

BOARD OF ADJUSTMENT AND APPEALS

Wednesday, January 5, 2005

MEETING NOTES

Robert M. Saucier requests a variance of two (2) feet from the ten (10) foot side setback requirement for a garage at 19 Sherburne Avenue on Map 39 Lot 21 in the High Density Residential (HDR) Zoning District.

The applicant is requesting approval to construct a 24' by 24' addition to his existing 20' by 22' garage on the property. The existing garage is a non-conforming building due to nonconformance with the current setback regulations. The building permit application for the proposed addition was denied on November 18, 2004. The variance application was submitted on December 10, 2004, well within the required 30 day time-frame.

The expansion of the non-conforming building request must comply with the following requirements found in Section 4.H.1.c, 4.H.4.a, 2.G and 4.G.2.c.4.

SECTION 4 ADMINISTRATION

H. Non-Conformance

1. General

- c. This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of non-conforming use or structure.

4. Non-Conforming Structures

- a. Any non-conforming structure, not located a Shoreland, Resource Protection or Shoreland Overlay District may be expanded in conformance with the provisions of this Ordinance.

SECTION 2 ZONING DISTRICTS

G. Dimensional Requirements

District – High Density Residential

Minimum setback in feet

Side yard - 10

SECTION 4 ADMINISTRATION

G. Appeals

2. Board of Appeals

b. Powers and Duties

4) Dimensional Standards Variance

The Board of Appeals may grant a variance from the dimensional standards of the zoning ordinance when strict application of the ordinance to the petitioner and petitioner's property would cause a practical difficulty and when the following conditions exist:

- a) The need for a variance is due to the unique circumstances of the property and not the general condition of the neighborhood;

- b) The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c) The practical difficulty is not the result of action taken by the petitioner or prior owner;
- d) No other feasible alternative to a variance is available to the petitioner;
- e) The granting of a variance will not unreasonably adversely affect the natural environment; and
- f) The property is not located in whole or in part within the shoreland areas as described in Title 38, Section 435.

As used in this subsection, "dimensional standards" means and is limited to zoning ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means the strict application of the ordinance to the property precluded the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.