

CITY OF MASON

201 West Ash St.
Mason, MI 48854-0370

City Hall 517-676-9155
Fax 517-676-1330

ZONING BOARD OF APPEALS SPECIAL MEETING – 2ND FLOOR TRAINING ROOM

Wednesday, April 25, 2012

5:30 p.m.

Agenda

1. Call to Order
2. Roll Call
3. Approval of Minutes: October 12, 2011
4. Unfinished Business
5. Election of Chair and Vice Chair
6. People from the Floor
7. Announcements
8. Public Hearing
 - A. 955 Eugenia Drive – Variance – Front Yard Setback

Resolution No. 2012-01 – A Resolution Approving A Variance To Allow The Construction Of A Wheelchair Ramp To The Existing Porch Structure That Would Be Located In The Front Yard Eight Feet From The Sidewalk On Property Located At 955 Eugenia Drive

9. Presentations
10. Regular Business
11. Unfinished Business
12. New Business
13. Correspondence
14. Administrator Report
15. Adjournment

**CITY OF MASON
ZONING BOARD OF APPEALS MEETING
MINUTES OF OCTOBER 12, 2011**

Jenkins called the meeting to order at 5:31 p.m. in the 2nd Floor Training Room at 201 W. Ash Street, Mason, Michigan.

Board Member(s) Present: Crips, Curtis, Harbach, Jakeway, Jenkins, McCormick, Richards
Board Member(s) Absent: None
Also present: David Haywood, Zoning and Development Director
Martin Colburn, City Administrator
Mike Waltz, City Council Member

APPROVAL OF MINUTES: September 14, 2011

The minutes of the September 14, 2011 meeting were approved as presented.

PEOPLE FROM THE FLOOR

None.

REGULAR BUSINESS

Variance – 307 S. Rogers St. – Front Yard Setback & Building Separation

Jenkins opened the public hearing at 5:36pm. Jenkins invited comments from the applicant and asked that he present information relative to the request and to address the standards of approval

Bill Sainz (applicant), 307 S. Rogers Street., introduced himself to the Board and provided the following comments:

- The east porch was so deteriorated that it needed to be demolished
- In order to replace the porch with an addition a variance is needed
- The addition is not closer to the road than the existing house
- The variance is requested because the addition is too close to the garage
- There is no vision obstruction or hazard relative to the roadway and sidewalk
- The addition will add to the property and surrounding property values
- The request is in the public's best interest and taxes
- Intends to have house renovated by next year

Haywood stated that the house is currently nonconforming relative to front yard setbacks and separation and that the nonconformity existed prior to Mr. Sainz owning the property. Haywood also commented that the property being on a corner has two front yards and that the front yard setback standard applies to both sides of the lot adjacent to South Rogers Street and East Maple Street.

Mr. Sainz added that he has torn off the east porch and has replaced it completely. The former porch was completely enclosed. The addition is six inches larger toward the garage.

Betsy Virag, 311 S. Rogers, spoke in support of the variance request and indicated that they have been anticipating the property being improved for many years.

Being there was no one else in attendance to provide comment Jenkins closed the public hearing at 5:49pm.

MOTION by Harbach, second by Curtis,
to introduce and consider Resolution 2011-06 as read.

MOTION APPROVED UNANIMOUSLY

**CITY OF MASON
ZONING BOARD OF APPEALS RESOLUTION NO. 2011-06**

A RESOLUTION GRANTING A VARIANCE OF 8 FEET 4 INCHES FROM THE NORTH FRONT YARD (EAST MAPLE ST) SETBACK REQUIREMENT AND 5 FEET FROM THE BUILDING SEPARATION REQUIREMENT ON PROPERTY LOCATED AT 307 SOUTH ROGERS STREET

OCTOBER 12, 2011

WHEREAS, a request has been received from the William Sainz, owner of record of parcel 33-19-10-09-109-001, commonly known as 307 South Rogers Street, for a variance of 8 feet 4 inches on East Maple Street and 5 feet from the building separation requirement; and

WHEREAS, the subject property is further described as: N1/2 of Lots 1 and 2, Block 11, Sec 9, T2N R1W, City of Mason, Ingham Co; and

WHEREAS, the subject property is located in the R2F (Two Family Residential) zoning district; and

WHEREAS, Section 94-121(c)(1) and 94-173(g)(1) of the Mason zoning ordinance requires a minimum 25 foot front yard setback and a 10 foot building separation, respectively; and

WHEREAS, the variance request complies with the five conditions of approval listed in Section 94-365(c) of the Mason Code; and

WHEREAS, a public hearing on the request was noticed and held at the Zoning Board of Appeal's regular meeting of October 12, 2011, with testimony given and public comment solicited in accordance with Section 94-101 of the Mason Code.

