

BOARD OF ADJUSTMENT

June 16, 2008

The regular meeting of the Board of Adjustment on Zoning for Salt Lake City, Utah, was held on Monday, June 16, 2008 at 5:45 p.m. at the City and County Building, 451 South State Street, in Room 326. Members present were Tom Berggren, Catherine Dunn, Michael F. Jones (Chairperson), Gary Jones, Rex Olsen and Edward Radford. Nick Norris ((Principal Planner), Ana Valdemoros (Associate Planner), Casey Stewart (Principal Planner), Katia Pace (Associate Planner) and Paul Nielson (Salt Lake City Land Use Attorney) were also present.

Chairperson Jones called the meeting to order and explained the procedures of the meeting. He informed those present that the Members of the Board have visited the properties and the testimony given during the meeting is recorded. Mr. Jones further explained that a simple majority vote (or three concurring votes in some cases) is necessary to pass or defeat a motion. All decisions of the Board of Adjustment are made effective immediately and may be appealed to the Third Judicial District Court within 30 days after Findings and Orders of the cases have been mailed.

ADMINISTRATIVE SESSION

Approval of the minutes for the meeting held May 19, 2008.

Mr. Olsen moved for the Board of Adjustment to approve the minutes as presented and Ms. Dunn seconded the motion. Mr. Olsen, Ms. Dunn, Mr. Berggren and Mr. Radford voted aye; Mr. Gary Jones and Chairperson Michael Jones did not vote; the motion passed with a 4-0 vote.

Report by the Planning Director.

Mr. Norris explained that there was no report by the Planning Director at this time.

PUBLIC SESSION

Case 420-08-119 by Donald Fulton at 624 South Emery Street (1170 West) requesting variances to reduce interior side yard setbacks, to exceed the maximum interior wall height and to exceed the maximum building coverage in the R-1/5000 zoning district in Council District Two. (Sections 21A.24.070 (D), 21A.24.070(E)(b) and 21A.24.070(F) (Staff – Ana Valdemoros at 535-7236 or ana.valdemoros@slcgov.com)

(The case was heard at 5:56 p.m.)

Mr. Fulton was present.

Ms. Valdemoros explained that the Board approved the subject lot to be 25 feet wide at their last meeting held May 19, 2008. The Applicant is now preparing to construct a two-story single-family dwelling on the lot and is requesting a reduction in the required side yard setbacks. The R-1/5000 zoning district requires minimum setbacks of 4 feet on one side and 10 feet on the other side. The Applicant is requesting 4 feet for both side yard setbacks. The Applicant is also requesting an exterior wall height of 19 feet 8 inches. The Zoning Ordinance allows a maximum height of 14 feet in this case because of the reduction in the side setback. Ms. Valdemoros noted the site plan submitted with the application and explained that the proposal includes a detached garage in the rear yard which would be accessed from the abutting alley.

Chairperson Jones noted that no comments were received from the Transportation Engineer.

Mr. Fulton explained that the proposed dwelling would be 17 feet wide with the reduced setback. The Zoning Ordinance requires that the wall height be reduced one foot for every one foot that the structure

encroaches into a required side yard setback. The proposed height would be allowed if he did not need to encroach into the required setback.

The meeting was closed to public comment. Mr. Radford noted that the abutting homes on both sides are single-story dwellings and he voiced concerns about the mass impact a two-story dwelling may have on them. Chairperson Jones asked Mr. Fulton if he would be able to build the proposed dwelling should the wall height request be denied. Mr. Fulton explained that the dwelling would be a very small two-bedroom home without the second level and he believed it would not be in the best interest of the neighborhood to construct such a small home. A smaller home also would not off-set the cost of the land. The square footage of the proposed dwelling is 1,278 square feet including the second level. Mr. Fulton noted that although the adjacent homes are single-level dwellings, there are several two-story homes in the area.

