

June 24, 2015

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on June 24, 2015. The meeting was called to order at 8:10PM by Ms. Tenghi who announced that the requirements of the Open Public Meetings Act were met by the required posting and notice to publications.

The following members answered to roll call: Mr. Redling, Ms. Hart, Ms. Tenghi, Mr. Manning, and Ms. Weidner. Mr. Jones and Ms. Chamberlain were absent.

On a motion from Ms. Tenghi, seconded by Mr. Manning, the minutes from May 27, 2015 were approved.

On a motion from Mr. Manning, seconded by Ms. Weidner, the Resolution of Memorialization for the Azmi/Shirkham variance application was approved. Mr. Redling abstained from voting.

On a motion from Ms. Hart, seconded by Ms. Tenghi, the Resolution of Memorialization for the Giakouminakis variance application was approved.

The next item on the agenda was for the continuation of the variance application for 22 Colonial Drive, Block 1205, Lot 4. Mr. Daryl Siss who is the attorney for the applicant reintroduced himself to the Board. Mr. Siss said they had presented most of the information last month but the Board had asked for more data about the adjoining lots whose backyards faced his client's side yards. The issue was how deep those back yards were so they submitted a tax map and a drawing by Daniel J. Holdefehr which was dated June 8, 2015. They also submitted six photographs. Mr. Nestor marked the new drawings Holdefehr 5 June 24, 2015; the new tax map as Holdefehr 6 June 24, 2015; and the new photos as Holdefehr 7 June 24, 2015.

Mr. Daniel Holdefehr was sworn in last month as the architect and he reviewed the plans again with the Board. He reminded the Board that they are proposing a few small additions to the house which included a den in the back of the home, a front porch, and a third bay for the garage. Currently the side yard setbacks meet the Zoning requirements. The addition would increase the side yard requirements from twenty-nine feet to 33.2 feet on the left side yard setback and there would be no change on the right side yard setback. The addition to the garage is making the encroachment because they are pushing the garage out four feet. Mr. Holdefehr said they are proposing to make it aesthetically pleasing to the neighbors while allowing them to place a man door into the back of the garage. Ms. Tenghi asked if they would still be before the Board if they didn't put the addition on the garage of the house, and Mr. Siss answered yes, and Mr. Nestor added the applicants would be in front of the Board because of the bulk. Mr. Holdefehr stated they would be before the Board because the setbacks on the right hand side wouldn't conform to the new setback requirement. Mr. Manning said according to C-5 the neighbor's backyard to the side of the applicant's house is 49.8 feet. Mr. Manning asked about property lines and where they were based on the plans and Mr. Holdefehr showed him. Mr. Manning also referred to a photo which was marked by Mr. Nestor as Holdefehr 7A.

Mr. Holdefehr said that bumping the garage out four feet would make it more aesthetically pleasing for the neighbors. It would break up the façade and you will not notice the new door is

smaller than the others. It will be nine foot eight by two and a half feet into the required setback. Mr. Siss asked Mr. Holdefehr if they were cutting off a piece of the driveway to place the garage there and Mr. Holdefehr concurred and added that it will make the cars in the driveway be further away from the neighbors. Mr. Siss said that referring to C-5 he wanted to continue to review the dimensions between the homes. The house to the north on Surrey Lane the rear yard dimensions from the corners are 49.5 and 49.8 and with our side yards the dimension closest to the street would be 79.3 feet away. The rear addition is 99.4 feet away. The house on Dogwood Drive their rear corners are 49.8 and 49.9 from their rear yard and at the front 79.9 feet away. The rear addition is 118 feet away. The minimum setback to the property lines in the AA Zone is twenty feet. They are a comfortable distance away from the neighbors and will be no detriment to the neighbors. Mr. Siss asked Mr. Holdefehr if he took the pictures presented to the Board and if they adequately show the distances and he said yes. Mr. Holdefehr said that the property is screened and they will continue to make sure that they have screening of landscape between them and the neighbors. Mr. Siss commented that one of the pictures showed many cars in the driveway and that one more garage would take away a car and Mr. Holdefehr agreed.

Ms. Tengi said that she had no problem with the addition in the back or the porch but she was struggling a bit with the garage. The property is in compliance now but because of the garage it is a self-imposed hardship and by increasing the square footage they would have a variance request for the enhanced side yard. Mr. Redling agreed with Ms. Tengi as he had no problems with the back or the porch but was troubled by the garage. He has driven by the property and it is a big home on the lot already and felt that by adding the garage in front it would be massive to the property. He also commented that he drove around the neighborhood and couldn't find any other three car garages. The majority of the homes have two garages. Mr. Redling said he saw this as a self-imposed hardship as he didn't see it benefiting the MLUL but it does benefit the family. The family has a right to add on to their home but that is where the Town Ordinance comes into play when the homes in Town get bigger. He had trouble seeing the front part for the C-2 variance and the benefit associated with it.

Mr. Nestor told the Board that a C-1 self-imposed hardship doesn't come into play with a C-2 variance. It can't be to just enhance that singular piece of property but it needs to enhance the Community Zoning. It should be characteristic of the land present or an opportunity for improving the Zoning and planning that will benefit the community. Mr. Nestor said they are in an AA zone and the minimum requirement is twenty feet in the side yard setbacks. This house has already been built out to the expanded side yard setbacks under the Code as they were not required to come before the Board when the house was built. Expanded side yards were 27.76 before this application came before the Board. So therefore the applicant is in compliance with 29.7 on one side and 33.4 on the other side and Mr. Holdefehr agreed. Mr. Nestor said they are adding 777 square feet but Mr. Holdefehr interrupted and said the porch doesn't count because it is open. Mr. Nestor stated that if you take that away from the calculation the side yard is not 33.2 but rather 30.04. Mr. Holdefehr said the porch was 325 feet and it was not put in the calculations of the gross floor area. The porch was never included in the gross floor area because it is an open porch and doesn't have to be counted as such. It also doesn't affect the side yard

requirements. Mr. Nestor said they are at 33.2 on each side with 30.2 on the garage side and 29.6 on the other side.

