have to know the minimum to grant.

Mr. Chalmers asked if a 70 foot wide lot is the norm in this subdivision.

Ms. Roediger indicated the common lot on the straight and narrow is 70 feet wide, some of the corner lots are 80 feet and some lots on the curve are in the 60's. The predominant pattern is 70 feet.

Mr. Chalmers indicated the applicant is 3.5 feet shorter than the 70 foot norm, and is asking for a 4.4 foot variance, equating to 9/10 of a foot if they are on a 70 foot lot. He asked if the applicant can find 9 or 10 inches to shave off the request. He would support a motion to approve a 3.5 foot variance instead of the requested 4.4 foot.

Mr. Hetrick suggested rather than forcing a particular setback when drawings

are not available, to allow the applicants up a 4.4 foot variance with the condition that they get an architectural rendering of what happens when the garage is moved back to the 35 foot lot line.

Chairperson Colling disagreed, stating if the Board grants up to 4.4 feet, the garage will be built at 4.4 feet. Mr. Hetrick said no, because there will be a condition that the applicants work with an architect to reduce the variance. The Chair indicated a variance needs to have a fixed number.

Mr. Koluch noted the Board granted a variance last meeting without an actual number, conditioned upon the applicant working with staff to come up with the actual variance measurement.

Mr. Taylor pointed out he's already reduced the structure by a wall in order to resubmit to the Board. He asked that any reduction to be granted tonight be taken off the original variance request of 4.7 feet.

Mr. McEwen feels you need to keep a 20 foot front and by sliding the structure back as far as it will go, the applicant will gain some inches.

As far as the wording of a condition, Ms. Roediger noted it's common at Planning Commission and City Council to have a condition for something that needs to be tweaked. The condition could say push the building back to the minimum rear yard setback and work with staff to minimize the variance as much as possible.

Mr. Chalmers asked if the applicant could find 10 inches in the proposed addition that enables them to keep the garage the same size. Mr. Taylor indicated he took the measurements off the east side of the house and if the house door is a problem, he believes there is 10 inches from the edge of the brick to the edge of the door. If he can accommodate this amount into the framing, it should work.

Mr. Chalmers thanked the applicant for bringing the request back before the Board and for the work that staff did because the members are getting the full picture of the situation which they didn't have before. The Board can now evaluate the issue fully and properly.

Mrs. Taylor doesn't feel a variance of 3.5 feet is enough, as the garage door would be behind the house and the car on the left side could not be backed straight out onto the driveway. The driveway is not a double drive, only a single drive because of the tree. She is willing to push the garage back as far as possible, but doesn't think it would give a 10 inch leeway. Mr. McEwen explained if you go two feet from the house, 16 feet for the garage door, 1.6 foot for the last turn, plus moving the structure back, that will give about 10 inches. He believes it can be done.

Mr. Hetrick feels the Board is splitting hairs, and maybe doing something as simple as the difference between 3.5 feet and 4.4 feet; this allows for the 10 inches and still gives a little wiggle room to have the minimum variance.

Mrs. Taylor indicated their goal is to work with the City because they want to stay in their home.

The Chair suggested 3.5 feet plus 4 inches for the maximum variance.

A motion was made by Koluch, seconded by Chalmers, that the following Motion be Approved. The motion carried by the following vote:

Aye 7 - Brnabic, Chalmers, Colling, Fons, Hetrick, Koluch and McGunn

MOTION by Koluch, seconded by Chalmers, in the matter of File No. 17-003, that the request for a variance from Section 138-5.100 (Schedule of Regulations) of the Rochester Hills Code of Ordinances to grant a variance of 45 inches (3.9 feet) for 260 Winry Dr., Parcel Number 15-10-205-037, zoned R-4 (One Family Residential) be **APPROVED** because a practical difficulty exists on the property as demonstrated in the record of proceedings and based on the following findings:

- 1. Compliance with the strict letter of the restrictions governing the minimum setback for attached accessory buildings will be unnecessarily burdensome as there are a number of properties in this subdivision that have developed similar additions, and the proposed addition and attached garage cannot be reasonably reconfigured to meet the setbacks.*
- 2. Granting the variance will do substantial justice to the applicant as well as nearby property owners by permitting a use or development of land that is consistent with prevailing patterns in the nearby area as multiple other homes in the North Hill Subdivision have similar additions.*
- 3. A lesser variance will not provide substantial relief, and would not be more consistent with justice to other property owners in the area.*
- 4. There are unique circumstances of the property that necessitate granting the variance, and that distinguish the subject property from other properties with respect to compliance with the ordinance regulations. Specifically the location of the trees on this lot and the wedge shape of this lot make it difficult to apply the setback regulations and have an attached two car garage consistent with many other lots in the North Hill Subdivision. Similarly, the problem is not self-created for the same reasons - the location of trees and the wedge shape of the lot.*
- 5. This variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the North Hill neighborhood who have similar additions.*
- 6. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses as the presence and frequency of similar additions on the homes in this subdivision make up the character and*

feel of the neighborhood and the proposed variance request is consistent with the existing character.

7. Approval of the requested variance will not impair the supply of light and air to adjacent properties, increase congestion, increase the danger of fire, and/or impair established property values in the surrounding area.

Approval of this variance is subject to the following condition:

That the applicant work with staff to ensure that the building envelope be moved back to the maximum allowable rear yard setback to minimize the variance to the greatest extent possible.

ANY OTHER BUSINESS

No other business was brought forward for discussion.

NEXT MEETING DATE

The next Regular Meeting is scheduled for August 9, 2017.

ADJOURNMENT

Chairperson Colling adjourned the meeting at 8:40 p.m.

*Ernest W. Colling, Jr., Chairperson
Zoning Board of Appeals
City of Rochester Hills*

Sandi DiSipio, Recording Secretary