

September 28, 2011

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on September 28, 2011. The meeting was called to order at 8:06 p.m. by Ms. Hart, Vice Chair, who announced that the requirements of the Open Public Meeting Act were met by the required posting and notice to publications.

The following members answered roll call: Ms. Chamberlain, Ms. Hart, Mr. Jones, Mr. Manning, Mr. Redling and Ms. Weidner. Ms. Tenghi was absent. Also present was Mr. Nestor, Board Attorney.

On a motion by Ms. Chamberlain, seconded by Mr. Manning, the minutes of the meeting of August 24, 2011 were approved as submitted. On roll call, all Board members present voted in favor.

Resolution of memorialization was submitted by the Board Attorney with regard to the Jason Warzala variance application. Ms. Chamberlain moved, seconded by Ms. Hart, to approve the application as submitted. On roll call, Ms. Hart, Ms. Chamberlain, Mr. Manning and Ms. Weidner voted in favor.

Dr. Hooman Azmi and Nagmeh Shir Khan variance application, Block 1503.1, Lot 23

Nagmeh Shir Khan and Barry Poskanzer, her architect, were sworn. Mr. Poskanzer was accepted as an expert witness. Mr. Poskanzer said applicant proposes to add a small extra bedroom on the second floor of her existing residence at 46 Carteret Rd. above a one story attached garage and add one additional one car bay which will bring the total to three.

Mr. Poskanzer said the Construction Code Official indicated that applicant is nonconforming because of a pre-existing condition. The existing house exceeds the requirements because of a law that was introduced after this project was built in 1987.

Mr. Nestor commented that applicant is putting an addition above the existing garage and that garage is going to remain as a garage. He said the problem is that the zoning ordinance does not allow two garages.

Mr. Poskanzer said there aren't two garages. They are connected with a walkway between. Applicant was here before with an application for a detached separate garage and withdrew that application. Mr. Poskanzer said drawing A-1 shows the existing two car garage. Mr. Nestor marked the plans dated September 1, 2011 consisting of 5 pages as A-1 in evidence.

Mr. Poskanzer said the plan is to create an extension of the existing 2 car garage, adding a new door from the driveway for one new parking stall constituting the entire 3 car garage so it is not a detached separate garage. It is an expansion of the existing garage. He said they are not tearing out the existing wall and having a full open area between the three stalls because the existing wall is holding up the roof above. They added one additional stall and connected it to the other garage.

Mr. Poskanzer said part of the new garage which is labeled mud area is just walk in space to get in from the driveway without having to use the garage door.

Mr. Manning asked if there are walls between the two garages. Mr. Poskanzer said there is a partial wall of the new garage which does not have to be there if the Board thinks it is a problem. He said, "It is just a question of a little privacy in the corner for storing things in the garage."

A Board member commented that he believes two separate buildings and an open walkway constitutes two garages. Mr. Poskanzer said it is not an open walkway. It is in the garage and it is about 6 ft. wide. He added that it is just the space between two cars. Ms. Chamberlain commented that the wall could be taken down. Mr. Jones commented that it is not a contiguous garage. It is actually separated by a door going into the mud area. Mr. Poskanzer said that is an archway and opening. There would be no difficulty in removing that existing door and/or the window immediately to its left and have the same condition on the existing side as we have on the new side. Mr. Jones said he believes that would satisfy the ordinance as being a contiguous garage. Mr. Poskanzer said if that obviates the problem he would be more than happy to do that.

Mr. Jones said if there is a 5 ft. open archway between both sides it is just a bigger garage. Ms. Chamberlain said she would agree to that.

Ms. Hart asked why is it so far into the side yard. Why not line it up with the existing garage. Mr. Poskanzer said that is part of why they are here because if he did not have to put it there he would not have done so. It has to do with the existing conditions at the back of the house – the existing patios and open glass that looks out onto the back of the house. He said that is an existing condition even though the lot is already 50% bigger than required in the zone. They are confronted with setback changes based on the additional ordinance on building bulk and FAR.

Mr. Poskanzer said the big question has to do with the side yard and the question raised by the Chair as to why we didn't line it up and at least come in and say we are the same 36 ft. back as we are with the existing garage. He said that right behind the corner of the existing garage is a stone wall and that is the edge of the patio and deck. If he brought the new garage up to that point it would block and be higher than everybody who is sitting on the deck in the open space area. He said they are trying to make the space that looks out of the back of the house more appealing. He said when this was designed it was almost 40 ft away from that side yard. The ordinance only required 20 ft. in the old AA zone when this street was developed. The non-conformity on the other side is pre-existing and they are not changing it.

Ms. Hart said she believes they are also providing a doorway so there is going to be a walkway coming out of the back of the house. Mr. Poskanzer said it allows people to come into the garage. There happens to be an existing bathroom in the existing garage.