The Board discussed options such as reducing the height and increasing the length of the home. Mr. Fulton noted that a longer home with a width of 17 feet may not be very functional or marketable. Mr. Berggren noted that the analysis of Standard 3 in the staff report addressed only the setback variance and not the height. Ms. Valdemoros explained that the proposed two-story dwelling would be a substantial property right in that the design would be marketable and functional on the narrow lot. She noted that the maximum height without side yard encroachment for new construction in the R-1/5000 zoning district is 20 feet.

Mr. Berggren reasoned that the Zoning Ordinance is very specific about reducing the wall height one foot for every foot that a structure encroaches into a side yard and it may have been specifically provided for narrow lots. Mr. Berggren did not have a problem with granting a reduction in side yard setbacks, but found that the height would have a negative impact on the abutting homes. He added that it would be difficult to justify allowing a second story in order to support the purchase price for the lot.

Chairperson Jones agreed with Mr. Berggren's reasoning and added that a two-story dwelling may not be a substantial property right. Although there may be some two-story dwellings in the area, the neighborhood has several single-level dwellings that appear to be functional. It was noted that the lot abutting to the south is also 25 feet wide and has a single-level dwelling that is longer.

Mr. Norris explained that the only other constraint would be the lot coverage requirement should the additional height be denied. The plans indicate that the coverage is 17 square feet under the maximum 40 percent. Mr. Norris noted that the garage could be reduced to gain square footage for the dwelling. Also, the dwelling could be constructed at the maximum height of 20 feet on one side and meet the height requirement of the other side by stepping back the second level 6 feet.

Ms. Dunn explained that during her site visit, two neighbors across the street informed her that they did not know a two-story dwelling was being proposed. They acknowledged that two-story homes exist throughout the area, but it concerned them to have one directly across the street from them.

THEREFORE, from the evidence and testimony presented and pursuant to the plans submitted, Mr. Berggren moved for the Board to grant the variance to reduce the required interior side yard setbacks from 4 feet on one side and 10 feet on the other side to 4 feet on each side to accommodate the construction of a single-family dwelling unit at 624 South Emery Street. The variance is granted because:

1. Holding the Petitioner to the side yard setback regulation of the Zoning Ordinance would cause an unreasonable hardship that is not necessary in carrying out the general intent of the Ordinance because the width of the property only allows for the construction of a 17-foot wide single-family dwelling of approximately 782 square feet.
2. A special circumstance is attached to the property that does not generally apply to other properties in the R-1/5000 zoning district in that the lot is substandard in width and area.
3. Granting the variance is essential to the enjoyment of a substantial property right that is enjoyed by other property owners in the neighborhood which is the construction of a single-family residence similar to existing neighboring properties.
4. The variance will not affect the general plan and it will not be contrary to the public interest.

5. The plan as it relates to the side yard setback variance meets the spirit and intent of the Zoning Ordinance.

Mr. Olsen seconded the motion; Mr. Berggren, Mr. Olsen, Ms. Dunn and Mr. Gary Jones voted aye; Chairperson Jones did not vote; the motion passed with a 4-0 vote.

It is noted that Chairperson Jones recommended omitting the word "standard" relating to "single-family residence" in Standards 1 and 3, and Mr. Berggren agreed to the amendment. Upon further review of Standard 3, Mr. Berggren changed the wording "...because the Applicant is requesting to reconstruct a standard single-family residence similar to the existing neighboring residence."

AND THEREFORE, from the evidence and testimony presented and pursuant to the plans submitted, Mr. Berggren moved for the Board to deny the variance to exceed the maximum exterior wall height for the property at 624 South Emery Street pursuant to the findings and analyses in the staff report as supplemented by the Board's deliberations:

1. Literal enforcement of the Zoning Ordinance as it relates to height does not cause an unreasonable hardship.
2. The Board is unable to identify a special circumstance attached to the property that causes a development hardship as it relates to height.
3. Granting the variance to exceed the height limit is not essential in the enjoyment of a substantial property right.

Mr. Gary Jones seconded the motion; Mr. Berggren, Mr. Gary Jones, Ms. Dunn and Mr. Radford voted aye; Chairperson Jones did not vote; the motion passed with a 4-0 vote.

