

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – July 31, 2012**

APPROVED

A meeting of the Zoning Board of Appeals of the Town of Sweden was held at the Town Offices, 18 State Street, Brockport, New York on Tuesday, July 31, 2012, commencing at 6:30 p.m.

Members present: Frank Fisher, Pauline Johnson, Ken Reid, Mary Ann Thorpe

Absent: Peter Sharpe

Also Present: James W. Albright, Contractor, David T. Georgiev, Property Owner, Walter J. Windus, Building Inspector

Chairman Reid called the meeting to order, introduced the Board members and read the notice of public hearing for:

Application of David Georgiev, 91 Talamora Trail, Brockport, New York, for an area variance. Applicant proposes to construct a ±900 sq. ft. addition to the rear and north side of the existing dwelling resulting in the side setback at two corners of the structure being 8 ft. and 9.5 ft. Town of Sweden Ordinance §175-36, Section D, (1), (c), (3) states the required side setback is 10 ft. The property is owned by David T. Georgiev, tax account number 084.01-2-44.

91 Talamora Trail

Mr. James Albright, Albright Remodeling, explained that this is a triangular lot, and the architect was not able to meet the proper setback at two corners with the proposed addition. The corner at the garage is a total of 4 sq. ft. for about two feet and the corner at the porch is approximately ½ sq. ft.

Mr. Albright distributed copies of a letter to the Board from Thomas and Karen Schmeelk-Cone, neighbors most impacted by the approval of the proposed variance. As part of the record, Mr. Albright read the letter as follows:

To whom it may concern, Our neighbors at 91 Talamora Trail, David Georgiev et al, intend to construct a home addition part of which will near our mutual property line. Mr. Georgiev tells me that some of the desired addition will be only seven feet from the property line and thus would require a variance. My understanding is that the addition will only be this close to the line for a few yards running roughly parallel to the line. We have no objection to such an addition being seven feet or more from the property line.

Mr. Albright corrected the distance of 7 ft. to 8 ft. Mr. Albright stated he would be happy to answer any questions.

Mrs. Johnson asked how big was the garage. Mr. Albright referred to the blueprint and stated it was a one-car garage, 14 feet wide. The reason it is 14 feet is because there is a handicap ramp in the garage and in order to get the proper ADA slope and be safe, it has to be 14 feet. Mr. Windus stated that a handicap ramp requires at least 5 ft. in order to construct according to ADA requirements.

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Mrs. Johnson asked where would the ramp be located. Mr. Albright stated at the front of the garage leading into the house.

Mrs. Johnson asked the contractor to summarize why the garage can't be 12 ft. Mr. Albright stated to get the proper clearance per ADA code; it has to be 14 ft. wide. Mr. Albright confirmed where the ramp would be. Mr. Walt Windus added that the ramp would come out about 5 ft. Mr. Albright stated the garage has to be big enough to open car doors and for the person to get situated in order to move into the house. The standard door for a one-car garage would be 8 ft.

Mrs. Johnson asked why the addition couldn't be moved back towards the rear property line to avoid needing the variances. Mr. Albright explained that the proposed addition is located closest to the driveway. Everything would have to shift back 3 ft. and there would be no direct access between the garages, which the applicant feels is necessary. Otherwise, the only access to the applicant's grandparents would be from outside.

Chairman Reid asked for clarification as to the location of the new driveway since it isn't shown on the plans. Mr. Albright stated the blacktop would be extended and installed along the property line, but not on the line. Mr. Windus explained that while the driveway can be located on the property line, his concern would be proper drainage. Mr. Albright stated the plan is to work with the building inspector to create a swale so that proper drainage is maintained.

Chairman Reid is concerned that the tape map provided doesn't show the storage area removed. Mr. Albright wasn't sure why, but felt confident that the architect took everything into consideration.

Mr. Fisher confirmed that the Town permits driveways to be on the lot line.

Chairman Reid still has concerns regarding drainage with the proposed driveway so close to the lot line. Mr. Fisher stated it is up to the building inspector to make sure drainage isn't impacted negatively. Mr. Windus confirmed drainage would be reviewed when the building permit application is submitted.

Mr. Fisher confirmed that the ramp slopes up from the garage into the doorway.

Mrs. Johnson explained to the property owner that there is certain criterion that must be met and would he be able to address each point (a copy of the criterion was shown to Mr. Georgiev).

Mr. Georgiev stated it is very important that there is an internal access to the addition so if the grandparents require help in any way, he would be able to do so. Pushing the addition back three feet would eliminate the internal access.