Mr. Holdefehr asked how the Board would feel if they brought in the garage and made it flush with the rest of the home so that the side yard would comply and they would not encroach upon the neighbors on either side. Mr. Manning said he felt the man door and bumping the garage out made the addition seem more massive. Mr. Manning said he felt better about the addition if the garage was flush with the home. Mr. Redling asked how much they were bringing the third bay out from the side of the house and Mr. Holdefehr responded nine feet four inches. Ms. Hart asked how much the garage would be bumped out and Mr. Holdefehr said it would be four feet out with permissible to be 1.6 feet and still comply. Mr. Nestor said they are still in compliance with the front yard setback and Mr. Holdefehr agreed. Mr. Redling said it was hard to see because it is not a three dimensional drawing. Ms. Weidner asked if they had considered putting the garage in the back but Mr. Holdefehr said that there is a laundry room and bathroom in the back. Ms. Weidner asked about the attic space but Mr. Holdefehr said it would not be habitable. Mr. Holdefehr said that if they don't bump out the garage but make it flush they are not encroaching on the neighbors at all, they are complying with front yard setback, and complying with the rear yard setback. Mr. Nestor said the only problem would be on the north side for around three and a half feet. Ms. Hart asked if the pool house would be included and Mr. Holdefehr said yes and Mr. Nestor agreed.

Ms. Tengi said she was still struggling with how it complies with a C-2 variance. Mr. Siss asked if it was as proposed or moving the garage back and she said with both. Mr. Siss said they would be behind the setback on that side and Ms. Tengi said but that they would still need a variance. Ms. Hart asked her if the garage wasn't an issue at all, how the Board members would justify the back being under a C-2 variance. Mr. Holdefehr said they would still need a variance for the north side. Ms. Tengi said that most of the homes have two car garages. Mr. Siss read from Cox under 2I where it allows for visual enhancement of the environment. Ms. Tengi said that the third bay would bother a neighbor and Mr. Siss said there is buffering between the neighbors and that they are 79 feet away. Visually he felt it wouldn't be a negative or a detriment as they are taking away two feet of the driveway so the cars are further away and one more car will be in the garage. Mr. Nestor asked how much driveway was being taken out and Mr. Holdefehr said about a foot and a half by eighty or ninety feet. The driveway will be reduced by 152 square feet. They are also putting in pavers in place of what they have there now. Ms. Hart asked if they were willing to bring the garage in and Mr. Siss said they were. Mr. Holdefehr said that taking the eighteen inches away was not a problem. There was some discussion on how to put the doors in and make it look aesthetically pleasing.

Ms. Hart said she would make a motion but needed help with the terminology. Mr. Nestor told her that with a C-1 they could find a hardship and what is calculated into that variance is a C-1 self-imposed hardship. When it entails a C-2 variance a self-imposed hardship doesn't exist. No C-2 variance should be granted when merely the purposes of the owner will be advanced. The purposes of the community and the Zoning are what are important. Mr. Manning asked if they could interpret that as a neighbor looking at a car in the driveway versus looking at the same

driveway with one less car parked in it as enhancing the aesthetics of the neighborhood and Mr. Nestor said you can interpret it in any way you want. Mr. Siss responded that is the way the Courts have interpreted it and it doesn't have to be the entire public it can just be the neighborhood. Mr. Nestor gave some examples of what has been used for C-2 variances before by enhancing the community. Mr. Nestor said that it was up to the Board to make a decision whether it was a C-1 or C-2 variance. Mr. Siss told the Board that just because the house was built out that it was not necessarily a self-imposed hardship. Mr. Nestor said they wouldn't need that for a C-2 and Mr. Siss agreed. If they didn't have the problem with the side yards they wouldn't even be here before the Board. Mr. Siss said they amended the side yard on the one side so they are just dealing with the other side which is pre-existing. Mr. Nestor said they need three and a half feet on the north side and Mr. Siss and Mr. Holdefehr agreed. Mr. Nestor said the C-2 has to enhance the Zoning of the Town or the community around it but requires a balance of benefits and detriments to grant the variance.

Ms. Tengi opened the meeting to the public, but since no one approached, she closed the meeting to the public and brought it back to the Board.

Ms. Hart said the applicant has worked with the Board and pulled in the garage and the detriments they are causing are balanced by the improvements that they are doing on the house by taking another car out of the driveway. The detriment is the 203 square feet in the rear of the house because the garage is now within the setbacks and both the neighbors are about 80 feet away. Both additions are less than 250 square feet and are one story.

On a motion from Ms. Hart, seconded by Ms. Weidner, the Holdefehr variance application was approved. Mr. Redling voted against the application.

Ms. Tengi reminded the Board to let her know if they were missing a meeting during the summer months because of vacations as she wants to make sure they have a quorum.

On a motion from Ms. Tengi, seconded by Mr. Redling, the meeting was adjourned at 9PM.

Respectfully submitted,

Diane Knispel