Case 420-08-087 by Mark Bredemann at 1809 East Harrison Avenue (1390-1365 South) requesting a variance to reduce the interior side yard setback for an accessory building in the R-1/7000 zoning district in Council District Six. (Section 21A.40.050(A)(3)(a) (Staff – Casey Stewart at 535-6260 or casey.stewart@slcgov.com)

(The case was heard at 6:31 p.m.)

Mr. Bredemann was present.

Mr. Stewart explained that the variance request is to allow an existing accessory structure that does not maintain the required one-foot side yard setback for accessory structures in the R-1/7000 zoning district. The property consists of a single-family dwelling with a detached garage. The Applicant constructed a storage shed addition to the detached garage which extends to the side property line. The subject shed measures 8 feet wide by 12 feet deep. Mr. Stewart then explained that Staff could find no basis for granting the variance in that they could not find any special circumstances attached to the property. Although landscaping and vegetation exist in the rear yard, there is sufficient space to accommodate a small storage shed and the landscaping could be rearranged. Mr. Stewart noted that no comments were received from neighboring property owners or other citizens.

Board Members and Mr. Stewart discussed the proposal. Mr. Stewart explained that the Applicant has an option to reduce the width and increase the depth of the shed which could result in the same amount of square footage and be in compliance. The case was initiated as an enforcement case.

Mr. Bredemann explained that the shed was constructed 10 months ago, and he has not received any comments from neighbors regarding the issue. He even talked to the neighbors abutting to the east and north, and neither had any issues. Mr. Bredemann further explained that the City informed him a building permit would not be required for an accessory structure less than 120 square feet. He also understood impact issues and attached the shed beneath the eaves of the existing garage. Mr. Bredemann noted that the staff report identified trespassing issues, and he explained that maintenance of the 20-foot wall at the rear of the property and roses at the front also require trespassing. Mr. Bredemann then explained

that he believed the shed is in compliance. He contacted a local surveying company, Bush and Gudge, who helped him locate the marker at the front of the property, and he calculated that the shed is actually 15 inches from the side property line. Referring to a picture of the back yard, Mr. Bredemann said that the property is 100 percent finished with an existing patio and fireplace/grill area, and the only area that was available for a shed was behind the garage. There is only a 10-foot grass area directly behind the house and any type of accessory structure in the middle of the yard limits walkable space between the back area of the garage and the back area of the house. That location for a shed would also obstruct the property owner on the north. The existing location is not visible to anyone. Mr. Bredemann reiterated that the shed may be in compliance based on his calculations, but is unsure without having a certified survey. He noted that he discovered this fact after the variance request was submitted, and he was unsure which direction to pursue.

Board Members discussed whether or not the case should be continued until a survey was completed. Chairperson Jones recommended that a survey be obtained because the case involves enforcement.

Mr. Nielson noted that Section 21A.10.030(E) allows an Applicant to withdraw the application prior to the rendering of a final decision. A refund of the application fee in this case would not be approved because a staff report has been issued. Mr. Bredemann stated that he did not wish to withdraw the application.

The meeting was closed to public comment. The consensus of the Board was that they could find no special circumstance attached to the property and a shed the size that the Applicant is requesting is not a substantial property right. They further found that design options were available that would meet compliance of the code.

THEREFORE, from the evidence and testimony presented and pursuant to the plans submitted, Mr. Olsen moved for the Board to deny the variance to legalize the existing location of the subject shed which is less than one foot from the interior side lot line because:

1. The Board is unable to identify a special circumstance attached to the property that relates to a development hardship.
2. Granting the variance is not essential to the enjoyment of a substantial property right.

Mr. Berggren seconded the motion; Mr. Olsen, Mr. Berggren, Mr. Gary Jones and Ms. Dunn voted aye; Chairperson Jones did not vote; the motion passed with a 4-0 vote.

It is noted that Mr. Berggren left the meeting and Mr. Radford voted on the remaining matters.

