

APPLICATION NUMBER

5552/5529

A REQUEST FOR

**COMBINED SIDE YARD SETBACK VARIANCES TO
AMEND A PREVIOUSLY APPROVED COMBINED SIDE
YARD VARIANCE TO ALLOW THE SUM OF BOTH SIDE
YARDS TO BE 17.12 FEET; THE ZONING ORDINANCE
REQUIRES THE SUM OF BOTH SIDE YARDS TO TOTAL
AT LEAST 20 FEET IN AN R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT**

LOCATED AT

2900 LLOYDS LANE

(West side of Lloyds Lane, 510'± North of Southridge Boulevard)

APPLICANT / OWNER

NEDZAD AND DRAGANA FAZLIC

BOARD OF ZONING ADJUSTMENT

AUGUST 2009

The applicant is requesting a Combined Side Yard Setback Variance to amend a previously approved Combined Side Yard Variance to allow the sum of both side yards to be 17.12 feet; The Zoning Ordinance requires the sum of both side yards to total at least 20 feet in an R-1, Single-Family Residential District.

The original permit issued (February 2009) was for a 24' X 19' garage addition to the south end of an existing dwelling. At the time, it appeared to be in compliance. However, an anonymous complaint was made to Mobile 311 stating that the addition was too close to the side property line. The applicant was subsequently issued a Notice of Violation and directed to obtain a survey of the property to verify setbacks. Finally, on February 25, 2009, a stop work order was placed on the construction project after the survey determined that the addition was too close to the south property line and the combined side yards did not meet the minimum standards. A variance application was then submitted and approved.

The applicant contends that an incorrect site plan was submitted with the original application in April 2009, which was approved for a total combined side yard setback of 19.6'. However, upon final inspection of the site, the actual combined setback was 17.12'. Since variances are site plan specific, a new application is required.

The site plan submitted with the original application was indeed inaccurate; it failed to illustrate a small "bump-out" on the Northern side of the existing dwelling. However, this is not a hardship; it is the applicant's responsibility to submit complete and accurate information.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

Furthermore, with the new site plan, the applicant still has not illustrated a hardship. As stated in the previous report, if the applicants had simply eliminated the vestibule from the house to the garage addition, both the minimum setbacks and combined side yard

requirements could have been met. Additionally, more than ample space exists in the rear of the property to place a detached garage.

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship.

RECOMMENDATION 5552/5529

Date: August 3, 2009

Based on the preceding, this application is recommended for denial.