

November 17, 2010

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on November 17, 2010. The meeting was called to order at 8:09 p.m. by Ms. Tengi, Chairperson, 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 roll call: Ms. Tengi, Ms. Hart, Ms. Chamberlain, Ms. Weidner, Mr. Jones, Mr. Manning and Mr. Redling. Also present was Mr. Nestor, Board Attorney.

With regard to the minutes of the October 27, 2010 meeting, Mr. Nestor requested that on page 6, 1st paragraph, the next to last sentence should be corrected to read: Mr. Maniaci has not been taxed on that property as it has been built. On a motion by Mr. Redling, seconded by Ms. Hart, the minutes were approved as corrected. All members present voted in favor.

Resolution of memorialization was submitted by the Board Attorney with regard to the Kristin and Brian Boyle variance application. On page 2, paragraph 2, the last sentence was corrected to read: It was noted that the FAR is still well below what is allowed, due to the size of the lot. Ms. Chamberlain moved, seconded by Ms. Weidner, to approve the resolution as amended. On roll call, Mr. Redling was opposed. All other Board members voted in favor.

Resolution of memorialization was submitted by the Board Attorney with regard to the David and Nancy Maniaci variance application. Amendment was made to page 3, section 2 as follows: "The applicants have six months from the date of this Resolution to have the third floor inspected and brought up to current Code, resulting in the issuance of a Certificate of Occupancy, complying with all applicable State, County and Municipal Codes, Rules and Regulations regarding both building, fire and safety issues." Ms. Chamberlain moved, seconded by Ms. Tengi, to approve the resolution as amended. On roll call, Mr. Redling was opposed. All other Board members voted in favor.

Ms. Tengi said the Allendale Housing resolution as well as the final site plan application will be carried to the December meeting at the request of applicant.

Continuation of Nathaniel Weinberger variance application

Mr. Weinberger and Robert Benvenuto were sworn. Mr. Benvenuto said he is the neighbor to the left of Mr. Weinberger facing the house.

Mr. Weinberger said he and his wife are present tonight to request a variance from the zoning ordinance so they may improve the size of their home and make better use of their land. They seek relief from hardships that have caused them to be denied permits. They seek relief from the fact that their home is pre-existing nonconforming in the following areas – lot size in the AA zone is supposed to be 26,000 sq. ft. Their lot is 16,435 sq. ft. The front setback is currently 39 ft. however the zoning calls for 40 ft. These items are not affected by the proposed plan.

Mr. Weinberger said the house was originally built as a two bedroom ranch. At some point in time the garage was added on as well as another bedroom above it. When he purchased the house the kitchen was in need of total repair and may have served in size for two people but did not serve the needs of a growing family. He said they spent quite a bit of time building out the kitchen, improving its size and use. They have also spent quite a bit on landscaping the entire perimeter of the property with evergreen trees which have now matured to create a very green buffer zone between their house and the house to the right, the house to the left and the house behind the property. Mr. Weinberger said they want to square off and tie in the kitchen with the existing and natural side lines of the house. This would be the most reasonable and aesthetically pleasing approach to making a well planned house and not a structure showing many different extensions.

Mr. Weinberger said he seeks relief from the side yard setbacks. They are supposed to be 21.86 ft. off each side yard. It is important to note that the left front corner of his home sits at 25 ft. off the property line of 5 Knollton Rd., the house to their left as you face the house. If it were not for the curved nature of their street, specifically pertaining to his lot, the back left corner of their proposed addition would be 25 ft. off the property line. He said it is important to note that because of the odd shaped lots and the curvature of Knollton Rd. which causes the houses to sit at unusual angles, the average distance of their proposed project to the adjacent property lines would be a much more accurate and realistic picture of distance to property line. The existing average distance from his house to the property line of 5 Knollton Rd. is 19.95 ft. With the proposed addition the average distance will become 17.5 ft. off the property line. They are asking for less than 2-1/2 ft. The existing average distance between his house and the property line of 29 Knollton Rd. is currently 13-3/4 ft. With the proposed addition the average distance would become 14-1/4 ft. off the property line. The distance would increase because of the odd shaped lot.