NOW THEREFORE BE IT RESOLVED, that the City of Mason Zoning Board of Appeals does hereby approve the variance request of 8 feet 4 inches from the front yard setback standards and 5 feet from the minimum building separation requirement as based on the plans received by the Zoning and Development Department on September 20, 2011.

Board members discussed the following:

- If the variance is not granted, then the addition would have to be torn down
- The addition has less of an encroachment into the required setback than the rest of the structure
- The setback standard is an unreasonable restriction in this case
- Would like to keep the community in harmony
- The addition will be an improvement to the community

RESOLUTION APPROVED

UNFINISHED BUSINESS

~~Haywood reported that the owner/contractor of 461 Raindrop Ct. will be contacted regarding the pool installation.~~

NEW BUSINESS

Harbach indicated that he is concerned about the attendance record of the Board. Jenkins informed the Board that state law requires that a majority of regular members is required to approve a variance.

CORRESPONDENCE

None.

ADMINISTRATOR'S REPORT

Haywood gave a brief report of Zoning and Development business.

Harbach left the meeting at 6:12 p.m.

ADJOURNMENT

By consensus, the meeting adjourned at 6:18 p.m.

Deborah J. Cwierniewicz, City Clerk

City of Mason

201 W. Ash St.
P.O. Box 370
Mason, MI 48854-0370
www.mason.mi.us



City Hall 517 676-9155
Police 517 676-2458
Fax 517 676-1330
TDD 1-800-649-3777

MEMORANDUM

TO: Zoning Board of Appeals

FROM: David E. Haywood, Zoning & Development Director 

SUBJECT: Variance Request – 955 S. Eugenia Drive

DATE: April 19, 2012

The applicant is requesting approval for a variance to be allowed to construct a wheelchair ramp to the front side of the existing front porch that would be eight feet from the property line and right-of-way line of South Eugenia Drive.

LAND USE AND ZONING PATTERN:

Surrounding Zoning Districts: RS-3: Single Family Residential
Surrounding Land Uses: Residential

REQUESTED ACTION:

The proposed structure would be located within the required front yard setback (25 feet). The applicant is, therefore, seeking a variance of 17 feet from the front yard setback standards listed in Section 94-121(c)(1) and Table 100-1.

NOTIFICATION:

Thirty-nine letters were sent out notifying the public of this request. As of the writing of this report, one response has been received from Gordon and Shirley Richards who are not in favor of the requested variance. Their letter is enclosed for your reference.

ANALYSIS:

The attached site plan shows the existing structures and the proposed ramp. The site plan shows the house 19 feet from the road right-of-way. The proposed wheelchair ramp will be attached to the southwest side (front) of the applicant's existing porch into the front yard setback approximately 17 feet.

The property had previously been granted a seven foot front yard setback variance in 1991 for the existing front porch. Attached is a copy of the minutes from August 14, 1991 approving the variance.

Intent:

The intent of setback requirements is to assure that structures are placed at a distance from property lines that is reasonable given the minimum lot size and intended density of the zoning district.

