

**CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING MINUTES ***DRAFT***
5151 MARSH ROAD, OKEMOS MI 48864-1198
517.853.4000
WEDNESDAY, June 28, 2017**

PRESENT: Members Jackson, Ohlrogge, Lane, Stivers, Chair Beauchine

ABSENT:

STAFF: Keith Chapman, Assistant Planner
Peter Menser, Senior Planner

A. CALL MEETING TO ORDER

Chair Beauchine called the meeting to order at 6:30 p.m.

B. APPROVAL OF AGENDA

MEMBER OHLROGGE MOVED TO APPROVE THE AGENDA AS WRITTEN.

SECONDED BY MEMBER JACKSON.

VOICE VOTE: Motion carried unanimously.

C. CORRECTIONS, APPROVAL & RATIFICATION OF MINUTES

Wednesday, May 24, 2017

MEMBER LANE MOVED TO APPROVE THE MINUTES OF WEDNESDAY MAY 24, 2017 AS WRITTEN.

SECONDED BY MEMBER STIVERS.

VOICE VOTE: Motion carried unanimously.

D. COMMUNICATIONS

Chair Beauchine determined to address the communications in conjunction with each case.

- A. Sanjay & Kiran Gupta, 3611 Beech Tree Lane RE: ZBA #17-06-28-1
- B. Piyush & Vinha Desai, 3620 Beech Tree Lane RE: ZBA #17-06-28-1
- C. Adrienne Gelardi, 6130 Pollard Avenue RE: ZBA #17-06-28-3
- E. Max Prosser, 6129 Pollard Avenue RE: ZBA #17-06-28-3
- F. Sara, 6079 Pollard Avenue RE: ZBA #17-06-28-3
- G. Ann Fuller, 6070 Pollard Avenue RE: ZBA #17-06-28-3
- H. Steven But, 6082 Pollard Avenue RE: ZBA #17-06-28-3
- I. Nasser Almutairi, 6100 Pollard Avenue RE: ZBA #17-06-28-3
- J. Mary Diaz, 6081 Pollard Avenue RE: ZBA #17-06-28-3
- K. Michael Womboldt, 6078 Pollard Avenue RE: ZBA #17-06-28-3
- L. Jack & Julie Magruder, 3176 Birch Row Drive RE: ZBA #17-06-28-3
- M. Barry Gibson, 3169 Birch Row Drive RE: ZBA #17-06-28-3

E. UNFINISHED BUSINESS

None.

F. NEW BUSINESS**1. ZBA CASE NO. 17-06-28-1 (FATTEH), 3615 BEECH TREE LANE, OKEMOS, MI, 48864**

DESCRIPTION: 3615 Beech Tree Lane
TAX PARCEL: 34-337-010
ZONING DISTRICT: RB (Single Family, High Density)

The applicant is requesting a variance from the following section of the Code of Ordinances:

Section 86-374 (d)(5)(c), for lots over 150 feet in depth, the rear yard setback shall not be less than 40 feet in depth.

The applicant is requesting to construct a 168 square foot enclosed porch within the rear yard setback.

Keith Chapman, Assistant Planner, outlined the case for discussion.

Chair Beauchine addressed the additional letters from Tom and Jan Phelps at 1832 Elk Lane, and Jian Ren and Tongtong Li at 1840 Elk Lane, along with David Hennessy and Hongli Hennessy at 1824 Elk Lane, who oppose the variance request. He also mentioned the communications of residents in favor of the variance.

Mr. Fatteh, the property owner and applicant, 3615 Beech Tree Lane, Okemos, stated health reasons for desiring to construct a first floor sunroom on the existing deck, which would be easier to access over their second floor sunroom. He added it would allow them to enjoy the backyard from an enclosed area, as their deck is located near a creek infested with insects. He explained the sunroom would serve two purposes, one it would be usable in both summer and winter, and allow them to receive health benefits of being in the sun. He concluded stating the request is for a six feet dimension which would not go beyond the existing deck.

Chair Beauchine opened the floor for public remarks, seeing none, closed public remarks.