Mr. Weinberger said if the variance is granted his proposed addition would still be much further off the right and left property lines than both of the neighbors. The two most recent homes renovated on Knollton Rd. are similar in size and structure to what he is proposing. Of the closest 10 lots on Knollton Rd. his lot is the second largest in terms of square footage, the largest being 5 Knollton which has quite a bit of unusual sharply sloped land because of its proximity to East Crescent Ave. Of the nearest 10 lots on Knollton Rd. his lot is more than 50% bigger than four of them. His plans will not alter the essential character of the neighborhood, but will enhance it. He said the plans will allow him to use the property in the same manner as the other properties next to him and behind him. He said the size of the house is needed for reasonable use and the design that is proposed would be the least intrusive solution while still maintaining the charm and character of the area. This project will involve more efficient use of the land and will provide a desirable visual environment. It will not harm the neighborhood and in fact will improve the neighborhood and will not undermine the intended purpose of the zoning ordinance. He said his house is in a valley on Knollton Rd. The topography of Knollton Rd. slopes down as you come off East Crescent. The house at 5 Knollton Rd., the neighbor to his left sits higher than his house. The topography of the land then starts to rise drastically as you get to 29 Knollton Rd. The three houses across from him on Harreton are all higher than him and are on much smaller lots. His plans would allow him to use the property in the same manner as the other properties next to him and behind him. He said the design best serves the public interest

and the general welfare of the community. The project would involve more efficient use of the land and provide a desirable visual environment. The design would be the least intrusive solution. His land is pie shaped and located on the curve. It sits lower than the neighboring properties and has very difficult topographical issues and is oddly aligned and situated on the property.

Mr. Weinberger said the plans in front of the Board tonight are the same plans that the Board approved in March 2009 with three exceptions. The three exceptions are the changes that the Board wanted him to make and were agreed to which were sloping the left side of the roof, clipping the dead space behind the fireplace at the back left corner of the house by 3 ft and a cantilever off the second floor above that clipped rear left corner leaving a full second story bedroom above it.

If these plans are approved the left side setback of the house against the property line of 5 Knollton Rd. would be 12-1/2 ft. off the property line as measured from the back left corner of the house. This would be the 1st floor. The 2nd floor would be 9-1/2 ft. off the property line. The house to his left facing his house sits higher and is approximately 2 ft. off the property line at its closest point due to the curved nature of Knollton Rd. He added there is no impact on his house because of the thick nature of the trees and bushes that buffer the property line between the two houses.

Mr. Weinberger said he would like the Board to accept the plans he has submitted this evening as they reflect everything that was agreed to at the last meeting in March of 2009.

Mr. Nestor asked him to mark the set of plans consisting of 11 pages with the most recent date of 2/18/10 as A-1 with today's date.

Mr. Nestor said Mr. Weinberger testified that the front corner of the house closest to the left side of Knollton Rd. is 25 ft. to the property line. He asked who made that measurement. Mr. Weinberger said it was measured by Bill Brown and he double checked it. Mr. Nestor asked how recently. Mr. Weinberger said it was a couple of months ago.

Mr. Nestor said going back towards the back of the house the property line is curving in. The 14'11 on the plan is from the property line to the current existing building. Mr. Weinberger said the line that says 12'1 is measured from the back of the clipped corner of the fireplace to the property line. He added that it should have been measured from the back corner.

Mr. Jones said it is his understanding that the second floor is a full rectangle with 4'3 cut off underneath so it is not a tremendous cantilever. Mr. Weinberger said it is a cantilever that comes to a point on the second floor. He said there was no intention of having a fireplace in the bedroom. They just wanted the bedroom with as much room as possible so they wanted to keep the second floor full size. Mr. Weinberger said at the last meeting the architect mentioned putting decorative brackets under the cantilever to soften the overhang.

