
VILLAGE OF HOLLY
ZONING BOARD OF APPEALS
Agenda
September 8, 2008

The regular meeting is scheduled for **7:00 P.M.** in the Village Council Chambers, 315 South Broad Street, Holly, Michigan. For additional information, please contact the Village Office at (248) 634-9571.

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF MINUTES – May 5, 2008

D. PUBLIC COMMENT (Speakers limited to five (5) minutes. With the approval of council speakers may be given up to a five (5) minute extension.)

E. GENERAL BUSINESS

New Business- Variance Request 08-02 Reduced side yard setback for placement of accessory structure (shed)

Applicant is requesting a variance from the side yard setback from 5 ft. to 3ft.

The property is zoned R1B, Residential

Property #: 01-34-306-012

Side yard setback reduction request by Steve Scanlon for 214 Washington

Reason for Request:

The applicant is requesting the variance to be able to place a 14ft. x 24ft. shed closer to the side yard property line than is allowed by the ordinance. The lot is bordering the railroad and the proposed location is the only space on the lot suitable to put the shed.

The current shed is to be removed and the new one constructed on the same slab. The current shed is a nonconforming as it is located in the front yard and less than 25 ft. from the front property line.

Section 2304 letter b. of the Village of Holly ordinance states that; should a nonconforming structure be destroyed by any means to an

extent of more than fifty (50) percent of its replacement costs, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this Zoning Ordinance.

Because the slab is remaining, which may be considered a "foundation" for the shed the structure may be allowed to be rebuilt in the same location without a variance. However because it is a slab the structure could be shifted over on the slab to meet setbacks. That would mean though that the opposite side of the slab may have to be added to to accommodate the new shed structure which would be more nonconforming then reusing the same slab.

But because the current structure is to be removed the setback variance should be sought to allow the construction of a new structure in the same location.

This case seems confusing because there are several variables concerning the structure encroaching the side yard setback, the structure being placed in a front yard, the structure being closer to the front property line than the 25 ft. required setback, the fact that the foundation is remaining and the close proximity of the railroad.

I felt that with the foundation remaining and being utilized that the reduced side yard setback variance was the appropriate approach to this situation. The ZBA may in its approval or denial make mention of the placement of an accessory structure in a front yard and encroaching in the front yard setback.

Criteria that the Board Uses in Evaluating Variances:

1. **Practical Difficulties:** Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would create practical difficulties, unreasonably prevent the use of the property for a permitted purpose, or render conformity with such restrictions unnecessarily burdensome. The showing of mere inconvenience is insufficient to justify a variance.
Applicant has demonstrated a practical difficulty in that the railroad is directly adjacent to the property.
2. **Substantial Justice:** Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district; or, as an alternative, granting of lesser variance than

requested would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners. **The requested variance would only affect the neighbor directly across the street as this street dead ends at this property and that neighbor is for the project.**

3. Public Safety and Welfare: The requested variance or appeal can be granted in such fashion that the spirit of these regulations will be observed and public safety and welfare secured.
Public safety and welfare will not be affected by the granting of the requested variance.
4. Extraordinary Circumstances: There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or other similar uses in the same zoning district. The conditions resulting in a variance request cannot be self-created. The nonconforming condition of adjacent or nearby properties does not constitute a circumstance justifying the granting of a variance.
The property is limited due to the fact that the railroad borders the property and it is at the end of a dead end street.
5. No Safety Hazard or Nuisance: The granting of a variance or appeal will not increase the hazard of fire or otherwise endanger public safety or create a public nuisance.
The granting of the variance would not increase the hazard of fire or affect the public.
6. Relationship to Adjacent Land Uses: The development permitted upon granting of a variance will relate harmoniously in a physical and economic sense with adjacent land uses and will not alter the essential character of the neighborhood. In evaluating this criterion, consideration shall be given to prevailing shopping patterns, convenience of access for patrons, continuity of development, and the need for particular services and facilities in specific areas of the Village.
The granting of the requested variance would create a substantially more appealing structure than what is there now although it may not be completely "harmonious" because of its location.

F. BOARD MEMBER COMMENTS

G. ADJOURNMENT