

I. **Call the meeting to order.**

Chairman Zuehlke called the meeting to order at 6:30 p.m.

II. **Roll Call.**

Present: Dave Zuehlke, Chairman
Ralph Woznick, Secretary
David Maloney, Board Member
Colleen Murphy, Board Member
Ellie Pinner, Board Member
Steve Reno, Board Member

Absent: Garry Crake, Vice Chairman

Also Present: Bob Vallina, Community Planning and Development Director
Colleen Pote, Stenographer
Doug Bradley, Building and Engineering Director
Stacy St. James, Environmental Coordinator
Applicants and general public numbering approximately 2

III. **Approve the Minutes**

MOTION AND VOTE:

Moved by Pinner

*Supported by Woznick; RESOLVED, to **APPROVE** the Minutes of the April 20, 2010, regular meeting of the Zoning Board of Appeals as printed.*

MOTION CARRIED UNANIMOUSLY.

(6 – 0)

IV. **Approve the Agenda**

MOTION AND VOTE:

Moved by Maloney

*Supported by Woznick; RESOLVED, to **APPROVE** the Agenda of the May 18, 2010, regular meeting of the Zoning Board of Appeals as printed.*

MOTION CARRIED UNANIMOUSLY.

(6 – 0)

V. **PUBLIC HEARINGS**

NEW BUSINESS

Case No. 5323

Sidwell No. 13-08-351-023, Section 8, Lot 39 and East 10 ft of Lot 40, "Williams Lake Park", T3N, R9E, Waterford Township, Oakland County, Michigan

Requesting

1. A variance from Section 2-702 to allow the substantial improvement of a nonconforming building. (Nonconforming buildings are not allowed to undergo substantial improvement, defined as increasing the footprint of an existing building by 25 percent or more).
2. A 20 ft. variance from Section 3-900 to allow the proposed attached garage to continue along the north lake rear building line and come to within 15 ft. of the north lake rear property line. (35 ft. minimum required).
3. An 18 ft. variance from Section 2-104.2 to allow the proposed attached garage and its roof eave and gutter to continue along the north lake rear building line and come to within 14 ft. of the north lake rear property line. (32 ft. minimum required).
4. A 4 ft. variance from Section 3-900 to allow the proposed attached garage to be constructed with a west side building line that is 4.2 ft. from the side property line at its southwest corner and 1 ft. at its northwest corner. (5 ft. minimum side yard setback required for subject property).

Property Location: 6805 Desmond
Property Zoned: R-1C, Single Family Residential
Applicant: Michael J. Harris

PUBLIC HEARING RECORD**Applicants and/or Representatives Present:**

Michael and Sandra Harris, Applicants

Mr. Harris stated that the proposal is to construct a one car attached garage. Due to the location of the existing house he does not believe it is possible to construct an attached garage without a variance. Mr. Harris then stated that the proposed building setback is similar to others in the neighborhood.

Chairman Zuehlke questioned if there is an existing garage on the property.

Mr. Harris stated that there is no garage on the property. The proposed garage will provide storage area for items that are currently stored in the shed at the west side of the property.

Mrs. Harris stated that the existing shed will be removed if the variance is granted to allow the garage to be constructed.

During the public comment portion of the meeting, no comments were heard either in support of or opposition to the applicant's request.

Chairman Zuehlke asked for and received clarification that the proposed garage will continue the north lake rear building line.

Chairman Zuehlke stated that a recommendation has been made by staff that if the Board grants the variances to allow the garage to be constructed, a building maintenance easement shall be obtained from the owners of 6821 Desmond and be recorded in the Oakland County Register of Deeds.

Mr. Harris stated that he believes the neighbor at 6821 Desmond will agree to a maintenance easement.

Board Member Maloney questioned if the proposed garage will provide storage area for the trailer that is currently on the property.

Mr. Harris stated that the trailer will be removed from the property. The garage will be used for a single car and provide storage area for the items in the existing shed as well as lawn care and other seasonal items.

Board Member Maloney asked for and received clarification that the applicants have no plans to convert the proposed attached garage to living area.

Secretary Woznick stated that he believes a practical difficulty exists in this case due to the limited space on the property and the fact that the existing house was constructed at an angle. He further stated that the proposed garage is in keeping with the character of the neighborhood, therefore he would support the requested variances in this case as long as it is stipulated that a maintenance easement is agreed to and recorded on the adjacent property.

Board Member Murphy stated that there appears to be area within the lake front yard for the applicant to reduce the size of the proposed garage and shift the proposed garage on the property, providing a greater setback at the northwest corner.

Mr. Vallina stated that the proposed attached garage just meets the lake front yard setback requirement. If the building is moved back an additional variance will be required to allow the garage to encroach into the required lake front yard and will not eliminate the need for a lake rear yard variance.

Board Member Murphy reiterated that the size of the proposed garage could still be reduced, without shifting the building into the required lake front yard setback, to create a greater setback at the northwest corner and provide adequate area to park a motor vehicle on the driveway.

Mr. Harris stated his belief that if the garage area is reduced, there will not be sufficient area to accommodate lawn care equipment and other seasonal items.

MOTION AND VOTE:

Moved by Woznick

*Supported by Reno; RESOLVED, to **APPROVE** Case No 5323 with the stipulation that prior to obtaining the necessary building permits, the applicant shall obtain from the owners of 6821 Desmond an executed building maintenance easement and shall record the easement in the Oakland County Register of Deeds.*

MOTION CARRIED WITH MURPHY OPPOSED

(5 – 1)

Adjourn the meeting.

Chairman Zuehlke adjourned the meeting at 6:41 p.m.

May 18, 2010

Case No. 5323

Property: 6805 Desmond

Applicant: Michael J. Harris

Zoning: R-1C, Single Family Residential

Site Use: Single family residential

Proposal: To construct an attached garage

Analysis: The subject property is a 60.4 ft. wide lakefront zoning lot; a house without a garage has been on the property since prior to 1963. The applicant would like to construct a 657 sq. ft. attached garage. The proposed attached garage would follow the north lake rear building line and south lakefront building line. The proposed attached garage will be a substantial improvement of the nonconforming lake rear building line and therefore will require a variance. Due to the limited space on the subject property, the proposed attached garage will come to within 1 ft. of the west side property line at its northwest corner and to within 4.2 ft. at its southwest corner. While the proposed attached garage would be in character with the surrounding neighborhood, staff is concerned about locating a building so close to the property line; construction and maintenance of the proposed building will require access onto the zoning lot west of the subject property. Staff looked at the possibility of shifting the proposed garage south toward the lake in order to reduce the side yard setback encroachment, however the proposed garage just meets the lakefront setback and shifting the garage south will push it into the required lakefront yard and require an additional variance.

Staff cannot support the applicant's request since it does not conform to the letter of the Zoning Ordinance and compliance with the strict letter of the ordinance would not unreasonably prevent the applicant from using the property as it has been used for over 40 years. However, if the ZBA sees merit in the applicant's request, staff would recommend that the ZBA stipulate that prior to obtaining the necessary building permits, the applicant shall obtain from the owners of 6821 Desmond a building maintenance easement that shall be recorded in the Oakland County Register of Deeds.

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

Draft Motion For Denial

In the matter of ZBA case No. 5323 I move that the petitioner's request for non-use variances be denied because the petitioner did not demonstrate practical difficulties exist in this case. In that:

- No practical difficulty exists in this case.
- Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.
- The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.
- The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- The request is self created.