Ms. Tengi asked if the dimensions of the addition increase the side yard setback. Mr. Nestor said the side yard setback in the AA zone is 20 ft. According to Mr. Weinberger that has been extended to 21.86 on each side.

Ms. Hart asked what is the attic space going to be like. It appears there is a staircase going up to the attic. Mr. Weinberger said the attic is strictly for storage. One of his contractors said the current heating system would serve the house as it is now and a second one would be needed which could be stored in the attic along with air conditioning, etc. He has no intention of using the attic for anything except storage and equipment. Mr. Nestor said the resolution would have a condition that the attic space cannot be used for a dwelling at any time and it would be used only for storage.

Ms. Hart asked what is the height of the house. Mr. Weinberger said it is 35 ft. measured from the lowest grade.

Robert Benvenuto, 5 Knollton Rd. was sworn. He said his house is directly to the left if you are looking at the front of the Weinberger's house. He said the photos taken months ago depict the scene as it exists today. He said every tree is there except that they have grown. Mr. Weinberger said they are probably 4 ft. taller. He said the proposed addition will be totally screened by the trees. Mr. Nestor said photograph marked A-7 best depicts the side where the addition is going to be located.

The meeting was opened to the public.

Mr. Benvenuto said he is the neighbor most affected by this and having walked the property and looking at it from every angle, he feels there is no hindrance to him even if he wants to sell his house. He feels it will be a tremendous benefit based on what Mr. Weinberger is planning on building. He feels it will fit in with the neighborhood and it will increase the value of his house. The only issue is the proximity to his house in the back. At the front and the side it is a complete non-issue. He said he would say yes to Mr. Weinberger's proposal whole heartedly.

There being no further comments, the meeting was closed to the public.

Ms. Tengi said the question is whether or not the Board actually did agree on the first application to let the applicant cantilever the second floor and that is what brought about the denial from the Construction Official.

Mr. Weinberger said Mr. Benvenuto's house is sloped and it sits on a hill. The house behind him is 20 ft. higher than his. The problem is the slope of the hill and the whole topography is his hardship as well as the curvature of the street. There is 25 ft. on the front corner but it tapers back slowly. It is only at its last closest point that it would be 9-1/2 ft. Mr. Manning asked if there are any plans on doing any demolition on the first floor of the existing structure. Mr. Weinberger said hopefully, as little as possible and there are no plans of doing anything to the existing front portion.

Ms. Tengi said the Board has to consider that both side yards are deficient and because of the mass of the house, the increase of the side yards is imposed and that means 21 ft. on both sides in order to comply and applicant only has it on one small corner of the property. There is no doubt in her mind that this is a uniquely shaped property.

Mr. Jones said he would like to make a motion. The applicant's hardship is caused by reason of the physical features of Knollton Rd. and the exceptional pie-shape of the property. He feels that this application also promotes the aesthetic environment of the neighborhood and supports the components of the master plan. The proposed addition would blend in with the existing structures of the neighborhood. The deviations from the ordinances in this application are specifically the left side yard at 9.5 ft. and the right side yard at 14 ft. closest to Knollton Rd. going back to 16.3 ft. in the rear of the property.

Mr. Jones said the front yard setback is a pre-existing non-conforming situation as well. It remains unchanged with this application at 39 ft. The pre-existing lot area remains unchanged. It is a deficient sized property. He believes that this variance can be granted without substantial detriment to the public good. It will not substantially impair the intent or purpose of the zone plan or the zoning ordinances. For these reasons and based on the testimony and public comment, he moved to approve the application. He amended the motion to include that the third floor is not to be used for living space. Ms. Tengi added to include the maintenance of the evergreens along the left side of the house.

Motion was seconded by Mr. Redling as amended. On roll call, all Board members voted in favor.

On a motion by Ms. Tengi, seconded by Mr. Jones, the meeting adjourned at 9:18 p.m.

Respectfully submitted,

Barbara Knapp