

ACTION ON APPLICATION
BY THE ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS ACTION (circle one): Approval Approval with Conditions Denial

Required Findings of Fact Municipal Code Sec. 114-48(a)

- 1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;**

Finding: There is nothing particularly unique topographically or because of the physical surroundings which create a hardship on the lot. The variance sought is related to height and is not related to an x or y plane dimensional issue, but a z variable (height) issue if thought about in three dimensions. There isn't anything particular to this lot which would not allow the height requirement to be met. The ordinance is written in such a manner that the height is measured from the floor to the peak of the roof of the structure; it's not as if there is a hill and height is measured from bottom of the hill to the top of the roof. The height of the overall structure is at issue, the layout of the lot (shape, topography) is not at issue; any possible dimensional configuration and slope of the lot would have no bearing on a detached accessory structure being able to meet the height requirement.

- 2. The conditions upon which an application for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification;**

Finding: Within the City limits there are at least several dozen homes which are zoned commercially or industrially, but used and built residentially. The development standards related to accessory structures are applicable equally to commercial, industrial and residentially zoned properties related to height. There are other English Tudor architectural styled homes in the City and those of other architectural styles and compositions which regardless of zoning, would have to follow this requirements. All detached accessory buildings in the City, regardless of zoning classification are required to follow this development standard. Due to the style of the home and overall height there is a built in bonus in the development standards, which allows the 20 foot height. There are other similarly situated properties which have a maximum height of 15 feet for a detached accessory structure because of the overall height of the primary structure.

- 3. The purpose of the variance is not based exclusively upon a desire to increase financial gain.**

Finding: Staff has found that the variance is based solely upon financial gain; not in the sense that the applicant's property will be more valuable with this structure upon it, but in the sense that the building materials have already been purchased. The reason for the variance is that the materials to build the structure have been purchased and per discussions with the applicant, cannot be returned. To the applicant, this is technically a financial loss, but in the sense of the variance, is an application based on financial gain, so that loss will not be incurred as the materials have already been purchased.

- 4. The alleged difficulty or hardship is caused by the provisions of this chapter and has not been created by any persons presently having an interest in the property.**

Finding: The hardship is essentially self-created, but not by the property owner, but through a designer and/or contractor hired by the property owner. The design of the structure changed a couple of times and as a result,

different beams were required for safety and/or structural reasons, which resulted in the overall height of the structure increasing. Further compounding matters for the owner is that the materials have been purchased. The difficulty or hardship in this instance isn't in that the development standards will not allow an accessory structure. Because the design changed part way through and the materials were subsequently purchased, the hardship now exists. The development regulations did not cause this hardship.

A garage of shorter height, which complies with development standards could be built on the property; fortunately, there are a couple of options which would achieve this.

- One, the garage could be one story. This isn't what the applicant submitted or desires, but would be an option. It is not as if the development standards prevent a garage from being built on this property.
- Two, lower the pitch of the roof on the garage and/or utilize structural beams with a different material or thickness which would lower the overall height. This would allow substantially the same garage as submitted in the proposed plans to be built on the property.

Either of these options would likely require different materials to be purchased and/or exchanged. Again though, this is only a problem or difficulty because the materials have already been purchased and is not a difficulty or hardship because of development standards.

5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and

Finding: The request for a variance seems small enough that in the sense of being practically noticeable to surrounding properties, no, the request would not be practically detrimental to the surrounding properties, it isn't likely to be noticeable at all. The structure will be built properly and permitted, and if built as proposed would fit with the property. However, the request is detrimental to the other properties in the City in the sense that there is absolutely nothing inherently special or unique to this property which would prevent ordinance from being followed. It is also worth noting that if the dwelling on the structure wasn't the overall height it is, or had a lower pitched roof, the maximum height for the accessory structure would be lower. The ordinance is already affording the property an additional five feet in height other homes would not necessarily receive.

The maximum height requirement is established so that there is a clear distinction between the primary structure on the lot and any other subordinate (accessory) structures. While 8.5 inches is does not seem like it would make a big difference one way or the other, being unnoticeable or not seeming to make a big difference, is not a criteria for consideration. The variance is grounded on the fact that materials have been purchased and it may not be possible, or would be inconvenient to take them back. There is no technical reason or uniqueness related to the lot that precludes the 20 foot maximum height being met. This accessory structure will already be taller than the primary building for the religious establishment to the west of the property, which has a flat roof and is approximately 17 feet in total height from grade to peak of building cornice.

Staff finds that, 8.5 inches is not practically noticeable, but again, something generally going unnoticed, is not alone a reason to grant a variance. Other property owners have complied with this requirement even when it may have been convenient for them to do so; to grant this variance could set a precedence that this regulation is not important and optional. In the sense of spirit and intent of the rule and those who have complied with it, this request is detrimental and injurious to the other properties in the City.

6. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

Finding: Similar to criterion 5 (above), no, the 8.5 inches of increased height is not expected to have a meaningful impact on this property or those in the general area. The structure is generally concealed from view

by the dwelling on the property and is likely to go unnoticed or is innocuous enough that most travelling past will not readily focus on it. Of all the variance criteria, this is the one the request unquestionably meets. The structure is not expected to impair property values of the area, endanger safety or create any issues for adjacent properties.

DATE: May 8, 2019 **SECRETARY:** Jeff Hintz, CNU-A, Associate Planner – City of Racine

WHEREAS, a literal enforcement of the provisions of the Zoning Ordinance of the City of Racine will not result in practical difficulty or unnecessary hardship; it being contrary to public interest and owing to special conditions the Board of Appeals hereby denies to the appellant(s) Gina Dentici a variance from said ordinance section 114-693.

Adopted on: May 8, 2019

By a vote of: for _____ against _____ abstain _____

SIGNED BY THE ZONING BOARD OF APPEALS MEMBERS:

ITEM NO: 0499-19 APPEAL NO: 19-2 DATE OF MEETING: May 8, 2019