Member Ohlrogge stated Mr. Fatteh's application does not address the review criteria from (Section 86-221) of the Code of Ordinances used by the Zoning Board of Appeals (ZBA) in their determinations of a case. She requested Mr. Fatteh to address his request using the review criteria.

Mr. Fatteh, the property owner and applicant outlined his request using the review criteria:

- Review Criteria one and two: He stated special circumstances exist which are not self-created based on the preexisting creek which creates an environment for insects making the backyard patio usable during the summer. He added the sunroom would only cover about 10% of the existing patio.
- Review Criteria three: He stated this criterion is too technical for him, however, in his presentation he has tried to consider the ZBA point of view, and he doesn't think his request is prohibitive as he is asking for a small consideration.
- Review Criteria four: He stated without the variance it would restrict their ability to enjoy the deck and a sunroom would allow them to use the backyard patio without the nascence of insects.

- Review Criteria five: He stated the sunroom in the backyard would not be intrusive in any manner to any neighbors. He added the property line between him and his backyard neighbors are separated by tall arborvitaes, which provide a visual barrier. He added because the addition of the sunroom is important to them, he has approval from their Neighborhood Association.
- Review Criteria six: He said the variance does not adversely affect adjacent land or the essential character of the property or his neighbor's property.
- Review Criteria seven: He replied his request has met this criterion and it is not recurrent in nature.
- Review Criteria eight: He stated the variance is consistent with the Zoning Ordinance. He concluded by asking the ZBA to sincerely consider his request and approve it.

Member Stivers referenced a submitted letter of disapproval to the variance request; she said it has a suggestion the applicant consider moving the sunroom to the east side of the house, which may not need a variance or affect the neighbor's view. She questioned staff if that was a true statement.

Chair Beauchine asked Mr. Chapman for the side yard setback dimensions.

Mr. Chapman replied the side yard setback for RB zoning is 7 feet.

Member Jackson requested to know the setback dimensions for the deck from the lot line on the side yard.

Member Stivers replied 8 feet.

Member Stivers asked Mr. Fattah to respond to the letter from his neighbors about putting the sunroom on the east side of the house.

Mr. Fattah stated the east side of the house is not exposed to the sun. The plan is for a sunroom, and it would be cost prohibitive as an interior wall on the east side of the house would need to be removed to add access the sunroom. The only access would be via the deck and defeats the purpose of using the sunroom in the winter, and his request remains the same.

Chair Beauchine referred to the letter received tonight and desired to note their concerns:

- Property owners were told the lot on which the house at 3615 Beech would never be developed. He added the lot was a buildable lot of record, so this does not apply.
- The existing deck posts would not support a room. He said it is not for the ZBA to determine whether or not the deck posts are sufficient or not.

He concluded neither of these two concerns stated in the letter is to be considered by the ZBA.

Member Stivers read review criteria one, which states unique circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district. She stated having mosquitos prevalent in their backyard is not a unique circumstance. She added the other unique circumstance mentioned Mr. Fattah was health concerns which are not unique to others.

Member Jackson added neither of those unique circumstances mentioned by Mr. Fatteh relates to the land or the structure.

Member Stivers read review criteria two, which states these special circumstances are not self-created. She replied the applicant does not meet this criterion.

Member Stivers read review criteria three, which reads strict interpretation and enforcement of the literal terms and provisions of this chapter would result in practical difficulties. She said the ZBA does appreciate the difficulties Mr. Fatteh presented however; the ZBA cannot consider those particular kinds of difficulties, as they are not unique to the property or structure.

Member Stivers read review criteria four, which states the alleged practical difficulties, which will result from a failure to grant the variance, would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. She replied it would not prevent the owner from using the property.

Member Stivers referenced review criteria five stating is granting the variance the minimum action when Mr. Fatteh has an opportunity to put the sunroom on the east side of the deck. It would create an expense to Mr. Fatteh putting the sunroom on the east side of the house, however, it is a great option to solve all the applicants' issues and address the minimum action.