Case 420-08-074 by Amir Cornell at 1621 South 1500 East requesting a special exception to increase the height for an accessory building in the R-1/5000 zoning district in Council District Six. (Section 21A.40.050(C)(2) (Staff – Michael Maloy at 535-7118 or michael.maloy@slcgov.com)

(The case was heard at 6:54 p.m.)

Amir Cornell and Nancy Saxton, representing Mr. Cornell, were present.

Substituting for Mr. Maloy, Mr. Stewart explained that the Applicant is requesting a height of approximately 18 feet to the peak of the roof for an existing detached garage. The R-1/5000 zoning district limits heights for accessory structures to 17 feet to the peak of the roof. Mr. Stewart explained that heights of accessory structures are limited in order to keep them subordinate to principal structures and compatible with surrounding development. The development pattern of the block face is considered when determining compatibility. Staff could not identify a pattern of similar height as requested in that the typical detached garage in the neighborhood complies with the height limit. Staff further found no impairment of property value to the subject property because new construction tends to increase the value; however, the location and/or design may impair values of other properties in the area. Staff also found that the proposal may have an adverse impact upon the general public health, safety and welfare in that granting the additional height may serve as precedent for additional height in the area. Mr. Stewart

noted that the Applicant has submitted letters and Mr. Maloy has listed in the staff report neighbors who support the request for the special exception. Staff received one email (Kathi Collen) message objecting to granting the special exception.

Ms. Saxton presented pictures and a letter from the contractor who constructed the subject garage and explained that the pictures represent an overview of the neighborhood and the letter explains the cause of the additional height. Ms. Saxton further explained that the subject lot is a corner lot and the garage actually fronts Logan Avenue. Mr. Cornell obtained all the required permits for the garage, and an inspection on the framing was made and approval was given to continue construction. The structure was completed to the extent of roof shingles and exterior stucco when an inspector drove by and asked to measure the garage. At that point, it was determined that the garage was not in compliance with the height regulation. Mr. Cornell then informed the neighbors of the situation and that he would be requesting a special exception. The neighbor to the east who would be impacted the most gave his signature of approval. Mr. Cornell also received additional signatures of approval from neighbors across the street and on 1500 East, and it was Ms. Saxton's understanding that Ms. Collen did not object to the height, but was concerned about the duration of construction. Ms. Saxton then explained that the garage was constructed on the existing pad of the previous garage and it was necessary to install footing plates to anchor the new structure which was approved during the permitting process. Also, the contractor stated in his letter that when he ordered the lumber, he requested that the vertical boards for the framing be cut at 92 inches. The lumber supplier cut the boards at 96 inches. Ms. Saxton added that the pictures indicate two garages within three buildings to the east and the west of the subject garage that exceed 17 feet.

Mr. Olsen asked Ms. Saxton to explain the degree of relevance that the amount of encroachment and contractor error would have on whether or not the special exception should be granted. Ms. Saxton explained that an inspection was made and passed after the framing was completed and the excess height was not noticed during that inspection. Also, the additional height was made in error and not an attempt to push the envelope of the Ordinance. The amount of encroachment would depend on the impact to neighbors. In this case, the neighbors feel that the height does not negatively impact them nor do they feel it decreases property values, and visually if the garage stood out like a "sore thumb" it would not be compatible.

Chairperson Jones noted that Kathi Collen and Marlene Herazo submitted Public Meeting Registration Forms, but did not wish to speak. Chairperson Jones read their comments into the record:

Ms. Collen wrote that "the garage would not be an issue if not for a pattern of utter disregard for building ordinance or the neighbors. If there is more effective oversight on the house that Mr. Cornell plans to build, then she would support letting the garage stand. However, since he has demolished the house with no permit, there is a valid concern that he believes in doing whatever he wishes and then begs forgiveness".

Ms. Herazo wrote that "we wanted to hear about Mr. Cornell's plans. We were surprised to see the house taken down".