Variance Standards:

Section 94-365 gives the Zoning Board of Appeals the authority to grant variances to structures, and states that, “A variance may be granted only when the variance application and other factual evidence demonstrate all of the following:”

1. *The variance must be granted in order to avoid practical difficulties not created by the applicant that would result from strict application of the letter of this chapter.*
2. *A variance will not permit the establishment within a zoning district of any use not permitted within the district.*
3. *A variance will not cause a substantial adverse effect to property or improvements in the zoning district and the immediately surrounding neighborhood.*
4. *A variance will not be contrary to the public interest and will insure that the spirit and intent of this chapter will be observed, public safety secured, and substantial justice done.*
5. *There is no lesser variance than that applied for which would give substantial relief to the applicant.*

Attachments:

1. Resolution 2012-01
2. Application and cover letter
3. Site Plan

Introduced:
Seconded:

CITY OF MASON
ZONING BOARD OF APPEALS RESOLUTION NO. 2012-01

**A RESOLUTION APPROVING A 17 FOOT VARIANCE TO ALLOW THE
CONSTRUCTION OF A WHEELCHAIR RAMP TO THE EXISTING PORCH
STRUCTURE THAT WOULD BE LOCATED IN FRONT YARD EIGHT FEET FROM
THE SIDEWALK ON PROPERTY LOCATED AT 955 EUGENIA DRIVE**

April 25, 2012

WHEREAS, a request has been received Rob McCartney, the owner of record of parcel 33-19-10-08-327-022, for a variance to the front yard setback requirement for permission to construct a wheelchair ramp to the existing porch at 855 Eugenia Drive; and

WHEREAS, the subject property is located in the RS-3: Single Family Residential zoning district; and

WHEREAS, upon compliance with the conditions of approval listed herein, the variance request will comply with the conditions of approval in Section 94-365 of the Mason Code; and

WHEREAS, a public hearing on the request was noticed and held at the Zoning Board of Appeal's special meeting of April 25, 2012, with testimony given and public comment solicited in accordance with Section 94-101 of the Mason Code.

NOW THEREFORE BE IT RESOLVED, that the City of Mason Zoning Board of Appeals does hereby approve the request for variance to allow the construction of a wheelchair ramp to the existing front porch that would be eight feet from the sidewalk on Eugenia Drive based on the plans received by the Zoning & Development Department on March 6, 2012.

Yes ()

No ()

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Zoning Board of Appeals at its special meeting held Wednesday, April 25, 2012, the original of which is part of the Zoning Board of Appeals minutes.

Martin A. Colburn, Clerk
City of Mason
Ingham County, Michigan

APPLICATION – ZONING BOARD OF APPEALS

City of Mason

Planning Department • 201 W. Ash Street • Mason, MI 48854

Phone: 517/676-9155 • Fax: 517/676-1330

www.mason.mi.us



Applicant– Please check one of the following:	
<input checked="" type="checkbox"/>	Variance
<input type="checkbox"/>	Appeal of Administrative Decision
<input type="checkbox"/>	Interpretation of Ordinance Text
<input type="checkbox"/>	Zoning District Boundary Interpretation
<input type="checkbox"/>	Temporary Permit

PLANNING DEPARTMENT USE ONLY	
Application Received:	<u>3/6/12</u>
Tax ID:	<u>08-327-022</u>
Fee:	<u>\$ 250.00</u>
Receipt #:	<u>100124931</u>

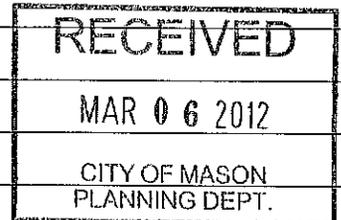
I. APPLICANT INFORMATION

Name Rick Carr
 Organization Rick Carr Builders
 Address 9085 St Clair Rd
 Telephone Number 517-719-3977 Facsimile Number Rick @ michiganonecall.com
 Interest in Property (owner, tenant, option, etc.) Builder

Note: If applicant is anyone other than owner, request must be accompanied by a signed letter of authorization from the owner

II. PROPERTY INFORMATION

Owner Rob McCartney Telephone Number 862-6826
 Property Address 955 Eugenia
 Legal Description: If in a Subdivision: Subdivision Name Northbrook Farms Lot Number 19
 If Metes and Bounds (can be provided on separate sheet): _____



APPLICANT CERTIFICATION

By execution of this application, the person signing represents that the information provided and the accompanying documentation is, to the best of his/her knowledge, true and accurate. In addition, the person signing represents that he or she is authorized and does hereby grant to City officials a right of entry for the purpose of inspecting the premises to verify compliance with conditions precedent to issuing Zoning Board of Appeals approval.