Member Stivers read review criteria six, which reads granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property. She stated Mr. Fatteh meets this criterion.

Member Stivers read review criteria seven which reads the conditions pertaining to the land or structure are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable. She stated the conditions would be general and recurrent in nature.

Member Stivers read review criteria eight which reads granting the variance will be generally consistent with public interest, the purposes and intent of this Zoning Ordinance. She replied it would not.

Member Ohlrogge read review criteria six, which reads granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property. She added the setback of 40 feet is designed to create distance between properties and to separate structures within the properties and she cannot see a reason based on the criteria to grant the request.

MEMBER LANE MOVED TO DENY THE VARIANCE REQUEST BASED ON THE FAILURE TO MEET THE REVIEW CRITERIA (SECTION 86-221) of the Code of Ordinances.

MEMBER OHLROGGE SECONDED.

Chair Beauchine stated the only criteria he questioned was criteria two as he didn't know if the circumstances were self-created since he is not sure whether Mr. Fatteh built the house or not.

Member Jackson replied relative to Chair Beauchine's point; she added the circumstances had not been created yet is because the sunroom has not been built. She added the deck itself is valid, but the problem occurs once the sunroom is built.

ROLL CALL VOTE: YES: Members Ohlrogge, Stivers, Jackson, Lane, and Chair Beauchine.

NO:

Motion carried unanimously.

2. ZBA CASE NO. 17-06-28-2 (ZHANG), 4719 POWELL ROAD, OKEMOS, MI, 48864

DESCRIPTION: 4719 Powell Road
TAX PARCEL: 22-426-003
ZONING DISTRICT: RA (Single Family, Medium Density)

The applicant is requesting variances from the following section of the Code of Ordinances:

Section 86-471(b)(1), for all structures and grading activities shall be setback from the edge of a water feature as follows: Wetlands regulated by the Township, the state, or by federal law equal to or greater than two acres in area; 40 feet.

Section 86-471(c)(1), to minimize erosion, stabilize streambanks and wetland edges, protect water quality, and preserve fish and wildlife habitat, a natural vegetation strip shall be maintained from the edge of a water feature as follows:

Wetlands regulated by the Township, the state, or by federal law; 20 feet.

The applicant is requesting to construct a driveway within the wetland setback at 4719 Powell Road.

Keith Chapman, Assistant Planner, outlined the case for discussion with recommendations to the Zoning Board of Appeals (ZBA), for Mr. Zhang to obtain soil erosion permit, if necessary and install erosion control silt fencing along the boundary of the wetland before construction starts.

Chair Beauchine stated there were no communications submitted that objected to Mr. Zhang's request.

Tom James Gottschalk, the owner of James Edward Builders, 3450 Lake Lansing Road, East Lansing, the representative for the applicant, stated he was contracted to build the new house, but after Mr. Zhang had purchased the property. When he was hired there was a new survey and plat with the new home design, which meets the 40 foot dimensions required. The land was cleared, and a silt fence added, which is when the issue with the driveway was discovered. He stated Mr. Zhang was not aware of the driveway issue prior to the purchase of the property. He added the situation was not self-created.

Mr. Zhang, the property owner of 4719 Powell Road, Okemos, stated he purchased the property about five years ago and knew the wetlands would have some requirements for building; however, his Real Estate agent stated with the new construction and driveway there should not be an issue. He added when he started the construction the County checked the driveway permit and informed this should have been done prior to construction, which is why this is the last step in the building of their new home since starting the construction last June.

Chair Beauchine opened the floor for public remarks, seeing none, closed public remarks.

Chair Beauchine stated the location of the proposed driveway is in a better location than the originally existing driveway and is located as close to the property line as possible.

Member Jackson stated it appears there is no other way to get to the property.

Member Lane stated the proposed location for the house is about the only location on the property, due to the wetlands and the configuration of the property.

Member Jackson stated it is truly a unique circumstance, which satisfies criteria number one based on the land itself.

Member Ohlrogge questioned if the existing driveway, although substandard is not the best long term solution, which she stated would be the minimum action.