Anne Cannon, 1647 East Kensington Avenue, said that she agreed with the written comments and explained that the Wasatch Hollow Community asked that the special exception not be granted because the house has been demolished and if the new home is constructed in relationship to the size of the garage, then the overall increase in mass on the lot would not be proportionate to the neighborhood. Ms. Cannon asked that the Board take caution when granting such a special exception because it would not maintain the scale of homes that exist in the Community.

Mr. Cornell explained that he obtained permits for the house and the garage. The goal was to construct an addition to the house, but the walls of the home collapsed. Construction of the new home will begin June 23 and completion is targeted for the end of August. Mr. Cornell presented a picture of the previous house and explained that the new one will be similarly designed and it will be built to code. Mr. Cornell

explained that his contractor and he apologize for the error; and the neighbors to the south, east and west support the proposal and have given their signatures of approval.

The meeting was closed to public comment and Board Members discussed the proposal. Mr. Radford noted that the staff report indicated that the accessory building height would be less than the proposed two-story single-family dwelling on the property, and he found that the proposed height would be in harmony with the purpose of the Ordinance. Mr. Gary Jones explained that he found substantial justification for granting the special exception for a one-foot encroachment in that the evidence (photos) revealed the additional height would not have an adverse effect on the design of the neighborhood or surrounding properties, and the fact that the surrounding property owners support the application.

Chairperson Jones and Mr. Olsen found that the proposal would not be compatible with surrounding development and voiced concerns about setting precedent. Chairperson Jones found that the proposal would not be compatible based on neighborhood comments and the analyses in the staff report in that the majority of detached accessory structures in the neighborhood comply with the height limit. He reasoned that the Ordinance presents a legislative judgment that 17 feet for accessory structures is compatible to the neighborhood. He believed that approval of any encroachment would tacitly rewrite the Ordinance. Mr. Olsen said that he too could find no evidence or testimony that the structure would be compatible if it exceeded 17 feet. During his site visit, he found that the proposed garage visually appeared to be as big as the house next door on Logan Avenue, and he could not determine whether or not one foot would make a difference. He also found no evidence that would support changing the requirements of the Ordinance. Ms. Dunn agreed with precedent concerns in that she found only one other accessory structure that may have exceeded the height limit. She also voiced concerns about accountability in regards to the City finding errors after completion of construction.

Mr. Nielson explained that the City does not have documented evidence on the chain of events because mistakes by the City or an applicant are not considered under special exception review.

Mr. Norris noted that the Ordinance allows approval of increased building heights for accessory structures provided they are in keeping with special exception standards. One standard requires a finding of at least three other accessory buildings similar in character on the block face. In this case, Staff found no evidence of a development pattern on the respective block face.

THEREFORE, from the evidence and testimony presented and pursuant to the plans submitted, Mr. Olsen moved for the Board to deny the special exception to allow construction of an accessory building with a height of 18 feet because the proposed use and development would not be in harmony with the general and specific purposes for which the Title was enacted and for which the regulations of the district were established; specifically, the proposal is not compliant with the development pattern requirements for the special exception.

Ms. Dunn seconded the motion; Mr. Olsen and Ms. Dunn voted *aye*; Mr. Gary Jones and Mr. Radford voted *no*; Chairperson Jones voted *aye*; the motion passed with a 3-2 vote.

It is noted that Mr. Gary Jones made a motion to grant the special exception explaining that he respected the observations and comments of his colleagues, but he believed that the Board has the legislative power to grant special exceptions and it was the responsibility of the Board to review special exceptions on a case-by-case basis. Mr. Radford seconded the motion to grant the special exception; Mr. Gary Jones and Mr. Radford voted aye; Ms. Dunn, Mr. Olsen and Chairperson Jones voted no. The motion to grant the special exception did not carry and thus Mr. Olsen made the motion to deny it.

The meeting was recessed from 7:48 p.m. to 7:58 p.m.

