

Columbia Township  
Zoning Board of Appeals  
August 9, 2007

Meeting called to order by Chairman Donald Oswald at 7:30 pm.  
Roll call. Present: Holmstrom, Beamish, Messimer, Andrews and Oswald.  
Absent: none.

GODFREY, Wyman 427 Oakwood Beach, Brooklyn, Mich. 49230 ADP#000-20-29-193-002-00. Request for a variance of 2 feet, 8 feet to the South property line to build an addition to his house.

Mr. Godfrey stated that his wife had foot surgery and larger bedrooms were needed for easier access.

A letter from Assessor Ruth Scott was received clarifying the lot coverage.

Mr. Messimer noted that the house is non-conforming as the North side yard setbacks vary from 3'6" and 4'6". Messimer cited SECTION 8.3 Nonconforming Buildings And Structures:

Where, on the effective date of adoption or amendment of this Ordinance, a lawful building or structure exists that could not be built under the regulations of this Ordinance by reason of restrictions upon lot area, lot width, lot coverage, height, open spaces, or other characteristics of such building or structure; or its location upon a lot, such building or structure may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. No such building or structure shall be enlarged, expanded, extended, or altered in a way which increases its nonconformance.

Mr. Messimer stated that in order for the Godfreys to be exempted from the non-conformity an application should be made requesting such as stated in Section 8.6 Extension and Substitution.

No further discussion was forthcoming and Chairman Oswald called for a motion.

Mr. Messimer said he could not see where any of the provisions for approval are being met.

Motion by Messimer to deny the request based on SECTION 8.3  
Nonconforming Buildings And Structures:

Where, on the effective date of adoption or amendment of this Ordinance, a lawful building or structure exists that could not be built under the regulations of this Ordinance by reason of restrictions upon lot area, lot width, lot coverage, height, open spaces, or other characteristics of such building or structure; or its location upon a lot, such building or structure may be continued so long as it remains otherwise lawful subject to the following provisions:

A. No such building or structure shall be enlarged, expanded, extended, or altered in a way which increases its nonconformance. And SECTION 10.3  
VARIANCE:

A variance from the terms of this Ordinance shall not be granted by the Zoning Board of Appeals unless and until:

A. A written application for a variance is submitted, demonstrating:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
3. That the special conditions and circumstances do not result from the actions of the applicant.
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

C. The Zoning Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

D. The Zoning Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Motion failed for lack of a second.

Chairman Oswald stated that the Board could not use Section 8 to make a decision only Section 10 of the ordinance.

Mr. Messimer disagreed and stated SECTION 8.6 Extension And Substitution:

There shall be a specific exemption from the preceding prohibitions, whether in Section 8.6 or another section of ARTICLE VIII, against rebuilding, altering, replacing, improving, enlarging, extending, substituting or modifying a nonconforming use. In this case, the owner or tenant of said nonconforming use shall make application to the Zoning Board of Appeals requesting an exemption from the aforesaid prohibitions. If the Zoning Board of Appeals, after a public hearing upon such applications, shall determine that for reasons of public health, welfare or safety that the request is proper, then the Zoning Board of Appeals may authorize the owner or tenant to rebuild, alter, replace, improve, enlarge, extend, substitute, or modify said nonconforming use subject to conditions set forth by the Zoning Board of Appeals necessary to meet the objectives of this Ordinance. Prior to granting any such request under this Section, the Zoning Board of Appeals specifically shall make the following findings of fact and apply the following standards:

1. The exemption shall not apply to the principal nonconforming use on the lot.
2. The exemption shall ameliorate conditions detrimental to the public health, safety, and welfare.
3. The proposed changes will materially and substantially benefit the surrounding neighborhood areas through a reduction in the negative impacts caused by the nonconformity and/or make the use more in conformity with the provisions of this Zoning Ordinance.
4. The proposed changes will not have an adverse effect upon the uses in the general vicinity by creating new or different violations of this Zoning Ordinance.

Chairman Oswald moved to approve the variance of 2 feet, 8 feet to the South side yard lot line based on Section 10.3 C. The Zoning Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the

minimum variance that will make possible the reasonable use of the land, building, or structure.

D. The Zoning Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. Additionally, that a hardship was declared by Mr. Godfrey for his wife's foot surgery.

Roll call vote: Ayes: Beamish, Oswald, Andrews, Holmstrom. Nays: Messimer.

Variance approved.

Motion by Holmstrom seconded by Andrews to approve the minutes of the August 2, 2007 meeting. Ayes all motion carried.

Adjournment 8:17 PM.

Respectfully submitted,

John Messimer, Secretary  
COLUMBIA TOWNSHIP ZBA