Member Stivers requested clarity on the location of the existing driveway as compared to the proposed driveway on the property, and added does the existing driveway go closer to the wetland than the proposed driveway.

Chair Beauchine replied yes the existing driveway is closer to the wetland.

Member Ohlrogge questioned if keeping away from the wetland was a main factor in granting the request.

Chair Beauchine stated even if Mr. Zhang wanted to use the existing driveway doesn't mean any permits were pulled for the driveway or any wetland issues have been addressed to date.

Member Ohlrogge replied is rebuilding a new driveway the minimum action or should Mr. Zhang improve the existing driveway is the question she wants to be addressed.

Chair Beauchine answered moving the driveway further away from the wetland and moving it to a more stable area says the minimum action, and read review criteria four, which reads the alleged practical difficulties which will result from a failure to grant the variance would unreasonably prevent the owner from using the property for a permitted purpose, which is to build a house and the request clearly meets criteria number four.

Member Stivers added I noticed it is a 10 foot driveway, could it be made narrower.

Mr. Gottschalk replied that in his 29 years of construction a 10 foot driveway is fairly narrow and is the minimum standard.

Chair Beauchine stated the ZBA all agrees the request passes criteria one, two and four, and he read review criteria three, which reads strict interpretation and enforcement of the literal terms and provisions of this chapter would result in practical difficulties. He stated it would.

Chair Beauchine read review criteria five, which reads granting the variance is the minimum action that will make possible the use of the land or structure in a manner which is not contrary to the public interest and which would carry out the spirit of this zoning ordinance, secure public safety, and provide substantial justice. He added the ZBA has already covered this criterion and agrees it is less intrusive further away from the wetland.

Chair Beauchine read review criteria six which reads granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property. He stated the request fits in very well with this criteria.

Chair Beauchine read review criteria seven which reads the conditions pertaining to the land or structure are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable. He replied it meets this criterion.

Chair Beauchine read review criteria eight which reads granting the variance will be generally consistent with public interest, the purposes and intent of this Zoning Ordinance. He added the subject property meets all the criteria and should be granted.

Member Stivers suggested the location of the driveway could be moved closer to the property line and further away from the wetlands and then a lesser variance request would be needed.

Member Lane suggested that Mr. Gottschalk or Mr. Zhang be asked the reason for the location of the driveway.

Mr. Gottschalk replied he had talked to Mr. Chapman about this, however, due to the contour of the land the proposed location for the driveway is the most conducive location and is based on the suggestion of the engineer.

Member Stivers stated she would accept Mr. Gottschalk's reasons since an engineer recommended it.

MEMBER OHLROGG MOVED TO APPROVE THE VARIANCE REQUEST SECTION 86-471(b)(1).

MEMBER JACKSON SECONDED WITH THE ADDITION OF STAFF RECOMMENDATIONS THE APPLICANT TO OBTAIN A SOIL EROSION PERMIT AND INSTALL EROSION CONTROL SILT FENCING ALONG THE BOUNDARY OF THE WETLAND BEFORE CONSTRUCTION.

Member Jackson added although there is nothing that requires Mr. Zhang to do a gravel driveway, I hope he continues with his plans for one.

ROLL CALL VOTE: YES: Members Ohlrogge, Stivers, Jackson, Lane, and Chair Beauchine.

NO:

Motion carried unanimously.

3. ZBA CASE NO. 17-06-28-3 (NEMETH), 3159 BIRCH ROW DRIVE, EAST LANSING, MI, 48823

DESCRIPTION:	3159 Birch Row Drive
TAX PARCEL:	06-425-001
ZONING DISTRICT:	RB (Single Family, High Density)

The applicant is requesting to construct a nonconforming accessory building at 3159 Birch Row Drive

The applicant is requesting variances from the following section of the Code of Ordinances:

Section 86-565 (1), no accessory building shall project into any front yard.

Section 86-374 (d)(5)(a), front yard setbacks shall be in accordance with the setback requirements of section 86-367 for the type of street upon which the lot fronts. The front yard setback for Pollard Avenue is 25 feet.