Case 420-08-088 by Glenn Anderson (GA Architects) for McGillis School at 668 South 1300 East requesting a variance to increase the height of a building addition in the I (Institutional) zoning district in Council District Four. (Section 21A.32.080(D) (Staff – Michael Maloy at 535-7118 or michael.maloy@slcgov.com)

(The case was heard at 7:58 p.m.)

Glenn Anderson with GA Architects was present to represent McGillis School.

Substituting for Mr. Maloy, Mr. Norris explained that the McGillis School is a private school for children attending Kindergarten through the Eighth grade. The current owners are proposing an addition that would run parallel to 700 South. The variance request is for an increase in height due to the sloping topography which slopes both east to west and north to south. The height is measured from existing grade to the roof deck allowing an additional five feet for parapet walls. The proposed addition would have an additional height of approximately 6.5 feet measured from the proposed grade to the roof deck and 5 to 11 feet to parapet walls. Mr. Norris then explained that Staff found that the sloping topography is not peculiar in that other properties in the neighborhood have a similar slope; specifically, Judge Memorial High School which is located two blocks to the west of the subject property. Staff further found that the hardship would be self-imposed due to the fact that it is new construction; however, any redesign may require some relief because of the topography.

Mr. Anderson presented a slide presentation and explained that the additional height would occur on the 700 South elevation and according to the definition in the Ordinance and their calculations, the actual encroachment would be 3 feet 5 inches. An architectural embellishment has been designed for the middle of the addition which would measure 5 feet high from the roof deck and would meet the height regulation for parapet walls. The Applicants are requesting the variance because the Douglas Neighborhood Association asked that the contiguous open space be preserved and the proposed design would not affect the existing playing field. Mr. Anderson noted that the Ordinance mandates a minimum of 40 percent open space and they have maintained 51 percent with the addition. Shifting the addition to mitigate the additional height would reduce the open space another 1 percent which is another 500 to 600 square feet. The proposal also preserves the view corridor from 1300 East. Mr. Anderson then explained that the property descends 45 feet from the street approach on 1300 East to the other end of the property. The Judge Memorial School is the only property in the area that has nearly the same degree of slope. The proposal also includes small landscaped outdoor study areas in order to utilize substantial grade changes elsewhere on the property.

Board Members and Mr. Anderson discussed the proposal, design options and alternative approval processes. Mr. Anderson noted the before-and-after slide with graphic renditions of the school as it looks currently and what it would look like after the construction of the addition. He explained that the conditional use process would push back the building whereas the variance request allows them the same height encroachment enjoyed by other institutional uses in the area. Furthermore, the appearance of the building would not change and the uninterrupted green space would be affected. Also, the Ordinance requires a 30-foot setback and they have provided a 50-foot setback as requested by the neighborhood. Mr. Anderson further explained that they believe the size of the property, as well as the topography, is a property-related hardship.

In conclusion, Mr. Anderson said that the topography presents a unique situation and other institutional properties in the neighborhood enjoy what they are requesting. The conditional use process would move the building back which would violate what they have been asked to preserve. Mr. Anderson asked the Board to grant the variance because the proposal meets the standards; specifically, the topography of the land is a property-related hardship and it would not be contrary to public interest in that the public wants the contiguous open space preserved.

Mr. Norris explained that the Institutional zoning district requires a minimum lot size of 5 acres for planned development. The subject property has 3.69 acres and would not qualify for modifications to regulations through the conditional use process.

Chairperson Jones noted that no one was present from the public to speak to the issue.

The meeting was closed to public comment and the Board discussed the proposal. Chairperson Jones found that the request by the Neighborhood Association to preserve open space would be a self-imposed hardship and losing only 1 percent of it by meeting the requirements of the Ordinance would not be a proper basis for granting a variance. He further found that design options are available that would meet the requirements of the Ordinance. Mr. Nielson added that it would set a dangerous precedent for any group to vest in a self-imposed hardship, and a variance must be granted based on an actual physical feature of the property that would cause a development hardship.

Mr. Olsen noted that open space is beneficial to the community, but he could not find that literal enforcement would cause an unreasonable hardship in that an addition could still be constructed.

