

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes - June 15, 2006**

An adjourned meeting of the Zoning Board of Appeals of the Town of Sweden was reconvened on Thursday, June 15, 2006, commencing at 7:10 p.m.

Members present: Frank Fisher, Pauline Johnson, Ken Reid, Peter Sharpe

Absent: Mary Ann Thorpe

Also present: Paul Drake

332 East Avenue

Chairman Reid confirmed that written (email) comments were received from the Town Engineer and the Building Inspector. The Clerk added she had received verbal comments from the Highway Superintendent and Town Attorney.

The Board reviewed the written comments. The Clerk stated that the Town Attorney commented that if this Board desired a legal document to be drafted excluding the Town from liability for construction of the proposed garage, he would prepare one. Also, this Board may want to only approve or deny the area variance based on the front setback, and let the Building Inspector determine if the proposed garage can be built structurally sound. The Town Attorney asked if the applicant's insurance company had been contacted to see if there were any concerns.

The Clerk stated that the Highway Superintendent stated that the DEC should be contacted for input, and that if Town liability is an issue, the Town Attorney should be involved.

Mrs. Johnson asked Mr. Drake if he had contacted his insurance company. Mr. Drake stated he didn't consider it, but felt that the construction of the proposed garage would be a personal liability not a Town liability. Mrs. Johnson explained to Mr. Drake that part of the responsibility of this Board is ensuring the safety, health and welfare of the neighborhood and any environmental impacts to the neighborhood.

Mrs. Johnson stated she is considering the variance due to the grade of the land, which is not level. There is a hardship in that the applicant can't build back because of the uphill. Also, part of the terrain is the creek, and there is potential for environmental impact. Mrs. Johnson read some of the tests that are required to be passed when approving an area variance.

Mrs. Johnson asked if the row of trees by the turnaround would have to be removed. Mr. Drake stated the arbor vitae would be removed and one ash tree at the southwest corner would be removed.

Chairman Reid asked if there were any other questions for Mr. Drake. There were none.

Chairman Reid closed the public hearing. Mr. Drake thanked the Board.

Moved by Mr. Fisher, seconded by Mrs. Johnson, that having reviewed Paul C. Drake's application for an area variance at 332 East Avenue to construct a detached garage, 24 ft. by 26 ft., with a 42.75 ft. front setback is an unlisted action that will not have a significant impact on the environment.

Mr. Fisher – Aye
Mrs. Johnson – Aye
Mr. Sharpe – Aye
Chairman Reid – Nay

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Moved by Mr. Fisher, seconded by Mrs. Johnson, to approve the application of Paul C. Drake, 332 East Avenue, for an area variance to construct a detached garage, 24 ft. by 26 ft., with a 42.75 ft. front setback, tax account number 069.10-6-2, for the following reasons:

1. An undesirable change will not be produced in the character of the neighborhood.
2. The benefit sought by the applicant cannot be achieved by another method or location on this property due to the unique geographical features.
3. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.
4. This approved area variance is specific to the construction of a detached garage, 24 ft. x 26 ft., as per the plans submitted with the variance application.
5. That construction will commence within two (2) years from June 15, 2006.
6. No one appeared for or against this application.

Mr. Fisher – Aye
Mrs. Johnson – Aye
Mr. Sharpe – Aye
Chairman Reid – Nay

The meeting was adjourned by motion at 7:45 p.m.

Clerk to Zoning Board of Appeals