The applicant is requesting to construct an 864 square foot accessory building.

Keith Chapman, Assistant Planner, outlined the case for discussion.

Richard Nemeth, the applicant and property owner, 3159 Birch Row Drive, East Lansing, stated due to the deterioration of existing accessory building he desires to tear it down and construct a new and smaller size accessory structure.

Chair Beauchine referenced the communications in the agenda which are all in favor of the variance.

Chair Beauchine opened the floor for public remarks, seeing none, closed public remarks.

Chair Beauchine pointed out the new building will be smaller than the original existing accessory building and pointed out there are two front yards on this subject property. He added the side yard setbacks will be addressed with the small square foot building and the distance between the addition and the existing accessory structure and the new request would clean up several issues with the subject property.

Member Stivers questioned why the accessory structure is considered to be in the front yard.

Member Jackson replied because it is on a corner.

Member Lane added it has two front yards on a corner lot.

Chair Beauchine stated the code of ordinance has diagrams for such types of properties and how to deal with them.

Member Jackson stated the only variance being requested is to have the accessory building 3 feet closer to the right-of-way.

Chair Beauchine replied he had 8 feet closer to the front yard setback and the setback for Pollard Avenue is 25 feet, and the proposed setback is 17 feet.

Member Jackson stated, so the fact that the accessory structure is 3 feet in front of the principle structure doesn't pertain.

Member Ohlrogge answered it does and a variance is still required for that also.

Chair Beauchine commented it is affected by both front yard setbacks. He added the plot plan shows Mr. Nemeth making the accessory structure narrow to fix the issues of jetting out in front of the principle structure.

Member Ohlrogge questioned Mr. Nemeth if the new structure could be 3 feet narrower so it is

not in the front yard and then one of his variance requests would be addressed.

Mr. Nemeth stated he did not understand exactly where the 3 feet narrower part fits in and what front yard are you speaking to.

Chair Beauchine explained there are two pieces to Mr. Nemeth's request, one is the property is on a corner which touches two roads, and Mr. Nemeth has two front yards, one on Birch Row and one on Pollard Avenue. He added Member Ohlrogge is asking if you could live with a 21 foot wide garage instead of a 24 foot wide garage, which would eliminate one of the variance requests.

Mr. Nemeth stated the structure already exists and his plan is to get as much usable storage as he can while making the new accessory structure smaller than the original. If he changes it to 21 feet, the structure becomes too long. He finalized by stating he would prefer to keep it at the 24 foot width to remain consist with the other buildings on his property.

Member Ohlrogge stated the ZBA is trying to keep it as simple as possible and also deal with one variance request from Section 86-374 (d)(5)(a) by making the structure narrower.

Mr. Nemeth questioned it still would not meet the 25 feet front yard setback, and he questioned what the ZBA is requesting him to do.

Member Ohlrogge replied the zoning ordinance states you cannot have an accessory building in front of your primary structure and by making it narrower, you would not need a variance for having an accessory building in the front yard.

Mr. Nemeth stated on one side the five foot variance is taken care of. However, the front yard part still needs a variance.

Chair Beauchine interjected that Member Ohlrogge is trying to get around needing two variance requests by creating a situation where only one variance request is needed, and to accomplish this you need to agree to a 21 foot wide structure.

Mr. Nemeth asked do I need two variance requests.

Chair Beauchine replied yes you need both because of the two front yards. He added review criteria five deals with the minimum action necessary, and Member Ohlrogge is trying to keep to that criterion by eliminating the need for two variances. He added he understands that Mr. Nemeth has already made the structure smaller than the existing structure.

Mr. Nemeth requested the ZBA of vote on his original request.

Member Ohlrogge replied by stating the 24 foot wide structure is a more usable size than the 21 foot size.

Chair Beauchine stated the 24 foot size is a standard structure.

Member Ohlrogge continued to question the reasonable size for an accessory structure.