Mrs. Johnson asked how long has Mr. Georgiev owned the property. Mr. Georgiev stated one year, and at the time the house was purchased, there were no plans for an addition for his grandparents.

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Mrs. Johnson asked if there was any other place to put an internal access between the addition and existing house. Mr. Georgiev stated there wasn't any other location that would not interfere with living space in the existing home. The best-shared location is between the garages.

Mr. Albright, a certified aged specialist, has worked closely with the architect, Mr. Thomas Doughty, to achieve the best possible design, covering all options. This concept has proven to work quite well for people with aging parents, etc., and has done work of this nature in 14 towns. The Board's discussion was not whether they agree or disagree with the concept, but rather the criterion for an area variance has been met.

Mrs. Johnson asked Mr. Albright to look over the criterion and address each point. Mr. Albright didn't have anything more to add. The property owner attempted to address each criteria. He stated from a Town's point of view, the more assessed value, the more tax revenue. The Board stated while that may be true, it is not part of the zoning process.

Mr. Georgiev addressed the following:

1. There is no undesirable change in the neighborhood with the largest variance requested at 2 ft., resulting in the houses being a minimum of 18 ft. apart instead of the required 20 ft.
2. The benefit can't be achieved by another means because the land slopes down and would increase the cost of the project greatly to change the topography in order to move the addition 3 ft. back. Also, the garages wouldn't have a shared access if moved back 3 ft.
3. The largest area variance is not substantial at 2 ft.
4. There is no adverse environmental effect with this project. Mr. Windus asked if it was absolutely necessary for the grandparents to have a separate laundry room whereby it could become an internal access and their laundry could be done in the existing laundry room. Mr. Georgiev stated in order to do the laundry in the existing home, the grandparents would have to walk through his living room, kitchen, make a right, and go down the hallway on the left to a tiny laundry room. Also, if his grandmother used the existing laundry room, she would want to do the whole family's laundry, which is not his intention.

Mrs. Johnson asked about other options to enter the existing house, such as, through the living room. Mr. Georgiev stated it would interfere with his current placement of furniture and windows, etc.

Chairman Reid asked if any other neighbors had contacted the Clerk regarding the project. The Clerk stated Jim and Ruth Moore from 4 Talamora Trail stopped by to look at the drawings. They live closer to the entrance of the subdivision and had no issues with the project.

Mr. Windus stated he will need to review drainage and the site plan prior to issuing a building permit.

Chairman Reid closed the public hearing.

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Moved by Mr. Fisher, seconded by Mrs. Thorpe, that having reviewed the application of David Georgiev, 91 Talamora Trail, Brockport, New York, for an area variance to construct a ±900 sq. ft. addition to the rear and north side of the existing dwelling *is* an unlisted action that will not have a significant impact on the environment.

Mr. Fisher – Aye
Mrs. Johnson – Aye
Chairman Reid – Aye
Mrs. Thorpe – Aye

Moved by Mr. Fisher, seconded by Mrs. Johnson, that the application of David Georgiev, 91 Talamora Trail, Brockport, New York, for an area variance. to construct a ±900 sq. ft. addition to the rear and north side of the existing dwelling resulting in the side setback at two corners of the structure being 8 ft. and 9.5 ft., instead of the required 10 ft. *be **approved*** for *the* following reasons:

1. An undesirable change will not be produced in the character of the neighborhood.
2. The benefit cannot be achieved by another means because it would be too costly to shift the addition back 3 ft. and to change the topography.
3. The proposed variance is not substantial in that the corner of the garage is 8 ft. from the property line for 3 ft. of perimeter of the building and the corner of the porch is 9.5 ft. from the property line instead of the required 10 ft.
4. The proposed variance will not have an adverse effect on the physical or environmental conditions of the neighborhood.
5. No one appeared against the variance and a letter of support was made part of the record from the neighbor impacted most by the proposed variance.

Mr. Fisher – Aye
Chairman Reid – Nay
Mr. Sharpe - Aye
Mrs. Thorpe – Aye

Moved by Mrs. Thorpe, seconded by Mr. Fisher, to approve the minutes of the March 29, 2012, meeting.

Mrs. Fisher – Aye
Mrs. Johnson - Abstain
Chairman Reid – Aye
Mrs. Thorpe – Aye

The meeting was adjourned by motion at 7:30 p.m.

Clerk to Zoning Board of Appeals