

MEMORANDUM

Date: May 6, 2024
To: Village of Spring Lake – Zoning Board of Appeals
From: Lukas Hill, AICP
Zoning Administrator
Subject: Bennett – Variance requests at 117 Barber Court

Mr. and Mrs. Rob and Mary Bennett, represented by Ryan Livingston of Livingston Homes, have applied for variances at the subject address in order to rebuild an attached garage that does not meet the required side or rear yard setback.

Lot information:

- 7,275 square feet in area
- 50 feet wide and 140 feet deep
- Required setbacks in SFR Zoning:
 - 4’ side yard setback (reduced from 8’ as per section 390-26, B of the Zoning Ordinance due to narrow lot width).
 - 25’ rear yard setback requirement (dwelling to street right of way).

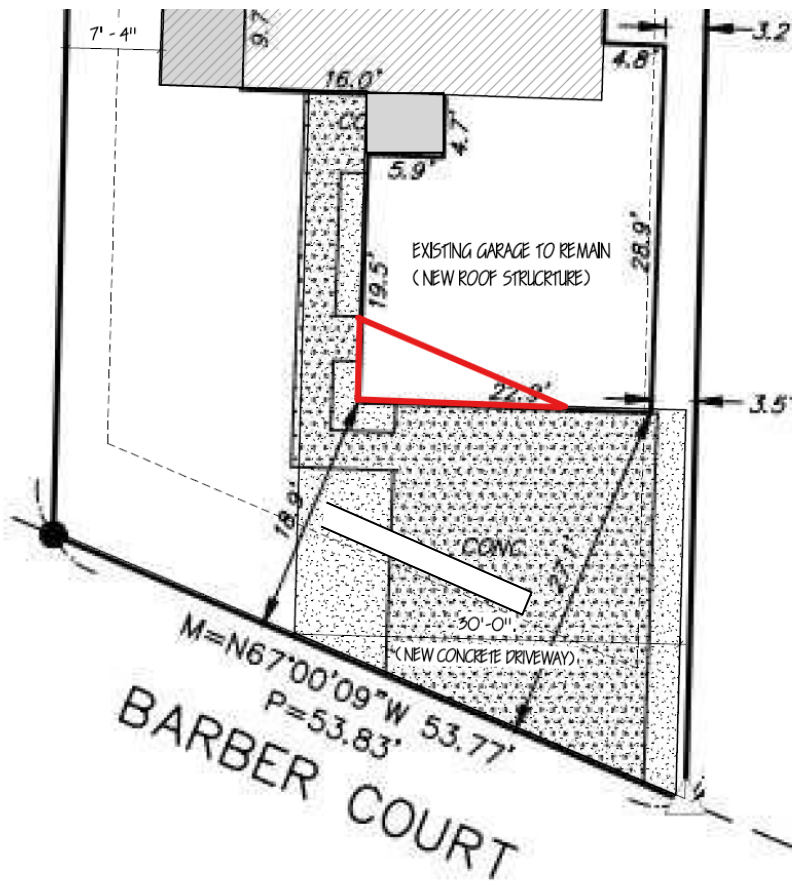
VARIANCE REQUEST: The applicant is requesting a side yard setback of 3.2 and 3.5 feet respectively and a minimum rear yard setback of 18.9 feet as presented in the application materials.

Background: The previously existing attached garage was considered an “existing nonconforming structure” and therefore could not be expanded or modified structurally without approval from the Planning Commission as per Section 290-25, C, 2 of the Zoning Ordinance. On January 24, 2024, the Village of Spring Lake Planning Commission reviewed and approved an application to allow additional height to the garage walls and replace the roof trusses. A building permit was issued and worked commenced. The applicant quickly discovered excessive structural problems and decided to demolish the entire dwelling, including the attached garage. Once the structure was gone, it lost its nonconforming status any new structures are now required to meet the SFR setbacks.

The applicant, however, would like to obtain a variance to rebuild in the same location as the previous dwelling.

Staff Comments:

Rear Yard: Many of the attached garages on Barber Court do not meet the rear yard setback and are closer to the street than what is proposed on the subject property. The configuration of the garage in relationship to the angle of the property line results in the southwest corner of the garage being the shortest distance to the property line. The opposite southeast corner of the garage does meet the minimum 25' setback. The red triangle below illustrates the approximate area that does not meet the setback:



There will also still be room to park vehicles on the driveway south of the garage without infringing on the street. The Average Waterfront Setback also pushes homes in this area further south closer to the street, limiting the building envelope.



Side Yard: The zoning ordinance already offers a significant side yard reduction from 8' to 4' due to the narrow width of the lot (50'). It is questionable if a further reduction in the side yard setback is necessary. It may be worth considering requiring the 4' side yard setback but compensating that by allowing one additional foot of incursion into the rear yard setback so the garage can be moved west about one foot.

No variance shall be authorized by the Zoning Board of Appeals unless it is found from the evidence that all of the following conditions exist:

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question which are different from other properties in the same zoning district or result from conditions which do not exist throughout the Village of Spring Lake.
- B. That such variance is necessary for the preservation and enjoyment of a substantial property right and that the need for such variance was not created by the applicant. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

- C. That the granting of such variance will not be of substantial detriment to adjacent property or materially impair the intent and purposes of this Chapter or the public interest.
- D. The condition or situation of the property or its intended use is not of so general or recurrent a nature as to make reasonably practicable a general regulation for the condition or situation.
- E. The enforcement of the literal requirements of this Ordinance would involve practical difficulties.
- F. There is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.
- G. The requested variance shall not permit the establishment within a district any use which is not permitted within that zone district, or any use for which a special land use permit is required.

SAMPLE MOTIONS THAT MAY BE MODIFIED AS DESIRED:

Option 1:

I move to approve the variance requests as presented at 117 Barber Court as they meet all of the criteria in Section 390-141 of the Zoning Ordinance with the following conditions:

- a. **The applicant shall comply with any other local, state, and federal laws.**
- b. **The applicant will comply with all verbal representations.**

Option 2:

I move to approve a rear yard setback variance request to reduce the setback of the southwest corner of the attached garage to a minimum of 18 feet as it complies with all of the criteria in Section 390-141 of the Zoning Ordinance and deny the requested side yard variance as it does not comply with all of the criteria in Section 390-141 at 117 Barber Court with the following conditions:

- a. **The applicant shall comply with any other local, state, and federal laws.**
- b. **The applicant will comply with all verbal representations.**