

**Town of Amherst  
Board of Zoning Appeals  
April 15, 2014**

A meeting of the Town of Amherst Board of Zoning Appeals was called to order by Chairman Mays at 6:00 PM on April 15, 2014 in the Council Chambers of the Town Hall. Members Kevin Akershoek, Marvin Hensley, William Iseman, Gary Mays and Teresa Tatlock were present. Town Manager Jack Hobbs was present in his capacity as Secretary to the Board.

The Chair noted that a quorum was present, welcomed everyone to the meeting and asked for a moment of silence.

Mr. Hensley made a motion that was seconded by Mrs. Tatlock to dispense with the reading and approve the minutes from the March 24, 2014 meeting. The motion carried 5-0 with Messrs. Akershoek, Hensley, Iseman, and Mays and Mrs. Tatlock voting in favor.

**Variance Application: Wimmer property - 115 Woodland Drive**

The Board discussed application from Ronald Wimmer for a variance for his property located at 115 Woodland Drive (TM#93A3-3-5), zoned Limited Residential District R-1. The application pertains to Section 18.1-804 of the Zoning and Subdivision Ordinance. If approved, an addition to Mr. Wimmer's existing dwelling there could be built to within 3.5' of the right side property line instead of maintaining the 15' separation between the proposed construction and the adjacent lot as required by the Ordinance.

At 6:10 PM, Ronald Wimmer entered the meeting and gave a presentation on his application for a variance which is required before he will be able to build a 2-car garage addition onto his existing dwelling in the location and configuration he proposes.

At 6:20 PM Marceline Lotman, the owner/resident of 117 Woodland Drive, entered the meeting.

At 6:22 PM the Chairman opened a duly advertised public hearing on the Wimmer application.

Ms. Marceline Lotman came forward and expressed that she had no objection to the garage installation, that it would not interfere with anything, and that she would still be able to use her driveway

to get to the rear of her house. She characterized the area between her house and the Wimmer house as ``roomy``.

A letter from adjacent property owners Frankie and Mary Ann Bryant, 168 Gregory Lane, was received. The document states:

*We cannot attend the hearing on April 15, 2014 in regard to Ronald Wimmer's application. However, as neighbors (we live directly behind Mr. Wimmer) we have no problem at all with his request. We appreciate the improvements he has made to the property, and feel he will continue to make improvements and not do anything that would be a hindrance or problem for anyone.*

Meeting materials noted that factors favoring the approval of this proposal include:

- The desire of the property owner to improve the property by building an enclosed garage on the right (Lotman) side of the existing dwelling as protection for vehicles and other possessions and for cover for residents from rain and snow weather.
- The proposed placement of the construction is due to the internal layout of his dwelling: the bedrooms are located on the Gregory Street side of the house, the kitchen door would open into the garage as proposed, topographic considerations prevent construction on the Bryant side, and the roof line and setbacks prevent construction on the Woodland Avenue side. Detached construction is not preferred due to site topography, setback requirements and the desire for cover between the house and garage.
- Ms. Lotman indicated previously that, as the owner of the property next door and the party who is likely to be most affected by the proposal, she has no objection to the construction as proposed as it would not intrude on her property in any way.

It was noted that a significant consideration that is not favorable to the application is the theory that the community should work to maintain conformity with established ordinances.

It was noted that, per §18.1-1006.02 of the Town Code, the Planning Commission reviewed the Wimmer application on April 2 but took no action on the matter.

The following procedural items were noted:

- This case is similar to many variance requests in that the Board of Zoning Appeals must be concerned with the preservation of the integrity of the ordinance. The Board was reminded that the legal/hardship finding requirements (Code of Virginia §15.2-2309; Town Code §18.1-1402.03) were recently relaxed.
- The Board should pay close attention to the state law and the Town's Zoning and Subdivision Ordinance in addition to the testimony during the required public hearing.
- Three affirmative votes by Board members would be required to approve the request.
- The "one year" rule at §18.1-1006.05 which indicates that "substantially the same petition affecting the same land shall not be considered within any twelve (12) month period."

There being no one else present who wished to speak, the public hearing was closed at 6:25 PM.

Mr. Iseman made a motion, seconded by Mr. Hensley, that the Board find that (a) a hardship exists due to the arrangement of the existing building and septic drainfield on the property and that that a variance is justified due to the owner's desire to improve the property and (b) to approve the variance as requested so that the addition to the dwelling at 115 Woodland Avenue could be built as close as 3.5' to the right side property line instead of having to maintain a 15' setback specified in the Zoning and Subdivision Ordinance. The motion carried 4-1 with Messrs. Akershoek, Hensley, Iseman, and Mrs. Tatlock voting in favor; Mr. Mays voted against the motion.

The Chairman reviewed the process for appealing Board of Zoning Appeals decisions for those present.

There being no further business to discuss, at 6:38 PM the meeting was adjourned on a motion by Mrs. Tatlock that was seconded by Mr. Hensley. The motion carried 5-0 with Messrs. Akershoek, Hensley, Iseman, and Mays and Mrs. Tatlock voting in favor.

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Gary Mays  
Chairman

ATTEST:

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Secretary