Signature RDC Date 3/6/12

III. REQUEST DESCRIPTION

Please use this section to describe your request. Feel free to include additional pages and/or drawings, maps, photographs, and other documentation that might aid the Zoning Board of Appeals in its determination.

- **Variations:** fill in the appropriate boxes in the following table, as shown in the EXAMPLE, and use the blank lines that follow the table to provide a detailed description and reasons for the variance. The Board of Appeals will review a request for variance subject to the standards listed in Sections 94-365(c) and (d) of the Mason Code. Your written response should address these standards.
- **All other requests:** please describe your request in complete detail using the blank lines. Requests are reviewed under the standards listed in Article XI of Chapter 94, Zoning, of the Mason Code. Your written response should address the appropriate standards.

A. Variance Table

	Variance Type	Ordinance Requirement	Applicant Proposal*
X	Rear Setback - EXAMPLE	45 feet	43 feet
X	Front Setback	25'	8' or 16'
	Side Setback		
	Rear Setback		
	Height		
	Lot Coverage		
	Lot Size		
	Parking Spaces		
	Other (describe):		

* Example: If the ordinance requires a rear yard setback of 45 feet, and you propose an addition that would be 43 feet from the rear property line, you would write or type "43 feet" under "Applicant Proposal."

B. Written Description (Attach additional pages, if necessary)

install 25' x ^{36"}~~48"~~ Ramp off Front of House

IV. APPLICATION MATERIALS

The following information must be submitted with this completed application form:

1. **Variations:** Variance requests must be accompanied by a basic site plan drawn to a readable scale showing the location of property lines, existing and proposed structures and parking areas, setback dimensions from property lines and other buildings, easements, existing roads, utility connections, floodplain and topography (where it has a bearing on the request), and any other information necessary to adequately show the nature of the request.
2. **Temporary permits:** Temporary requests must be accompanied by a basic site plan drawn to a readable scale showing the location of property lines, existing and proposed structures and parking areas, setback dimensions from property lines and other buildings, easements, existing roads, utility connections, and any other information necessary to adequately show the nature of the request.
3. **All requests must be accompanied by a fee, as established by City Council (Effective October 16, 2007). The fee for requests to the Zoning Board of Appeals is \$250.00.**
4. **All requests must be accompanied by any additional information deemed necessary by the Planning Department Staff.**
5. **Feel free to include written descriptions, elevation or other drawings, maps, photographs, and/or any other documentation that might aid the Board of Appeals in making a determination. Applicants are encouraged to review Article XI of Chapter 94, Zoning, of the Mason Code, which describes the procedures and standards that the Board of Appeals will use to evaluate a request.**

Note: The applicant must submit 13 copies of any documents that are larger than 11" by 17".

V. APPLICATION DEADLINES

Regular meetings of the Zoning Board of Appeals are held on the second Wednesday of every month, at 5:30 p.m. To be placed on the meeting agenda, all Application Materials must be received at least 4 weeks in advance of the meeting.

