

# **BOARD OF APPEALS - STAFF REPORT**

**TO:** Board of Appeals

**FROM:** J. Korotev, Director of Code Administration

**REPORT DATE:** 5/26/11

**BOARD OF APPEALS MEETING DATE:** 5/31/11

**SUBJECT:** The Village of Howard Board of Appeals will hold a public hearing on May 31, 2011 at 6:30 p.m. in the Duck Creek Conference Room at 2456 Glendale Avenue concerning a variance petition from Russ Van Rite of Van Rite Construction representing Fern M. Simon to permit the reconstruction of an attached garage destroyed by fire 18 feet from a front property line at 738 Maywood Avenue, VH-374.

**SUMMARY:** On 4/4/11 the applicant applied for a building permit to repair fire damage at 738 Maywood Avenue. A building permit was issued by my department on 4/5/11. Some time on or about 5/11/11 the building inspector was conducting an inspection of the progress of the work and noted that the attached garage had been completely removed and was in the process of being rebuilt. I was not aware and the applicant may not have been aware at the time the permit was issued that the repair work would involve extensive structural work.

Section 50-8 of the Zoning Ordinance requires that *"No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, structurally altered, or changed in use without full compliance with the provisions of this chapter and all other applicable local, county, and state regulations."* Section 50-344 of the Zoning Ordinance requires a minimum front yard setback of 30 feet in the R-1 zone.

Since this dwelling is in the R-1 zone it is subject to a 30' front yard setback both from Maywood and Glendale Avenue. To reconstruct the garage at the same location and size of the previous garage will result in the garage being set back from the Glendale Avenue property line 18 feet, an encroachment of 12 feet into the required front yard setback. This variance petition has been submitted to allow an 18' front yard setback so that the garage can be rebuilt in its previous location.

Section 50-180 of the Zoning Ordinance requires that *"The Board of Appeals shall not vary the regulations of this ordinance unless it shall first make findings, based upon evidence presented to it by the applicant, that all the following variance standards are met."* These standards were provided to the applicant in printed form prior to receipt of the application.

**Unnecessary Hardship** The applicant must clearly show that the difficulty or hardship faced has been created by the zoning ordinance and is not self-imposed and that, in the absence of a variance, no feasible use of the property can be made. The difficulty or hardship must be unique to the parcel in question and not one which affects all parcels in the area similarly. Potential loss of profit or desire for financial gain is not, in and of itself, grounds for a variance. Additionally, violations by or variances granted to neighboring property owners does not justify the granting of a variance.

**Unique Property Limitation** The applicant must show that unique physical characteristics of the property itself, not his own personal desires or preferences prevent him from building or developing in compliance with the provisions of this ordinance. These characteristics may include topographical conditions, parcel shape, physical surroundings, wetland areas or soil types which limit the reasonable use of the property.

**Protection of the Public Interest** The applicant must show that the granting of a variance will not harm the public interest, including the interests of the public at large, not just those of nearby property owners. The granting of a variance must not result in an inadequate supply of light or air to adjacent property, a substantial increase in congestion of public streets, an increase in the danger of fire, endangerment of the public safety, or reduction or impairment of property values within the neighborhood. The lack of local opposition to a variance petition does not in itself mean that the variance will not harm the public interest.

#### **STAFF FINDINGS:**

- The hardship in this case is caused by the Zoning Ordinance and is not self-imposed. At the time the home was built a 30' front yard setback was not required from both streets.
- If the variance is denied the owner will be denied reasonable use of the property. The Zoning Ordinance requires that every dwelling must have at least one enclosed parking space. If the variance is denied it will be extremely difficult to find space on the property to legally place an attached or detached garage. Therefore, denial of the variance may lead to a violation of the enclosed parking regulations.
- The hardship is unique to this property because of the double frontage and extremely narrow width of the lot.
- The variance is not being requested on grounds of monetary profit or loss.
- A variance will not harm the public interest because it will not result in anything being built that did not exist before the fire.
- Restoring the dwelling to its pre-fire state will improve property values in the neighborhood.

