

**GRATTAN TOWNSHIP ZONING BOARD OF APPEALS**  
**Regular Meeting of October 21, 2009**

**1. Call to Order**

Chairman Pat Mooney called the meeting to order at 7:00 p.m.

**2. Pledge of Allegiance**

P. Mooney led the Pledge of Allegiance.

**3. Roll Call**

Members present: P. Mooney, N. Benner, A. Berry, J. Jakeway, G. Jonker and B. Johnson. Members absent: B. Heethius. Township Supervisor Frank Force and Township Zoning Administrator Gregg Converse also attended the meeting.

**4. Approval of Agenda**

N. Benner moved and A. Berry seconded to approve the agenda as presented. All ayes. The motion carried.

*(B. Heethius arrived at 7:02 p.m.)*

**5. Approval of Minutes- September 16, 2009**

Board members reviewed the minutes of the September 16, 2009 ZBA meeting. One minor correction was noted. A. Berry moved and J. Jakeway seconded to approve the amended minutes. All ayes. The motion carried.

**6. Old Business**  
**Willis Variance**

**1. Applicant's/Property Owners Name, Address and/or Property ID Number**

Karen and Robert Willis of 310 Kinney NW, Grand Rapids, MI 49434 are requesting variance for 12026 Mac Dr., Belding, MI 48809, PP# 41-12-03-154-005.

**2. Variance requested to Section 4.04 (B) (5) of the Zoning Ordinance.**

The Ordinance provides that no part of a new building or any part of an enlargement, expansion or addition to an existing dwelling be constructed, used, or permitted within five feet of a side lot line. Applicant is requesting variance from 5' to 2.7'.

**3. Summary of Written Documentation**

See attached:

ZBA application, Public notice and list of 300' notices, building plans and photo of existing house, Resolution approved by Planning Commission regarding Willis property at 12026 MAC Drive and Zoning Administrator Gregg Converse's April 9, 2009 memo to Planning Commission regarding Willis' application for a special land use. A. Berry read the notice as it appeared in the paper out loud.

**4. Overview of Application**

This is a very small, narrow, sloping lot.

**5. Summary of Applicant's Presentation**

The applicant's would like to change the existing roof orientation due to weather related water problems with the existing roof. This causes the roof overhang to be within the 5' setback. The proposed roof height will be set at 20'. The proposed building will use the existing footprint.

**6. Comments from Public Hearing**

A. Berry moved and N. Benner seconded to open the public hearing. All ayes. The motion carried.

There were no public comments.

N. Benner moved and J. Jakeway seconded to close the public hearing. All ayes. The motion carried.

**7. ZBA Discussion and Deliberation**

N. Benner said the ZBA must consider fire department access. It was noted that there is an easement on the neighbor's property on the 5' setback side of the Willis' property. She said using the original footprint was helpful. She asked for clarification regarding the distance of the overhang from the property line. It was noted that the overhang is 1.7' from the property line.

A. Berry said this is the last house in that area to be remodeled.

B. Heethius said the house is surrounded on all four sides by roads.

B. Johnson asked if the easement could be cleared by new owners of the neighbor's property. B. Heethius said the easement is part of the original plat and cannot be cleared.

**8. ZBA Factual Findings**

After consideration of the application by the ZBA, the ZBA hereby concludes as follows:

Draft: 10/26/09

Approved: 11/18/09

The enforcement of the literal requirements of the Zoning Ordinance would involve practical difficulties or cause undue hardship by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary situation of the premises or of the use of the premises immediately adjoining the premises in question. In support of that determination, the ZBA hereby makes the following findings of fact:

1. The Willis' lot is very small in size.

There is practical difficulty or unnecessary hardship in meeting the strict letter of the Ordinance so that the spirit of the Ordinance may be observed, public safety secured and substantial justice done. In support of that determination, the ZBA hereby makes the following findings of fact:

1. Small lot size. Can't buy more land.
2. Using existing foot print to maintain the spirit of the Ordinance.

The condition or situation of the property or the intended use of the property is not so general or recurrent a nature as to make a reasonably practical a general regulation as part of the Ordinance. In support of that determination, the ZBA hereby makes the following findings of fact:

1. There are very few lots of this exceptionally small size

The variance will not be detrimental to adjacent property and will not impair the intent and purposes of the Ordinance or the public health, safety and general welfare. In support of that determination, the ZBA hereby makes the following findings of fact:

1. The platted walkway (easement) is an asset.
2. The one-foot overhang would not impede public safety.

## **9. Motion and Voting**

Motion made by Brian Heethius and seconded by J. Jakeway to approve variance based on application meeting all four standards for a variance, as stated in Section 4.04 (B) (5) of the Zoning Ordinance, and based on the ZBA's factual findings, as stated above. Roll call vote: Ayes: G. Jonker, B. Heethius, J. Jakeway, B. Johnson, A. Berry, N. Benner and P. Mooney. Nays: none. The variance request was approved by a vote of 7-0.

## **7. New Business Kuiper Variance**

- 1. Applicant's/Property Owners Name, Address and/or Property ID Number**

Draft: 10/26/09

Approved: 11/18/09

Lori Kuiper of 12079 Mac Drive NE, Belding, Michigan, is requesting a variance for 12079 Mac Drive NE, Belding, MI, 48809, PP# 41-12-03-152-015.