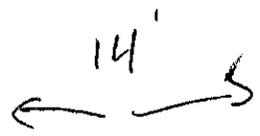
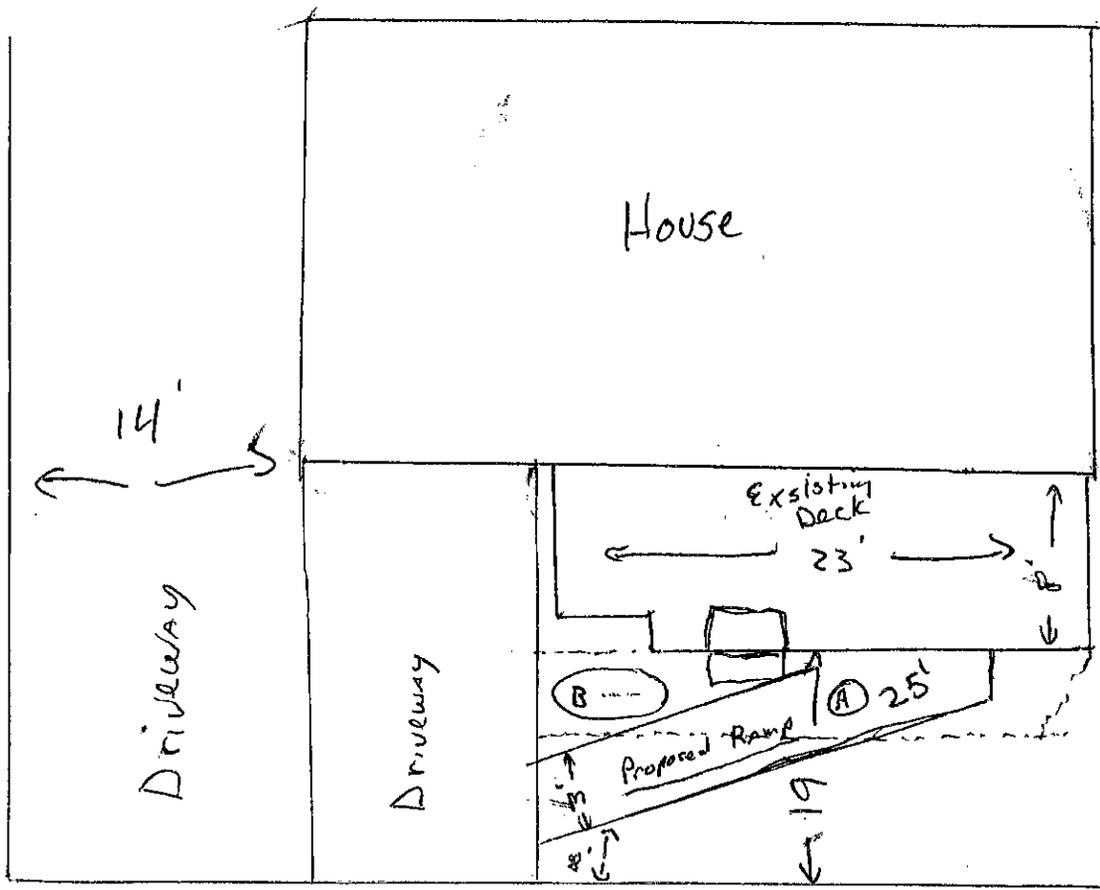
The Board of Appeals will not take action on the request unless the applicant or his/her duly authorized representative is present at the public hearing.

VI. STAFF REPORT

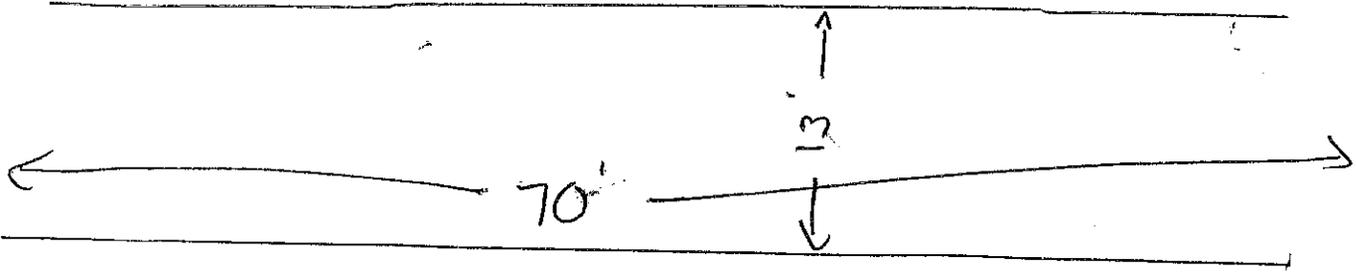
The Planning Department Staff will prepare a report to the Zoning Board of Appeals regarding your request. The report will explain the request to the Board and review whether it complies with the standards in the Zoning Ordinance. Staff will present the findings of that report during the Zoning Board of Appeals meeting. An applicant who wishes to obtain one (1) copy of that report, at no cost, prior to the meeting must provide a written request to the Planning Department. The report is generally complete on the Friday before the meeting and can be mailed to the applicant or picked up by the applicant in the Planning Department.

