

TOWN OF RIB MOUNTAIN
ZONING BOARD OF APPEALS
October 28th, 2014

The meeting of the Rib Mountain Zoning Board of Appeals was called to order at 7:01 p.m. by Chairman Joseph Mella. Present were Chairman Mella, Ellis Peterson, Joseph Wachtel, Gordon Knoeck, and Jeff Kocha. Also present were Building Inspector/Zoning Administrator Dan Dziadosz and Assistant Zoning Administrator/Building Inspector.

Minutes:

Motion by Joseph Wachtel to approve the June 30th, 2014 Zoning Board of Appeals minutes. Seconded by Ellis Peterson. Motion Carried 4-0 with Jeff Kocha abstaining.

Public Hearing:

a. *Alexander J. Gordon, requesting a variance / appeal to the following Rib Mountain Municipal Code (RMMC) Sections:*

- *RMMC Section 17.057(2), Continuance of a Nonconforming Use, for an expansion of the nonconforming single family residential use (approximately 52 square foot expansion), in a Suburban Commercial District;*
- *RMMC Section 17.099 (b)1., for an expansion of a dwelling in a nonresidential district; and*
- *RMMC Section 17.056(8)(d)3.b., for an expansion of the existing detached private residential garage, carport or utility shed resulting in excess of 1,500 square feet of gross floor area.*

Premises legally described as Part of SW ¼ SW ¼ of Section 11 T28N R7E – Lot 1 of CSM Vol. 33 Pg. 164 (#8596) (Doc# 1048763); Also known as 1001 Cloverland Lane; ZBA Docket 2014-01

Chairman Mella explained that the board will receive testament from the applicant. Chairman Mella swore in Alexander J. Gordon. Alexander Gordon explained that he is proposing to add on to the house where the existing porch is located to extend the kitchen. He also explained that he is proposing the garage addition for the storage of personal cars and other personal storage due to recently losing storage at other locations. Chairman Mella swore in Alfred Jack Gordon, brother of the applicant, address 911 East Lakeshore Drive. Alfred Gordon asked Dan Dziadosz to explain the reason a variance is needed for the garage addition. Dan Dziadosz explained the accessory building zoning ordinance which limits accessory building area to a maximum of 1,500 square feet. Alfred Gordon stated that the family business is in the midst of a construction expansion project which eliminates personal storage.

Chairman Mella requested that Dan Dziadosz present and explain the staff report for the variance proposals. Mr. Dziadosz explained the variance proposals, surrounding zoning, the future land use map designation as single family, and the subject zoning code sections. He also explained the variance standards. He stated that the uniqueness of the property is due to the surrounding wetlands essentially creating an “island”. He stated that the proposal is not for economic gain, not detrimental to public welfare or safety, and does not negatively affect the adequate supplies of light and air due to the site being of adequate size. Mr. Dziadosz explained the various maps and figures included with the report.

Joe Wachtel questioned if there is a problem with the proposed garage addition in relation to the wetlands. Mr. Dziadosz stated that the aerial maps are a guideline and needs to be identified in the field for verification. Alfred Gordon stated that the accessory building addition will not be within the wetland.

Chairman Mella stated that variance approvals need to meet certain Town standards and the applicants have the burden of proving that all standards are met. Chairman Mella explained the standards of the Town specified in RMMC 17.230(5). Chairman Mella stated that the applicant must also provide evidence to the Zoning Board of Appeals that their situation meets the Variance standards as required by the State of Wisconsin. Chairman Mella stated that the Board needs to determine if the requests are a Use Variance or Area Variance. He stated that he believes that the request is for both a Use Variance and

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Area Variance. He explained the Use Variance requirement where the applicant has to demonstrate they have no reasonable use of the property in the absence of the variance, creating an unnecessary hardship. He explained the Area Variance requirement where the applicant has to demonstrate whether compliance of the strict letter of the regulations would unreasonable prevent the owner from using the property for permitted purposes or would render conformity unnecessarily burdensome. He stated the second consideration under state law requiring proof of unique property characteristics or features, and stated the third consideration under state law is that he proposal is not contrary to public interests.

Chairman Mella questioned Dan Dziadosz if the request is both a use variance and area variance. Dan stated that yes he believes the request is both a use variance and area variance. Mr. Dziadosz stated that the single family house was originally built in a business zoning district prior to the presently adopted zoning ordinance which now prohibits any single family households in commercial zoning districts. Chairman Mella stated that the house is a legal, nonconforming use and questioned Mr. Dziadosz if the expansion of the household is a use variance. Mr. Dziadosz stated that the expansion of the household is a use variance request and explained that the expansion of the garage is an area variance.

Joseph Wachtel questioned the height and elevations of the proposed building. Alex Gordon stated that conformance to the code in regards to height and exterior materials would not be a problem. Ellis Peterson questioned the house addition. Alfred Gordon explained the house addition would extend 2 feet further than the existing porch footprint. Gordon Knoeck questioned the setback of the house addition to the street property line. Alex Gordon stated that the proposed house addition setback is four (4) feet greater than the minimum setback. Jeff Kocha questioned if there was going to be a roof line alteration in regards to the house addition. Alex Gordon stated that there will not be a roof line alteration.