Member Jackson stated the applicant is requesting the ZBA to make a decision on his original 24 foot request.

Chair Beauchine added the original request is still smaller than the existing structure, and Mr. Nemeth could keep what he has and still have the accessory structure in front of his house, and it would still not meet the setbacks.

Member Ohlrogge stated Mr. Nemeth already has a variance.

Mr. Chapman added there is an approval for the front yard setback along Pollard; however the side yard setback is not approved.

Member Stivers stated for clarification the current structure has a variance 7 feet, and the new structure would have a variance of 8 feet.

Mr. Chapman answered yes from Pollard Avenue.

Member Stivers asked if there are any other setbacks the ZBA needs to address and added the ZBA is changing the 4.9 feet to a 5 foot setback.

Mr. Nemeth replied it appears his intentions are not reflected in the plot plan which is to meet the 5 foot setback on the east side yard setback and to lessen the dimensions on the Pollard Avenue setback.

Chair Beauchine stated the existing building is 25.5 feet x 34.5 feet on the survey. He added it appears the existing building was built on other dimensions than what the variance was approved for.

Mr. Chapman replied yes that is what happened.

Member Lane added the existing building was built larger than what was approved and asked the staff if he heard correctly that the existing building was built 18 inches larger than the granted variance.

Member Stivers asked would it be feasible for the accessory building to be attached to the house and not be an accessory building, but just be another addition as they already have a variance for the previous addition.

Chair Beauchine replied the original variance, was to add to a nonconforming structure, but the building did not meet the setbacks on Pollard Avenue.

Chair Beauchine asked the staff if they had resolved the dimensional question he had.

Mr. Chapman replied the building is only 24 feet wide, when he had done his math; he was still using the 25.5 feet dimensions, so the east side yard setback is larger than the 5 feet shown on the plat plan.

Chair Beauchine questioned would the dimension then be 1.3 feet off, which would bring 18.3 feet setback or 1.5 foot in front of the house which would make it less.

Member Ohlrogge agreed it would be much less for both setbacks.

Mr. Menser questioned the ZBA on exactly what they are trying to do. He asked if the ZBA was deviating from the original request, or is the ZBA approving something different than what Mr. Nemeth is requesting.

Chair Beauchine replied he was trying to make sure that the request is accurate because it is not currently correct.

Mr. Menser recommended that staff take some time to review all variance requests presented to the ZBA.

Chair Beauchine recessed at 8:01 pm and reconvened the meeting at 8:08 pm.

Mr. Chapman stated the dimensions which are shown on the site plan are the ones to use. He added if it shows at 17 feet then the request is at 17 feet.

Chair Beauchine asked Mr. Nemeth if he wanted to move forward with the current dimensions or come back with an accurate site plan to resubmit to the ZBA. He gave Mr. Nemeth options to consider or to move ahead with his current request, which appears as if he is asking for a larger variance than requesting.

Mr. Nemeth requested the ZBA to continue hearing the case.

Member Ohlrogge questioned whether or not the ZBA could grant the variance with slightly different numbers.

Mr. Menser stated yes the ZBA could. However, staff understands this is the request of Mr. Nemeth, which is to be approved or be denied it as it is requested. However, as the Chair stated it could be approved with certain dimensions.

Member Lane asked for clarity on the dimensions which are not to exceed the front yard setback and wonder what the front yard encroachment should be.

Chair Beauchine replied it is 6.9 feet front yard setback and the encroachment in front of the house is 1.6 feet.

Member Ohlrogge added although there are some incorrect numbers on the application Mr. Nemeth is asking for smaller and narrower structure than what is on the plot plan. She recommended the ZBA go with the dimensions presented.

Member Stivers commented that she understands what Member Ohlrogge is suggesting however, she is questioning the minimum action necessary and believes the dimensions of variance do matter, and she is disinclined to approve a variance that is larger than what Mr. Nemeth really wants, as it is for the lifetime of the property and added perhaps the dimensions should read smaller than what the plot plan has.

MEMBER LANE MOVED TO APPROVE THE VARIANCE FROM SECTION 86-565 (1) AND SECTION 86-374 (d)(5)(a).

