

ACME TOWNSHIP
Zoning Board of Appeals
June 10, 2004

Thursday, 7:30 p.m.
Acme Township Hall
Acme, Michigan

Meeting called to Order at 7:37 p.m.

Members present: J. Kuncaitis (Chair), L. Belcher, P. Collins, N. Knopf, H. Smith

Members excused: None

Staff present: J. Hull, Zoning Administrator
S. Corpe, Recording Secretary

1. **Review and approval of the agenda, inquiry as to conflicts of interest:** Approved with no conflicts noted.

2. **Correspondence:** None

3. **Reports:** None

4. **Hearings:**

- a) **Continue hearing for James Nowland, 3766 Pearl St., Williamsburg MI 49690 for a non-use variance of Section 6.11.1, Schedule of Regulations which requires a side-yard setback of ten (10) feet in the R-3, Urban Residential District:** Mr. Nowland was present in support of his application. Kuncaitis asked what the precise size of the variance requested would be. Mr. Nowland stated that the overhangs on the structure will be 2' wide, so Hull calculated the needed variance as being 8'. Kuncaitis asked if there will be a tile/drain area to catch runoff from the structure; Mr. Nowland stated that there will be a gutter and downspout system on the roof. The proposed height of the structure would be 9' above the existing concrete pad. Kuncaitis also noted that fire protection – the ability to access the rear of the house – would be an important consideration. Mr. Nowland stated that one could probably unscrew the carport from the home and push it out of the way. Collins stated that fire crews would likely access from a different perspective.

Kuncaitis noted that a plot survey was provided for the Board's consideration this evening. It shows where the irons are set at the property corners where the Nowlands' rear yard abuts the Kwikey Kwiver property. It does not show the existing fence, which the Nowlands state runs along the property lines. Kuncaitis asked if the property is served by sewer, and if so where the lines are run. Mr. Nowland stated that the utilities run along the other side of Pearl street, and the property is served by sewer. Kuncaitis was trying to recall if other properties in the area have similar variances in effect; the Nowlands stated that one of their neighbors has a shed that has a variance to encroach on a lot line. Knopf asked if it would be possible to put the carport in front of or on the other side of the structure, or in the back yard. The applicant stated that there would be room for a large garage, but Mrs. Nowland doesn't need

that much space. Belcher observed that this type of need or lack thereof is not a factor in the decision at hand. There was discussion about the configuration of doorways and decks, there being a number of stairs down from the deck shown on the mortgage survey. There is an 8' x 10' or 8' x 12' shed in the southeast corner of the property about 3' from the side lot line. Corpe noted that the shed should be at least 10' away from any lot line. Mr. Nowland had been under a mistaken impression that because he did not need a land use permit for the structure he did not have to apply the setback requirements.

Kuncaitis stated that he believed that Mr. Clark was granted a variance, even though no record has ever been found. Belcher believes that Mr. Clarke never actually followed through on the application. Belcher also stated that he believes that this matter should have no effect on whether or not the insurance money can be kept by the applicant-the property was insured for the value of the structures but he is unaware of any reason why the funds have to be expended to rebuild them. Mr. Nowland stated that he was in the insurance business in the 1970's and dealt with the situation when the roof on the Silverdome was damaged. The problem from his perspective is that if a structure on the property was illegal, it's possible that it shouldn't have been insured. There are concerns about the title insurance for the mortgage, because the homeowner's insurance check was made out jointly to the property owner and the mortgage holder. Mr. Nowland stated an opinion that a previous variance should have been recorded if there was one, and he is considering legal action against various parties such as the individual who sold the property to them. His attorney tells him he is an innocent victim because he inherited as situation that should have been corrected before he ever bought the property. Corpe stated that she is unaware of any requirement than a variance be recorded, and that if no variance was ever granted it certainly could not have been recorded.

Public Hearing opened and closed at 7:59 p.m., there being no public comment.

Kuncaitis noted that the Board received a letter and some public comment received last month. Hull stated that a lady had called and said she would be dropping off a letter, but never did so. Mr. Nowland stated that his attorney has told him that if one of his neighbors is disputing the property line, the responsibility to pay for a survey to ascertain the details would be his responsibility as the complainant. Kuncaitis stated that it would seem to make sense to assume that the fence is along the property line, particularly if it matches up with a fence on the Kwiikee Kwiver property.

Kuncaitis observed that some of the basic conditions may not apply, and unless they all apply none of the special conditions can be considered and the variance cannot be granted. There does not appear to him to be any hardship that would prevent construction of the carport in a different, conforming position or one requiring less of a variance. Kuncaitis read the basic and special conditions for Mrs. Nowland's benefit. One of the basic conditions Hull particularly mentioned as not being met would be Basic Condition C regarding effect on surrounding property values. He consulted

with Dawn Plude, the Assessor. Usually she tells him that the proposed variance would have no significant property value impact, but in this case she was less able to make a definitive statement in this regard.

Motion by Belcher, support by Knopf to deny Application #2004-2Z because Basic Conditions A and C have not been met.

Mr. Nowland stated that he would see the township in court, as a judge could still overturn the decision. Kuncaitis noted that the hearing was continued to this month so they could come in and talk to us prior to paying for a survey. He is uncertain as to Mr. Nowland's assertion that the neighbor would have to pay for a survey. Belcher noted that the ZBA has the right to request the applicant to pay for a survey in relation to any application in any event.

5. **Other Business:** None

6. **Approval of minutes from the May 13, 2004 regular meeting and the May 26, 2004 special meeting:**

Motion by Smith, support by Knopf to approve the minutes of the May 13, 2004 meetings as presented. Motion carried unanimously.

Motion by Knopf, support by Collins to approve the minutes of the May 26, 2004 meeting as presented. Motion carried unanimously.

Meeting adjourned at 8:15 p.m.