#### **RECOMMENDATION:** Staff recommends the following:

- Visit the site of the proposed variance.
- Review the applicant's submittals including reasons for requesting the variance.
- Review and discuss the above variance standards as they relate to the applicant's proposal.
- Determine whether the variance standards are met per Section 50-180 of the Zoning Ordinance.
- Grant or deny the requested variance petition based upon findings and conclusions drawn.

#### **ATTACHMENTS:**

- I-II Variance petition submitted by applicant
- III Aerial site location map
- IV Aerial illustration of setback issue

ATTACHMENT I



2456 Glendale Ave  
Green Bay , WI 54313

APPLICATION FOR  
A ZONING VARIANCE

See Next Page  
for Materials to be Submitted  
with This Application

Application Fees: **\$250 &  
\$500** for Construction w/out  
Permit

Date: 5-13-2011  
Initials: rvr /jb

Applicant

Name: Russ Van Brite

Address: 3684 Packerland dr, depere, wi 54115

Phone: 920-338-9488 Email: customerservice@  
rvanriteconstruction.com

Business Name: R Van Brite Construction + Restoration LLC

Conditional Use Site Address: 738 Maywood

Landowner of Record: Fern Simon

Address: same

Phone: 920-562-8100 Email: -

Consultant(s)

Architect

Name: none

Address: \_\_\_\_\_

Phone: ( ) - - - - - Email: \_\_\_\_\_

Contractor/Engineer

Name: none

Address: \_\_\_\_\_

Phone: ( ) - - - - - Email: \_\_\_\_\_

Parcel/Building Information

Lot Size: .171 Acres Current Zoning: R1 Street Frontage: 190 FT

Lot Dimensions: 55 x 134 Does Current Zoning Permit Intended Use: Y

Bldg. Sq. Footage: N/A Dimensions of Building: 22 x 29 GARAGE ONLY

Describe Specifically the Nature of the Request: Home damaged due to fire. The restoration process included the removal of the existing attached garage. We were going to build on existing concrete however there was no foundation so we had to dig out the existing concrete to put in the foundation the same footprint.

We are requesting a variance to put the garage in its original location.

**ATTACHMENT II**

Please Note the Following:

- Incomplete applications will not be accepted and/or processed
- All applications shall be submitted three (3) weeks prior to the Board of Appeals meeting at which the applicant wishes to appear
- Processing an application may take up to sixty (60) days due to legal notices mandated by State law
- The Board of Appeals meets on the fourth Tuesday of the month when a variance is requested

Standards to be Met When Granting a Variance

**Unnecessary Hardship**

The applicant must show that the difficulty or hardship faced has been created by the zoning ordinance and is not self-imposed and that, in the absence of a variance, no feasible use of the property can be made. The hardship must be unique to the parcel in question and not one which affects all parcels in the area similarly. Potential loss of profit for financial gain is not, in and of itself, grounds for a variance.

**Unique Property Limitation**

The applicant must show that unique physical characteristics of the property itself prevent him from building or developing in compliance with the Village's Zoning Ordinances. These characteristics may include topographical conditions, parcel shape, physical surroundings, wetland areas or soil types which limit reasonable use of the property.

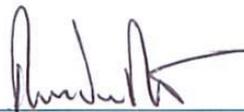
**Protection of Public Interest**

The applicant must show that the granting of a variance will not harm the public interest, including the interests of the public at large, not just those of nearby property owners. The granting of a variance must not result in an inadequate supply of light or air to adjacent property, a substantial increase in congestion of public streets, an increase in the danger of fire, endangerment of the public safety, or reduction or impairment of property values within the neighborhood. The lack of local opposition to a variance petition does not in itself mean that the variance will not harm the public interest.