Lot 19

22



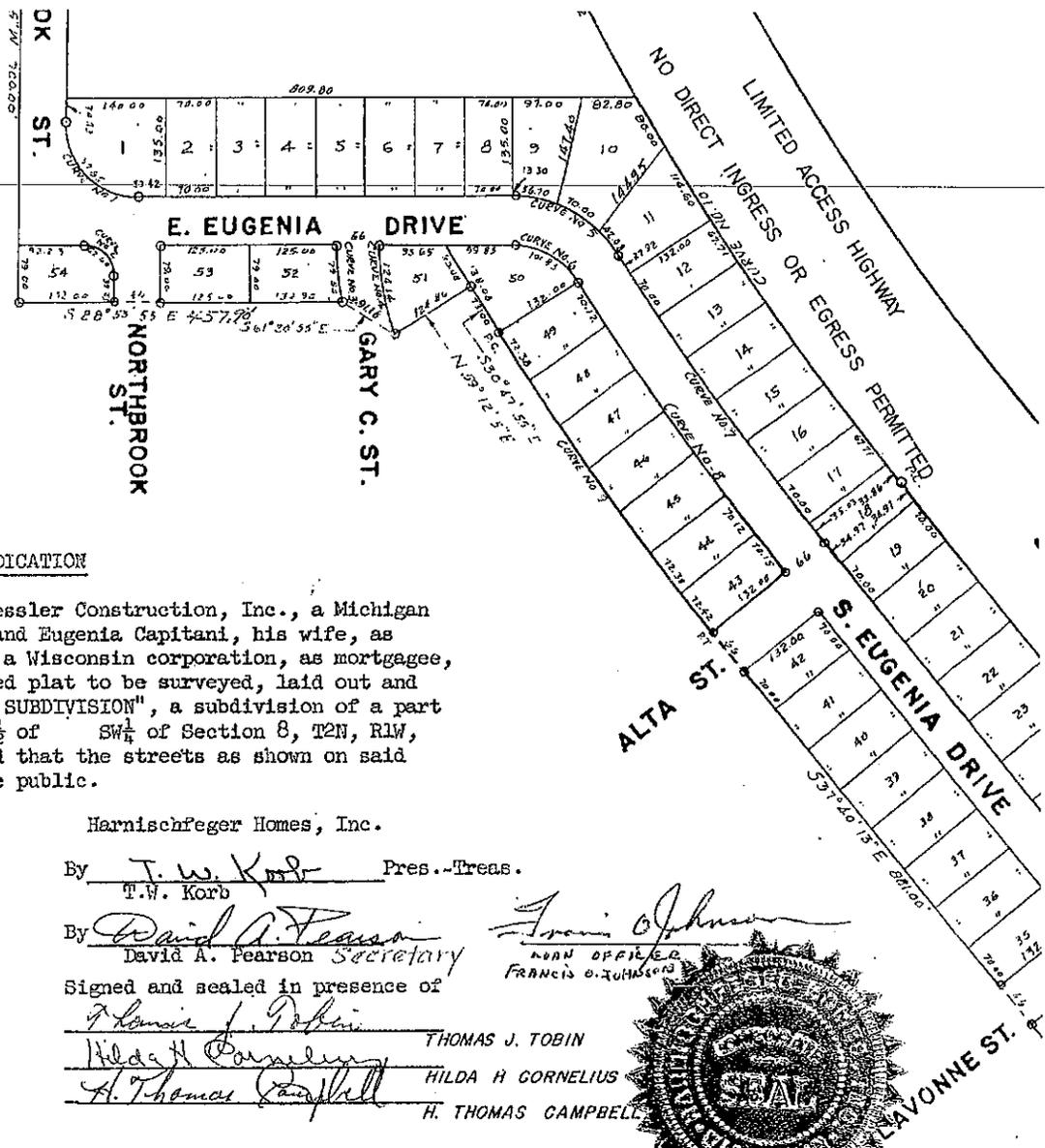
Sidewalk



Eugenia Rd

Road

ID
16, 1960
2
/



DEDICATION

That we, Kessler Construction, Inc., a Michigan corporation, to Capitani and Eugenia Capitani, his wife, as mortgagor, and Harnischfeger Homes, Inc., a Wisconsin corporation, as mortgagee, in the annexed plat to be surveyed, laid out and HEROOK FARMS SUBDIVISION, a subdivision of a part W $\frac{1}{2}$ of E $\frac{1}{2}$ of SW $\frac{1}{4}$ of Section 8, T2N, R1W, Michigan, and that the streets as shown on said plat be for the use of the public.