Chairman Mella questioned what the hardship would be if the variance for the garage addition was not granted. Alex Gordon stated that a hardship would be resulting fines from the Town due to excessive outdoor storage. Alfred Gordon explained that due to the commercial facility across the street, the garage addition would not look out of place. He also stated the uniqueness of the property is due to the commercial aesthetic of the area and the residence being built before the present zoning ordinance was adopted.

Ellis Peterson questioned how many vehicles would need to be stored in the garage. Alfred Gordon stated three additional vehicles, snowmobiles and ATV's need to be stored in the garage. Mr. Peterson questioned the two (2) large trailers on the property. Alex Gordon stated that they are currently being used for storage. Dan Dziadosz asked the Gordons to explain the failure of a previous storage structure. Alfred Gordon stated that a storage shed on their father's property failed and can no longer be used for storage. Jeff Kocha questioned the roof line and roof construction of the garage and addition. Alfred Gordon explained how the roof of the garage addition will tie into the existing garage. The Board questioned and commented.

Chairman Mella questioned how long Alex Gordon lived in the house. Alex Gordon stated that he has owned the house for 19 years and is the second owner of the house. Chairman Mella questioned Alex Gordon if he would have no reasonable use of the property without getting the variance for adding on to the house. Alex Gordon stated that he would not have reasonable use of the property and would probably move due to their family size. Alex Gordon explained that they have previously looked at other housing options. Alfred Gordon stated that the kitchen design will be unusable as Alex's kids get older.

Chairman Mella opened the meeting up for public testimony. No public testimony was presented. Chairman Mella closed the Public Hearing at 7:46 p.m.

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Chairman Mella explained that the decision does not need to be made tonight. The Board's consensus was to discuss and possibly make a decision tonight. The Board's consensus was to begin by discussing the house expansion variance proposal.

Joe Wachtel stated that the property is unique and he does not have a problem with the two (2) foot house expansion.

Jeff Kocha questioned how the foot print was measured. Dan Dziadosz explained that the footprint is measured at the foundation wall unless there is a cantilevered living area. The Board questioned and commented.

Gordon Knoeck stated he does not see an issue with the house expansion, but is creating himself a problem with how much stuff he has for storage.

Chairman Mella stated that Alex Gordon has previously added on to the house by variance approval. He stated that the property is in a unique location in the Town and the proposal is not negatively impacting anyone else in the surrounding area. Chairman Mella stated that he does not have a problem granting the variance.

Jeff Kocha stated that he does not believe the variance standards have been met to warrant approval.

Chairman Mella conducted an open vote for the approval of the variance for RMMC Sections 17.057(2) and 17.099(b)1 for an expansion of the nonconforming single family residential use in a Suburban Commercial District.

The variance request for RMMC Sections 17.057(2) and 17.099(b)1 for the proposed expansion of the nonconforming single family residential use in a Suburban Commercial District was granted on a vote of 4-1 with Jeff Kocha voting against the proposal.

The Board then went on to discuss the third portion of the variance proposal for a variance approval to RMMC Section 17.056(8)(d)3.b for the expansion of the detached garage.

Joe Wachtel stated that he would rather see items in a garage than stored in the yard.

Gordon Knoeck questioned how far the garage expansion is from the property line. The Board discussed.

Chairman Mella questioned what the stormwater pond is serving. Dan Dziadosz stated that the pond is serving the commercial area to the north. Chairman Mella stated that his opinion is that there is not anything unique to the property that causes a hardship as opposed to a mere inconvenience. He stated that the property is unique in relation to surrounding uses, but believes that granting the variance would not meet the standards.

The board questioned and commented on permitted uses, monetary gain, and the nonconforming use regulations in regards to continuing the use and rebuilding after a disaster.

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Gordon Knoeck stated that a positive of the proposal is that it is approximately 80 feet from Cloverland Ln. and 80 feet from the pond. He stated that he believes the property owner is creating his own problem, but is in favor of the proposal.

Joseph Wachtel stated that it is a unique property due to surrounding uses and building conditions due to wetlands, and stated he is in favor of the proposal.

Jeff Kocha questioned the future land use plan of the area. Dan Dziadosz stated that the long range land use plan is residential, but the current zoning is commercial. Mr. Kocha stated that the proposal is conflicting with the Town growth strategy. Dan Dziadosz stated that the future land use plan is to be used as a guideline only.

Chairman Mella questioned if the area is a buffer between the commercial area and residential area of the Town. Dan Dziadosz stated that this area is a buffer between heavy commercial and residential uses in the Town. Joseph Wachtel stated that further development of the area is limited due to the wetlands.

Chairman Mella conducted an open vote for the approval of the variance for RMMC Section 17.056(8)(d)3.b for an expansion of the existing detached private residential garage resulting in excess of 1,500 square feet of gross floor area of accessory buildings.

The variance request for RMMC Section 17.056(8)(d)3.b for the proposed expansion of the existing detached private residential garage resulting in excess of 1,500 square feet of gross floor area of accessory buildings was granted on a vote of 3-2 with Jeff Kocha and Chairman Mella voting against the proposal.

Miscellaneous business, questions, correspondence, code updates, etc.:

Ellis Peterson requested more information on the State standards for variance approvals. Chairman Mella stated that he will prepare the "Findings of Fact" regarding the approval.

Adjourn:

**Motion by Joseph Wachtel and seconded by Ellis Peterson to adjourn. Motion Carried 5-0.
Meeting Adjourned at 8:15 p.m.**

Respectfully Submitted,

Jeff Kussow, Assistant Zoning Administrator/Building Inspector