**REQUIRED (Provide All That Apply)**

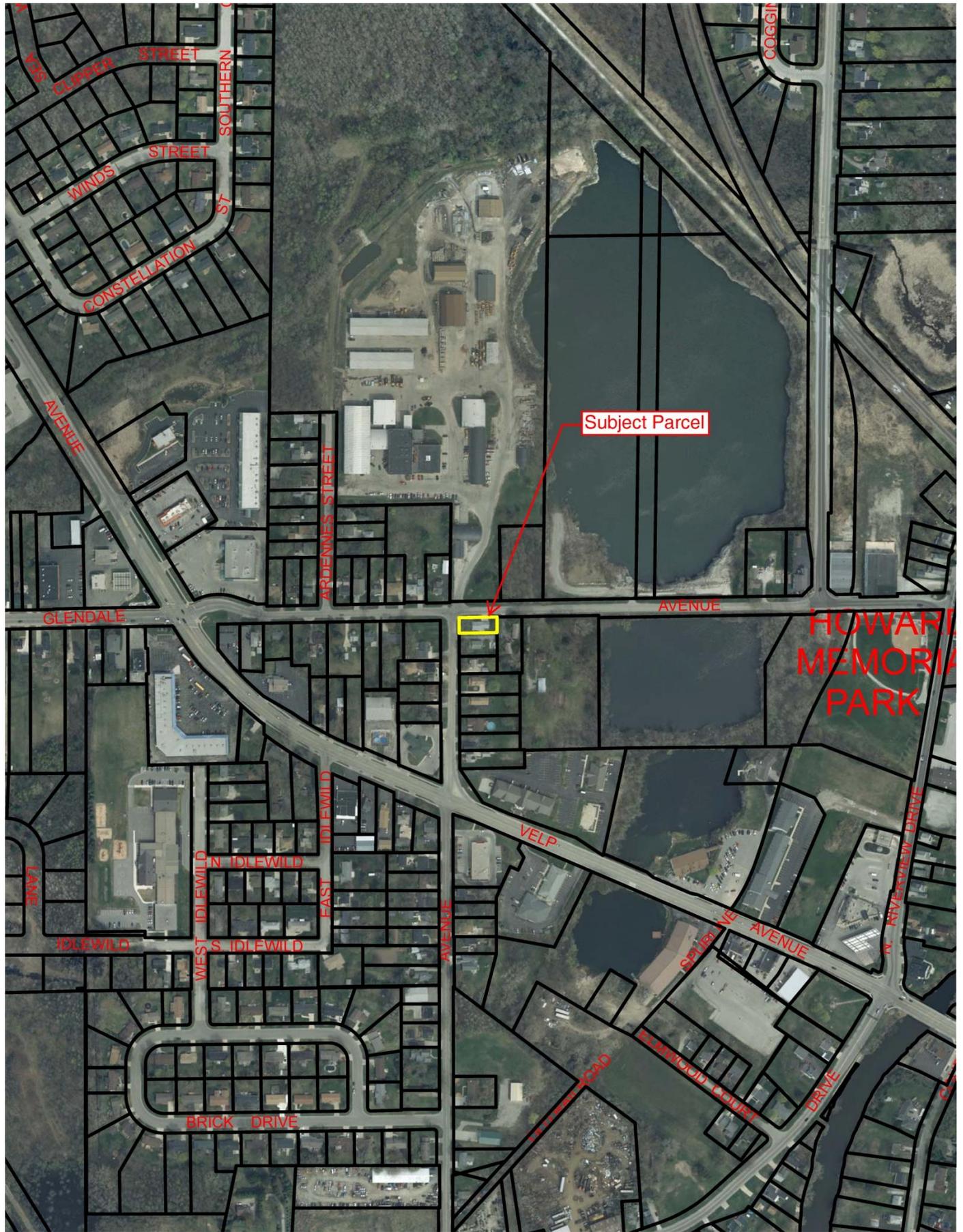
- ✓ A plat of survey or the equivalent thereof depicting the location, dimensions, boundaries, setbacks of buildings/structures and uses and size of the site.
- ✓ A site plan depicting existing and proposed structures relative to lot lines

**Submit 15 copies of all color documents. Submit 3 copies of all documents not printed in color.**


  
 x \_\_\_\_\_ Date May-12-11

Please direct all questions to Jim Korotev. Jim may be reached at 920-434-4640 or by email at [jkorotev@villageofhoward.com](mailto:jkorotev@villageofhoward.com)

ATTACHMENT III



ATTACHMENT IV