Harnischfeger Homes, Inc.

By T. W. Korb Pres.-Treas.
T.W. Korb

By David A. Pearson Secretary
David A. Pearson

Signed and sealed in presence of

Thomas J. Tobin THOMAS J. TOBIN

Hilda H. Cornelius HILDA H. CORNELIUS

H. Thomas Campbell H. THOMAS CAMPBELL

Francis O. Johnson
NOTARY OFFICER
FRANCIS O. JOHNSON



On the 16th day of November A.D. 1960, before me Hilda H. Cornelius, Notary Public for Ingham County, Michigan, appeared Carlton L. Kessler and Alta J. Kessler, who being by me duly sworn did say that they are respectively, of Kessler Construction, Inc., a Michigan corporation, and that the instrument affixed to said instrument is the corporate seal of said corporation and that the said instrument was signed and sealed in behalf of said corporation and the said Carlton L. Kessler, President and Secretary respectively, acknowledged the same to be their free act and deed of said corporation.

Hilda H. Cornelius
Notary Public, Ingham County, Michigan
HILDA H. CORNELIUS

11/16/60

I hereby certify that the metal monuments consisting of metal rods, or short pipes, or other metal monuments, at least six inches in diameter, in a concrete cylinder placed at points marked on the plat, at all corners, alleys, and at all points shown on said plat.

On the 11th day of November A.D. 1960, before me H. Thomas Campbell, Notary Public for Ingham County, Michigan, personally came the above named Vito Capitani and Eugenia Capitani, known to me to be the persons who executed the above instrument and that the same to be their free act and deed.

H. Thomas Campbell
Notary Public, Ingham County, Michigan
H. THOMAS CAMPBELL

11/11/60

This plat was approved and held on the 12th day of November 1960.

COU
Office

I hereby certify, that the lands, for the five lots and that the taxes for the same are in this office.

This certificate is for the city collecting office.

On the 11th day of November A.D. 1960, before me James F. Lick, Notary Public for Ingham County, Michigan, appeared T.W. Korb and David A. Pearson to me

The Zoning Board of Appeals met in regular session on Wednesday, August 14, 1991, in the Council Chamber of City Hall. The meeting was called to order by Vice Chairperson Lawrence at 5:30 p.m.

The roll was called with the following Commissioners being present: John Conrad, Alternate Ron Coady, Chris Hebden, Alternate Jon Jenkins, Jacquelyn Lawrence, David Millsop, Carolyn Owens. Absent: Dale Harbach, William Philip.

The minutes of the regular meeting of July 10, 1991, were approved as distributed.

Public Hearing - Application for Variance
Florence Vermilyea, 955 Eugenia Drive

Mrs. Vermilyea stated the cement porch to the main entrance of their home was beginning to deteriorate, the step was beginning to fall away, and they wanted to replace it. She stated they tried for weeks to get information about the building permit and were unable to do so until the Saturday before they wanted to build. She stated when they came in Mr. VanZee, the Building Inspector was not in (he was off on emergency sick leave) and they were given a verbal okay to go ahead and begin building the deck. She discussed the design of the porch and deck and stated they now have a firm rail on the porch for increased safety. She also stated that most people have less than the required 25' setback in that neighborhood. She referred also to the petition signed by all residents within 300 feet, except the Bruno family, stating they had no objections to this structure. She said their backyard is only three feet from the highway and due to the noise and truck fumes it is not an ideal place to have the deck to be able to enjoy conversation. In conclusion, Mrs. Vermilyea addressed the last criteria for a variance by stating that she does not feel this deck is contrary to the public interest and will in no way jeopardize public safety.

Commissioner Jenkins asked if construction was started prior to the Vermilyea's coming into City Hall the first time. Mrs. Vermilyea stated no. She stated construction was not begun until verbal authorization was given by Mr. Norman Austin, and also that he would call the Delhi Building Inspector to come over the next working day to inspect it.