Mr. Nestor said that currently there is a two car garage. He asked why they are adding another garage. Mr. Poskanzer said because they want it. The Board asked what about the bedroom? Mr. Poskanzer said it is a bedroom/workroom. Ms. Azmi is a filmmaker and she wants one extra room as a studio. There will be power but there is no additional bathroom. It is a space that is

only accessible from the second floor. You cannot get to it from the first floor. There is a stairway that comes out onto the deck above the garage.

Ms. Hart asked what is the distance to the neighbor. Mr. Poskanzer said he believes it is 38 ft. to the garage on the neighbor's side and it is 78 ft. to the house. Ms. Hart commented that there is a lot of growth along that side of the property.

Mr. Poskanzer said he believes the bedroom on the second floor is a de minimus issue. It is invisible from the street and it is basically invisible from the neighbor. The question of the garage has to do with now having a 40 ft. setback requirement in an area where it was originally 20 ft. They are requesting the 10 ft. variance on the setback of the garage with the condition that was presented if required which is the removal of the wall between the two garages.

The meeting was opened to the public for comments and there being none, the meeting was closed to the public.

Mr. Nestor asked Mr. Poskanzer to draw on Exhibit A-1 exactly what walls are coming down and what walls are staying up between the two proposed garages. Mr. Poskanzer complied. Mr. Nestor asked that a revised drawing be provided to the Board between now and next month.

Mr. Nestor said the proposed first floor area addition is 408 sq. ft. for the new garage. The study which is going to be above the old garage is going to be 292 sq. ft. The side yards before the additions needed to be 38.87 ft.

Ms. Hart asked if applicant would consider sliding the garage back towards the stone patio and putting in a door to walk out to the pool from the side of the garage which is really the back of the garage. Mr. Poskanzer said that would be a real problem because it is a flat roofed garage. Ms. Hart said you cannot see the garage doors from the street. Ms. Weidner added that you can't see the garage because it is well hidden by all of the shrubbery.

Mr. Redling said he is having a problem with the placement of the garage. It is a self-imposed hardship they are creating for themselves by putting the garage closer to the side lot. The hardship is being created because they want the view from the back yard and they are encroaching on the side yard setbacks because of that.

Ms. Chamberlain said she sees his point but it is not detrimental at all because it is so far back from the street. The way the property is configured with all of the plantings it is really not going to have any impact on the neighborhood or the neighbor.

Ms. Hart said the front yard setback is 50 ft. and they have 75 ft. Mr. Poskanzer said actually the setback requirement is 40 ft. in the AA zone. The existing garage is approximately 85 ft. from the street.

Mr. Redling said he has a problem with anything that even appears to be two separate garages. He would like to see something more defined. Mr. Poskanzer said from an architectural and design perspective he feels there is nothing that makes it better to have three in a row. He likes

the idea that it is broken up. The idea that you would be able to break up three garage doors to something more interesting than 36 ft. in a row he finds appealing.

Mr. Jones said there are a couple of factors that the Board should consider. We have a situation with an extremely large lot that can handle the development that the applicant has requested. He looked at the site and thinks the addition will fill out the second floor and it will look like it has always been there. The location of the existing structure on that lot is definitely a factor when it comes to adding the garage or expansion of the garage. He thinks that breaking it up may add aesthetically to the property and approving a deviation from the zoning ordinance requirements is more of a benefit here and it would substantially outweigh any detriments that the granting of this variance would incur. Based on applicant's testimony, with the condition that a new plan is submitted before the memorialization that shows the walls to be removed, he moved to approve the application.

Mr. Nestor asked if he is conditioning it on the submission of a new plan. Mr. Jones said no but he wants the conditions on record.

On roll call, Mr. Redling voted no. All other Board members present voted in favor.

Thomas Miskowski variance application, 16 Crescent Place, Block 403, Lot 9

Thomas Miskowski and Thomas Ashbahian, his architect, were sworn. Mr. Ashbahian was accepted as an expert witness.

Mr. Miskowski said he bought his house 27 years ago. It is very small and he has one bedroom. Mr. Ashbahian said this application is before the Board because of pre-existing conditions and one proposed nonconformity by way of a side yard. The property is located in the A zone. He said this area was probably developed prior to the zoning ordinance and there is a large variety of lot sizes. He said it is a very pleasant street with a lot of modest-sized homes which are nicely kept. The home fits very well into the neighborhood currently. It is on somewhat of a larger lot than those to the east. The homes across the street and those farther to the east are on lots that are about 75-80 ft. wide. The subject lot is 102 ft. wide. The lot is deficient in lot size and lot width. The current requirement for lot size is 20,000 sq. ft. The lot is 10,970 sq. ft. The minimum requirement for the width of the lot is 115 ft. and it is 102 ft.