SECONDED BY CHAIR BEAUCHINE.

Member Lane read review criteria one which reads unique circumstances exist that are peculiar to the land or structure that is not applicable to other land or structures in the same zoning district. He stated the lot is extremely narrow in comparison to other lots in the neighborhood making it unique.

Member Lane read review criteria two which reads these special circumstances are not self-created. He agreed with this criterion.

Member Lane read review criteria three which reads strict interpretation and enforcement of the literal terms and provisions of the Ordinance would result in practical difficulties. He replied without a variance an accessory building would not be allowed.

Member Lane read review criteria four which reads the alleged practical difficulties, which will result from a failure to grant the variance, would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. He stated an accessory use in this district is a permitted.

Member Lane stated he was going to skip criteria five for a moment.

Member Lane read review criteria six which reads granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property. He stated a number of property owners do not object to the request, and Mr. Nemeth is replacing something that is already there and it does not change the character of property in the vicinity.

Member Lane read review criteria seven which reads the conditions pertaining to the land or structure are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable. He replied this is a very unique narrow lot which meets this criteria.

Member Lane read review criteria eight which reads granting the variance will be generally consistent with public interest, the purposes and intent of this Zoning Ordinance. He replied it will for the reasons already stated.

Member Lane referenced review criteria five and said what is being requested is the minimum action necessary and he added to his original motion.

MEMBER LANE MADE A FRIENDLY AMENDMENT TO GRANT THE VARIANCE WITH THE FOLLOW CHANGES THAT THE FRONT YARD ENCROACHMENT NOT TO EXCEED 6.9 FEET AND THE EXTENSION INTO THE FRONT YARD NOT TO EXCEED 1.6 FEET PAST THE PRINCIPAL STRUCTURE.

THE SECONDER AGREED.

Member Lane added by doing it this way the ZBA meets the minimum standards necessary to approve the variance request.

Member Stivers stated she disagree with the motion and added Mr. Nemeth could have an accessory structure at 17.5 feet wide which meets all the setback requirements with a front yard setback at 25 feet and the rear setback at 5 feet. She stated by using the listed measurements of 47.50 and subtracting the 30 feet gives 25 feet in the front and 5 feet in the back and at 17.5 feet wide it would not extend past the principal structure, and since we are at a point where we are not concerned with standard garage dimensions and it's an accessory building it doesn't seem that a variance needs to be granted, except a new structure would be better than the existing structure.

Chair Beauchine replied kind of.

Member Lane said he doesn't entirely disagree with Member Stivers comments, however Mr. Nemeth did request the ZBA move forward with 24 feet wide structure.

Member Ohlrogge added Mr. Nemeth also said to use the dimensions on the chart and those dimensions are not the numbers you read off.

Member Lane stated yes, I was modifying the original approval and using the 24 foot wide structure.

Member Stivers stated she meant to go further and address criteria three and four by suggesting the enforcement of the literal terms and provisions of the Chapter for a 25 foot front yard setback and 5 foot rear setback would not actually result in a practical difficulty, allowing Mr. Nemeth to use the property for the permitted purpose and have an accessory building which is approved.

Chair Beauchine stated the total amount of square footage for Mr. Nemeth's proposed structure is less than the existing structure is. He added he will be voting in favor of the variance and Mr. Nemeth's request cleans up the request from 1984.

Member Ohlrogge added Member Stivers has a very important point in addressing the minimum action necessary as she has.

ROLL CALL VOTE: YES: Members Jackson, Lane, and Chair Beauchine.
NO: Stivers, Ohlrogge
Motion carried 3:2

G. OTHER BUSINESS

None.

H. PUBLIC REMARKS

Opened and closed public remarks.

I. BOARD MEMBER COMMENTS

None.

J. ADJOURNMENT

Chair Beauchine adjourned the meeting at 8:28 p.m.

K. POST SCRIPT - Member Lane

Respectfully Submitted,

Rebekah Lemley
Recording Secretary