Les Bruno, 1019 S. Eugenia, stated he also lives on the highway-side of the street. He stated he believes that this should not be granted because he fails to see how it can pass the test of the requirements for granting of a variance as set forth in the ordinance. He stated in the subdivision there have been other requests for variances that have been denied - some of them for sideyards, some for building a garage - one in particular was where the garage was finally built by a new owner at considerable more expense because of the elevation of the lot, they had to raise the back up almost seven feet to build his garage and he was denied a variance. The normal procedure would be to request a permit before construction. Mr. Bruno stated he did not sign the petition very specifically because he did not feel that, based on his position, which has nothing to do with their request, that he should not sign

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and support something which is in violation of the ordinance. Commissioner Owens asked Mr. Bruno if when he said "his position" he is referring to his position of employment with the City of Mason. Mr. Bruno responded yes.

The Chair stated that a letter was received from Joseph A. and Grace J. Young, 943 Eugenia Drive, stating they are in support of this variance being granted. (The letter is on file in the City Clerk's office.) There being no one else who wished to speak, the public hearing was declared closed and the audience was advised they can remain to listen to the discussion and resolution of this request.

The following resolution was introduced by Commissioner Owens, and supported by Commissioner Coady:

ZONING BOARD OF APPEALS RESOLUTION
AUGUST 14, 1991

BE IT HEREBY RESOLVED by the Zoning Board of Appeals of the City of Mason that the request for a variance of seven (7') feet from the required 25 feet front yard setback (Ordinance 81-19A), submitted by Florence Vermilyea, owner of property located at 955 Eugenia Drive, Mason MI, to construct a deck to within 18 feet from the front property line is hereby granted.

Discussion: Vice Chair Lawrence asked for clarification on the information provided by Mrs. Vermilyea regarding a verbal authorization for construction. Mr. VanZee explained that a great deal of confusion had arisen, in his absence, and in trying to contact the Delhi Building Inspector, and it is an unusual situation for anyone else to give even a verbal okay in his absence. Mr. VanZee offered that since a deck is not a primary structure the person giving the verbal most likely did not think about setback requirements.

A brief discussion ensued regarding Commissioner Hebden's observation that any attempt at enlarging the porch would have required a variance. Commissioner Millsop stated that virtually you have a whole street which is filled with non-conforming structures. Commissioner Owens stated she has every confidence that the Vermilyea's intentions were to abide by the ordinance, and the City employee felt he was taking the appropriate action, but that due to what appears to be an error on the City's part, Comm. Owens feels duty bound to grant the variance especially when most other residents on this street do not have a 25' front yard setback. Comm. Owens stated this is not the ideal situation, however, after weighing all of the factors, it would seem that equity demands that the variance be granted.

Comm. Jenkins stated he does not see there is a problem with any of the criteria except the usual one which is practical difficulty. He stated we have a situation where they relied upon what they were told and it appears to him that the law allows a building permit plus reliance on vested rights, and it also appears to him that a variance may be granted to relieve someone from their good faith mistakes; also, we have a situation where they needed to do something to the front entrance to their house in reliance on what they were told and under the circumstances as they presently exist and come to us that that is enough of a practical difficulty for this variance to be granted. The four points were reviewed and all Commissioners stated for the record that

Zoning Board Minutes - August 14, 1991

they determine that all four points have been met.

There being no further discussion, a roll call vote was taken on the resolution to approve the variance request.

YES: Coady, Conrad, Hebden, Jenkins Lawrence, Millsop, Owens

NO : None

The meeting was declared adjourned at 5:55 p.m.



Patrick M. Price, Secretary

Re \:955 Eugenia Drive

To the Zoning Board of Appeals:

We will be unable to attend the April 25 meeting and have the following concerns.

The address was allowed a variance for the front porch a few years ago. which puts it closer to the sidewalk than the neighbors. Has the owner looked at the back entrance for a ramp which could be located from the driveway. The 17 feet would take up most of the front yard and look very out of place with the rest of the neighborhood Not really infavor of the change.

Gordon and Shirley Richards

938 Eugenia Drive

Gordon Richards
Shirley Richards