Mr. Ashbahian said the house is small consisting of a dining area which is about 7 x 9 ft., a living area, two bedrooms, and a kitchen which is 8.4 x 12.10 ft. The master bedroom is 10.4 x 12.6 ft. They propose to expand the house in an easterly direction to create a somewhat larger master bedroom only by 3'4", add a second bathroom and to create a more contemporary kitchen area with a dining area adjoining it. The house currently is rather antiquated and functionally obsolete because the rooms are so small. They propose to bring the house up to date by creating a kitchen with a u-shaped arrangement, a real dining area and also enlarging the bedroom to some extent and adding a bathroom. They are required to have a 15 ft. setback on the east side and they currently have 13.5. They are seeking a variance for 10.17 and that is the only deficiency they are creating.

On the west side they have a rather large side yard of 46.4 ft. The distance to the next residence to the east is approximately 86 ft. The dwelling of the neighbor immediately to the west sits 5 ft. off the side yard. On visiting the street you can see that most of the lots have modest sized homes on them but they are very close to the side yards and very close to the front yards and these setbacks are significantly less than the 35 ft. that is required. Mr. Ashbahian said the neighborhood while very pleasant feels more compact than one would normally see in most of the AA and AAA zones in Allendale. He said they are actually below the maximum FAR by 7.6%. They are allowed to have as much as 24.8% and they are only at 17.2% so they are significantly below the FAR requirement. They are well below the maximum impervious coverage where they are allowed 52% and they are just a little over 32%. They are not expanding to a great degree in the way of coverage or areas on the lot and are no where near the coverage ratio. He pointed out that the house was built far to one side of the property and that is a pre-existing condition which in itself is a hardship. They also have a deficiency in the lot width. It is required to be 115 ft. and they are at 102 ft.

Mr. Ashbahian said they are making an effort to architecturally improve the house significantly. A photograph showing the front of the house shows it to be rather plain looking and they have taken the opportunity to add gabling over the entire mass as well as a gable over the entry. He feels they have added to the aesthetics of the house significantly. There are several tree houses, swing sets and ponds that are currently straddling the property line and it is the property owner's intention to remove them or bring them back across the property line.

Mr. Ashbahian said Mr. Miskowski has known his neighbor for 27 years and his first advice was to speak to the neighbor to make sure she understands what is proposed and apparently there are no negative issues with the neighbor to the east and the distance is 86 ft. to the next actual house to the east. He said virtually all of the homes in the area have some deficiency relative to their property lines given that the properties were probably developed prior to formal zones.

Mr. Nestor asked if a prior variance was granted for the bump out on the right hand side of the house that is shown in the photo. Mr. Ashbahian said that apparently was part of the existing house. Mr. Nestor said that is presently at 13.6 ft. off the property line but applicant is expanding the length of that all of the way down about 30-35 ft. as opposed to 10 ft. as it is now. Mr. Ashbahian said that is correct. If the lot had been 115 ft. as required applicant would not be here. If the house had been built 10 ft. over they would not be here. He said, "We have a hardship attendant to those existing circumstances that brings us here." He said the zoning and master plan will not be impeded by this application and if one were to visit this street they would recognize how modest this request is.

Mr. Jones asked if applicant has spoken to the neighbors. Mr. Miskowski said he spoke to the neighbor on the right side. Mr. Jones said he drove by the property. He said the applicant could have put a second floor on this house without encroaching on the side yard, and given the neighborhood, he likes the single story structure look. Mr. Ashbahian said they are trying to do a very modest addition just to bring the house up to date. Mr. Nestor asked if they are doing anything to the front of the house. Mr. Ashbahian said they are keeping the steps but they are actually adding a gable over the steps. Mr. Nestor asked if they are coming any further into the

front yard. Mr. Ashbahian said that technically they are because the house is slightly askew. The existing front yard is 34.3 and on the far southeast corner they are going to be 33.94.

Ms. Hart asked if they are removing any trees. Applicant said they are not.

Mr. Chamberlain said this is a modest improvement and it is nicely done. She likes the fact that it is one floor. She said it is very suitable and it certainly makes the house more livable.

The meeting was opened to the public for comments and there being none, the meeting was closed to the public.

Mr. Nestor marked the one page plan A-1 in evidence with today's date.

Ms. Chamberlain moved to approve the application as submitted. The house on the east is the most impacted by this addition and it won't be impacted because of the large side yard that exists. She believes the addition will improve the owner's use of the house as well as improve the neighborhood. She does not see any detrimental affect at all. She believes it makes logical sense to do the addition on the east side of the house. Motion was seconded by Ms. Weidner.

On roll call, all Board members voted in favor.

On a motion by Ms. Hart, seconded by Mr. Manning, the meeting adjourned at 9:15 p.m.

Respectfully submitted,

Barbara Knapp