**2. Summary of Variance Sought**

The variance request is to Section 4.03 (A) & 4.04 (B) (5) of the Zoning Ordinance. The Ordinance requires no construction within the 5-foot minimum side yard. The request is to allow a second story addition to an existing structure within the 5-foot minimum.

**3. Summary of Written Documentation**

See attached:

ZBA application, Public notice and list of 300' notices, building plans and GPS survey dated 10/19/09, Resolution approved by Planning Commission regarding Kuiper property at 12079 MAC Drive and Zoning Administrator Gregg Converse's August 29, 2009 memo to Planning Commission regarding L. Kuiper's application for a special land use. A. Berry read the notice as it appeared in the paper out loud.

**4. Overview of Application**

The proposed remodel will not encroach on the existing lot line any more than the existing house. Combined side yard setback total 15' (10' and 5').

**5. Summary of Applicant's Presentation**

The existing house does not meet the 10' side yard setback requirement. The applicant plans to use the existing footprint plus a 7 1/2 'x 15' 6" addition and stairs at the back of the house. Lori Kuiper provided a new survey showing a distance of 5' 6" from the adjacent lot line. Zoning Administrator Gregg Converse asked if the survey was done from the walls of the house. L. Kuiper said it was. She said the overhang is 1' 1", but that can be adjusted. She said the Planning Commission approved a proposed 2 phase remodel, which would include a new garage and removal of part of the cement driveway so that no more than 50% of the lot is covered, within 2 years from issuance of the building permit. The new garage ~~would be~~ would be brought up to code. Zoning Administrator Gregg Converse said the ZBA is reviewing this because the Planning Commission has no authority to approve building within the 5 yard setback. G. Converse also said the Planning Commission did not deal with a proposed side yard egress window.

**6. Comments from Public Hearing**

B. Heethius moved and J. Jakeway seconded to open the public hearing. All ayes. The motion carried.

Robert Willis said he was in favor of this variance.

Draft: 10/26/09

Approved: 11/18/09

A. Berry moved and N. Benner seconded to close the public hearing. All ayes. The motion carried.

## 7. ZBA Discussion and Deliberation

It was noted that the proposed new garage will be 12' from the side yard and therefore the house must be at least 3' from the other side yard to insure a total side yard setback of 15'. Zoning Administrator Gregg Converse will make sure that setback requirement is met.

B. Johnson said the overhang should be no more than 1'. He said there is open area to the neighbor's house.

A. Berry said although the proposed house will be more non-conforming the garage would be in conformance and the 50% lot coverage requirement will be taken care of.

N. Benner said she would like to see the overhang reduced. B. Heethius said reducing the overhang to less than 12" could create a water issue.

P. Mooney asked if there is room on the property for the proposed escape window. It was noted that this window has prefabricated steps built in. ZBA members discussed the proposed window.

## 8. ZBA Factual Findings

After consideration of the application by the ZBA, the ZBA hereby concludes as follows:

The enforcement of the literal requirements of the Zoning Ordinance would involve practical difficulties or cause undue hardship by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary situation of the premises or of the use of the premises immediately adjoining the premises in question. In support of that determination, the ZBA hereby makes the following findings of fact:

1. The lot is exceptionally narrow, 67.5'.

There is practical difficulty or unnecessary hardship in meeting the strict letter of the Ordinance so that the spirit of the Ordinance may be observed, public safety secured and substantial justice done. In support of that determination, the ZBA hereby makes the following findings of fact:

1. The neighbor's house is situated on the other side of his lot **LEAVING SUBSTANTIAL ROOM BETWEEN THE HOUSES.**
2. The proposed structure will not encroach on the side yard more than the existing structure already does.

Draft: 10/26/09

Approved: 11/18/09

The condition or situation of the property or the intended use of the property is not so general or recurrent a nature as to make a reasonably practical a general regulation as part of the Ordinance. In support of that determination, the ZBA hereby makes the following findings of fact:

1. The layout of the site is unique in that the existing house is shifted to one side of the lot. **IF THE HOUSE IS CENTERED ON THE LOT THERE WOULD BE NO NEED FOR A VARIANCE.**

The variance will not be detrimental to adjacent property and will not impair the intent and purposes of the Ordinance or the public health, safety and general welfare. In support of that determination, the ZBA hereby makes the following findings of fact:

1. The house is set far from the neighbor's house **LEAVING ENOUGH ROOM BETWEEN HOUSES FOR PUBLIC SAFETY EQUIPMENT.**

#### **9. Motion and Voting**

Motion made by B. Heethius and seconded by J. Jakeway to approve variance based on application meeting all four for a variance, as stated in Sections 4.03 (A) & 4.04 (B) (5) of the Zoning Ordinance, based on the ZBA's factual findings, as stated above, and based on construction being completed in accordance with the site plan that applicants submitted to the ZBA with their variance request. Roll call vote: Ayes: B. Johnson, A. Berry, N. Benner, P. Mooney, G. Jonker, B. Heethius and J. Jakeway. Nays: none. The variance request was approved by a vote of 7-0.

#### **Zoning Enabling Act/Zoning Ordinance Amendments**

Several Board members said they had not reviewed this matter. It was agreed to table discussion until the next meeting.

#### **8. Schedule Next Meeting**

The next meeting will be held November 18, 2009.

#### **9. Adjournment**

There being no further business, P. Mooney declared the meeting adjourned at 8:25 p.m.

Respectfully submitted,

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Draft: 10/26/09

Approved: 11/18/09

Al Berry, ZBA Secretary

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Diane Timmons  
ZBA Recording Secretary