

**BOARD OF ADJUSTMENT
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

The Ramsey Board of Adjustment conducted a regular meeting on Thursday, September 2, 2010, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Chairperson Gary Van Scoy
 Board Member Ralph Brauer
 Board Member Andrew Dunaway
 Board Member Gary Levine
 Board Member Bryan Rogers

Members Absent: Board Member Teresa Cleveland

Also Present: Planning Manager Amber Miller
 Associate Planner Tim Gladhill

CALL TO ORDER

Chairperson Van Scoy called the regular meeting to order at 7:02 p.m.

CITIZEN INPUT

There was none.

APPROVAL OF AGENDA

Motion by Board Member Levine, seconded by Board Member Dunaway, to approve the agenda as presented.

Motion Carried. Voting Yes: Chairperson Van Scoy, Board Members Levine, Dunaway, Brauer, and Rogers. Voting No: None. Absent: Board Member Cleveland.

APPROVAL OF MINUTES

Motion by Board Member Levine, seconded by Board Member Brauer, to approve the following minutes as presented:

- 1) Board of Adjustment public hearing and regular meeting minutes dated August 5, 2010

Motion Carried. Voting Yes: Chairperson Van Scoy, Board Members Levine, Brauer, Dunaway, and, Rogers. Voting No: None. Absent: Board Member Cleveland.

PUBLIC HEARINGS/BOARD BUSINESS

Case #1: Continued - Request for a Variance to Construct a Detached Accessory Building Nearer the Front Property Line than the Principal Structure at 16151 Olivine Street NW; Case of Colin and Laura Hogue

Presentation

Associate Planner Gladhill presented the Staff Report.

Board Business

Board Member Brauer questioned if the case could be tabled until the discussion of variances comes before the City Council.

Associate Planner Gladhill stated that the 60 day extension is coming to an end and a decision would need to be made at this meeting, unless the applicant approved another extension. No action by the Board tonight would mean automatic approval per State Statute.

Chairperson Van Scoy stated that he was out to the property and it is his opinion that the accessory structure location could be moved to the north and a variance would not be required to give reasonable use of the property. He does not see a hardship locating it there.

Board Member Rogers stated he also went out to the property and concurs with Chairperson Van Scoy that it would be difficult to prove a hardship moving the location to the north.

Board Member Levine stated he was in support of this variance, however, with the Supreme Court ruling he can no longer be in support of the variance.

Associate Planner Gladhill stated the City is not alone in exploring different ways to be flexible, and are certainly open to discussion. We can look at other ways to be flexible if that is the direction the Board and City Council want to go.

Board Member Levine stated the ruling has taken too much control from the city to be able to work with its citizens.

Board Member Rogers stated that it is a Minnesota Statute that the Supreme Court looked at and defined what you have to do to prove a hardship.

Associate Planner Gladhill stated the decision was made on June 24, 2010. He continued that the Statute goes back to 2004, what we have now is a ruling on how to interpret that Statute. This forces The City to look at other ways to be flexible. The City has zoning updates to do as part of the approved Comprehensive Plan so that is where The City will be having this discussion. The Council will be having a discussion regarding variances next Tuesday that Board Members are invited to attend.

Commissioner Brauer asked where the Board was at with this application.

Associate Planner Gladhill stated there are two options, one there is an approved Findings of Fact so the Board could move forward with the Variance; or the Board could reopen the Findings of Fact, discuss the findings and adopt new Findings of Fact and then discuss the Variance.

Board Member Dunaway stated the power lines might be something that is unique to other properties that would create issues for the homeowner. He requested information regarding the discussions of past meetings.

Associate Planner Gladhill updated the Board on past meeting discussions.

Chairperson Van Scoy requested clarification on the power line location.

Associate Planner Gladhill showed maps and pictures to the Board as to where the power lines were located. He stated there is not an easement that requires the structure to be a certain distance from the power line.

Motion by Board Member Brauer, seconded by Chairperson Van Scoy to re-open the Findings of Fact.

Motion carried. Voting Yes Chairperson Van Scoy, Board Members Brauer, Dunaway, and Rogers. Voting No: Board Member Levine. Absent Board Member Cleveland.

Further Discussion

Board Member Brauer questioned if the Variance is denied are the applicants able to come back with an alternate plan.

