

**PROCEEDINGS
OF
CITY COUNCIL
OF THE
CITY OF LOWELL**

For the Special Meeting of THURSDAY, **SEPTEMBER 21, 2006**

The Meeting was called to order at 7:30 p.m. by Mayor Pro Tem Mathews and City Clerk Betty Morlock called Roll.

Present: Councilmembers Hodges, Pfaller, Shores and Mayor Pro Tem Mathews.

Absent: Mayor Myers.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, DPW Director Dan DesJarden, Planning Commissioners Jim Hall and Mark Mundt and Building Inspector Doug Hopkins.

IT WAS MOVED BY SHORES and seconded by PFALLER to excuse the absence of Mayor Myers.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #1. **ZONING BOARD OF APPEALS**.

A. Side yard variance for garage – 403 N. Monroe – Public Hearing. As noted in the September 5, 2006 City Council meeting agenda, Jeff Werner secured a building permit to construct an unattached garage for his newly moved into residence at the northeast corner of North Monroe and King. The 22' x 26' accessory building was under construction. But, it was discovered that the ten foot required distance between the house and garage was not met.

As an alternative, the garage could be attached, requiring a 6 foot side yard (north) setback. Since the garage has a four foot setback currently, a two foot variance was sought.

Kevin Rittenburg of 413 N. Monroe had no objection to the garage.

James Barber of 318 King, also owning the property across the street stated the Werners purchased the house in 2002. The home was in very bad shape and the two have worked very hard. A garage is needed for their vehicles. Barber was in favor of the variance.

Jeff Werner of 403 N. Monroe, stated he was agreeable to either alternative, detached or attached. He would prefer it to be detached. However, Werner did not want to extend the project any further by having to hold another public hearing. After speaking with his neighbor Frank Martin, he has agreed to install a fire proof door and place no windows on the side next to the house. Werner explained the only reason he requested an attachment variance is because it was suggested by the building department. Without attaching it, he would have to ask for a setback variance from the house, which is ten feet.

Zoning Chairman Pfaller apologized on behalf of the City Council and the Zoning Board of Appeals for the inconvenience.

Zoning Boardmember Mathews questioned Werner's preference. Werner responded detached. However, he did not want this to cause another meeting.

Werner suggested the possibility to approve the construction of the garage and then review the attachment at a later date.

Frank Martin of 406 N. Monroe did not believe the footings for the unattached garage was low enough. He questioned if it had to be below the frost line. Martin noted he was in favor of the three foot (accessory building to main building) variance. Building Inspector Hopkins explained the current foundation is roughly 24" and it is built on sand. When a garage is attached to a home, it must match the foundation. Hopkins suggested instead of attaching it directly to the garage, a post should be placed on the side of the building to carry the roof structure and then slash it into the side of the garage. Therefore, it wouldn't actually be attached and any type of movement would not create problems.

Zoning Boardmember Shores reviewed the property in question. She believed there would be enough access for the fire department between the garage and house. An unattached garage was acceptable and may increase the value of the home.

Mathews also reviewed the site. He apologized for the City's mistake. Mathews was sorry Werner did not apply for the setback between the house and the garage as unattached. Pasquale explained the board can consider the variance for the side yard and then consider another variance from the garage to the house at another meeting. This would give Werner the opportunity to proceed with construction and review of the attachment can be accomplished during another public hearing.

Pfaller believed there were some points which were missed when issuing of the building permit. Hopkins read an explanation from Zoning Administrator Brian MacCarthy explaining his calculation of allowing the request. Pasquale believed the ordinance was vague. Hopkins noted there is nothing in the ordinance which refers to nonconforming lots.

Hopkins apologized to Werner, the Planning Commission and to the Council for the effort being put into correcting the situation.

IT WAS MOVED BY SHORES and seconded by HODGES to grant the variance request on a four foot north side yard setback for an attached garage at 403 N. Monroe where six feet is required.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

Pasquale noted the second variance request can be discussed during the October 16, 2006 meeting.

Pfaller questioned if IMS follows a check list. Hopkins stated there is a checklist for zoning setbacks. Some issues will be amended such as checking on the actual square footage and dimensions.

Pfaller requested the Planning Commission review the nonconforming small lots in order to eliminate this from happening again.

IT WAS MOVED BY SHORES and seconded by HODGES to establish a public hearing for October 16, 2006.

YEA: 4. NAY: 0. ABSENT: 1. MOTION CARRIED.

IT WAS MOVED BY HODGES to adjourn at 8:01 p.m.

DATE:

APPROVED:

Charles R. Myers, Mayor

Betty R. Morlock, Clerk