THEREFORE, from the evidence and testimony presented and pursuant to the plans submitted, Mr. Olsen moved for the Board to deny the variance to allow construction of a building addition that would exceed the maximum building height because the literal enforcement of the Title would not cause an unreasonable hardship for the Applicant and a variance is not necessary in carrying out the general purpose of the Title, and the granting of the variance is not essential to the enjoyment of a substantial property right possessed by other properties in the same zoning district.

Ms. Dunn seconded the motion; Mr. Olsen, Ms. Dunn, Mr. Gary Jones and Mr. Radford voted *aye*; Chairperson Jones did not vote; the motion passed with a 4-0 vote.

Case 420-08-118 by Charlie Freedman at 1418 East Arlington Drive (210 North) requesting a special exception to build a garage on an alternate location in the R-1/7000 zoning district in Council District Three. (Section 21A.40.050(A) (Staff – Katia Pace at 535-6354 or katia.pace@slcgov.com)

(The case was heard at 8:44 p.m.)

Mr. Freedman and Ann Robinson (Architect for Renovations Design Group) were present.

Ms. Pace presented a slide presentation and explained that the R-1/7000 zoning district requires garages to be at least 5 feet from the rear property line. The Ordinance provides for a special exception to allow garages more than 5 feet from the property line based on obstructions, such as topography and mature vegetation, prohibiting compliance with the setback regulation. Ms. Pace further explained that a previous garage was located approximately 36 feet from the rear property line and the subject property has mature vegetation along the rear property line. The previous garage has been demolished and the new proposed garage would be 19 feet 8 inches from the rear property line. Staff found that the proposal meets the standards for granting the special exception and the proposed location would be compatible with the neighborhood. Ms. Pace noted that the proposed garage meets all other zoning regulations such as size and height.

Mr. Freedman explained that there are three gorgeous mature fir trees along the rear property line and overhead power lines that bisect the rear yard which prohibit locating the proposed garage 5 feet from the rear property line. The Architect pushed the garage as far back as possible to protect the root system of the trees and still stay within the distance requirements for the overhanging power lines.

Ms. Pace added that the Transportation Engineer comment stated that the new garage location is in compliance with transportation standards and geometrics with the 20-foot setback from the rear of the existing building for vehicle access.

Chairperson Jones noted that no one from the public was present to speak to the issue.

Mr. Freedman added that the peak of the garage was also pivoted in order to move the structure farther back and to avoid encroachment of the proximity regulations for overhead voltage lines.

The meeting was closed to public comment. Mr. Olsen noted that the Ordinance protects mature vegetation and upon his site visit, he determined that the existing trees are without doubt mature vegetation. He also noted that the power lines interfered with the proper location of the garage. The consensus of the Board was that the proposed garage is modest in size and design, and the request meets the standards for granting the special exception.

THEREFORE, from the evidence and testimony presented and pursuant to the plans submitted, Mr. Radford moved for the Board to grant the special exception for the proposed alternate location for the garage at 1418 East Arlington Drive in the R-1/7000 zoning district because:

1. The accessory structure is in compliance with district purposes.
2. The accessory structure will not diminish neighboring property values.
3. The accessory structure will not have a material adverse effect upon the character of the neighborhood.
4. The accessory structure is in compatible with surrounding development.
5. There will be no damage to natural scenic features of the property.
6. No pollution of air, water, soil or noise is evident by the request.
7. There are no additional standards imposed on the proposal.

Mr. Gary Jones seconded the motion; Mr. Radford, Mr. Gary Jones, Ms. Dunn and Mr. Olsen voted aye; Chairperson Jones did not vote; the motion passed with a 4-0 vote.

It is noted that before the motion was seconded, Chairperson Jones suggested amending the motion to state "to grant the 'special exception' for the proposed alternate location" rather than simply stating "to grant the proposed alternate location". Mr. Radford agreed to the amendment.

There being no further business, the meeting was adjourned at 8:55 p.m.

Deborah Martin, Secretary

Michael F. Jones, Chairperson