Associate Planner Gladhill stated the applicants do have the option to appeal to the City Council. In a year maybe there will be different processes in our City Code to allow for more flexibility.

Board Member Brauer asked if the Board could hear from the applicant since there were three members absent at the last meeting.

Colin and Laura Hogue, 16151 Olivine Street, the applicants, stated their frustration with the whole process.

The applicant's builder discussed the drainage and screening of the applicant's proposed location.

Board Member Rogers stated he sympathizes with the applicants, there is plenty of screening for the building, but no reasonable use without the Variance has to be proven. Going forward The City can see if it can loosen up city guidelines, unfortunately the Supreme Court has set the precedence.

Board Member Dunaway stated no one wants to say no to the property owner. He would like the applicants to put it where they want as long as it is within the guidelines.

Board Member Brauer stated that from the time the Board first heard about this, through the time that he missed and tonight's meeting the topography issue has shifted from in front of the garage to the rear of the garage, the topography between the garage and the metal shed. He continued it seems we have two sights we are looking at. The one close to the house is not an alternative, might be if you go out the front. The second sight north into where the garden area is located is the location that the Board needs to hear the undue hardship from the applicant. He understands that the hardship is the distance between the sight and the metal building in back of it.

Mr. Hogue stated that he agreed that is the hardship as well as the high peak would make gutters necessary. In Mr. Hogue's location the water would split at the peak and water his trees on one side and the garden on the other side.

Planning Manager Miller stated that the City Engineer stated at the last meeting that the low spot is in the rear of the yard and if you put gutters on the building and drain tile you could direct the drainage from the building and it would naturally drain to the corner and around to the rear.

Discussion ensued regarding the slope and drainage.

Board Member Brauer stated that the Board unfortunately has to go by the law.

Ms. Hogue stated this is the third time they had been before the board, and wondered why the Supreme Court decision hadn't come up before.

Planning Manager Miller stated that Staff was not aware of it at that time.

Board Member Levine stated the City didn't understand an interpretation until last month. He told the applicant if the vote does not go their way, there is the appeal process and they certainly have the right to appeal and would encourage that.

Chairperson Van Scoy stated the Board looks for flexibility within the ordinances; however, they are obligated to operate within those ordinances.

Board Members discussed Finding of Fact numbers 24 and 25.

Motion by Chairperson Van Scoy, seconded by Board Member Levine that the Board rescind Resolution #10-08-168 adopting findings of fact #0873 and adopt Resolution #10-09-198 adopting findings of fact #0875 not favorable to the applicant with number 24 to read "The City finds there is an acceptable alternative site to the north of the primary structure no nearer the front property line".

Motion failed. Voting Yes: Chairperson Van Scoy, Board Member Rogers. Voting No: Board Members Dunaway and Levine. Abstain: Board Member Brauer. Absent: Board Member Cleveland.

Motion by Board Member Brauer, seconded by Chairperson Van Scoy the Board rescind Resolution #10-08-168 adopting findings of fact #0873 and adopt Resolution #10-09-198

adopting findings of fact #0875 not favorable to the applicant with number 24 to read “The City finds that there is an acceptable location to the north of the structure and located no nearer the front property line than that of the principle structure and the City finds that said location does not negatively impact the existing drainage pattern as testified by the City Engineer”.

Motion carried. Voting Yes: Chairperson Van Scoy, Board Members Brauer, and Rogers. Voting No: Board Members Dunaway and Levine. Absent: Board Member Cleveland.

Motion by Chairperson Van Scoy, seconded by Board Member Brauer to deny the issuance of a variance to construct an accessory structure nearer the front property line than the principal structure, based on findings of fact.

Motion carried. Voting Yes: Chairperson Van Scoy, Board Members Brauer, and Rogers. Voting No: Board Members Dunaway and Levine. Absent: Board Member Cleveland.

BOARD INPUT

None

Motion by Board Member Levine, seconded by Chairperson Van Scoy, to adjourn the meeting.

Motion Carried. Voting Yes: Chairperson Van Scoy, Board Members Levine, Brauer, Dunaway, and Rogers. Voting No: None. Absent: Board Member Cleveland.

ADJOURNMENT

The regular meeting of the Board of Adjustment adjourned at 8:14 p.m.

Respectfully submitted,

Amber Miller
Planning Manager

ATTEST:

JoAnn Shaw
Community Development Secretary