

# Memo

**To:** City Council – Zoning Board of Appeals  
**From:** Bryan Myrkle, Community Development Director  
**Date:** November 18, 2016  
**Re:** Side Yard Setback Variance – 445 Prairie Street

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On your agenda for Monday night is a public hearing for, and consideration of, a side yard setback variance that would allow the homeowner at 445 Prairie Street to construct an addition that would significantly encroach into the required side yard setback.

The homeowner's father was recently injured in an automobile accident and is now paralyzed.

An insurance company is willing to construct a special addition and handicap access ramp on this home to accommodate the needs of the father when he leaves the hospital. The homeowner and insurance company are working with Great Lakes Construction, which is a specialist in this type of work. They have evaluated the home and determined the most appropriate design for this addition.

Unfortunately, the design requires the new addition to be built almost to the south property line. In that location, a home is supposed to be set back from the side property line at least 8 feet, and the home's foundation is currently 9 feet from the assumed property line. Similarly, the proposed handicap ramp would be very close to the sidewalk and public Right-of-Way.

The Americans with Disabilities Act requires that local zoning officials make reasonable accommodations to people with disabilities. A section on the ADA website talks about this issue specifically:

*City governments are required to make reasonable modifications to policies, practices, or procedures to prevent discrimination on the basis of disability. Reasonable modifications can include modifications to local laws, ordinances, and regulations that adversely impact people with disabilities. For example, it may be a reasonable modification to grant a variance for zoning requirements and setbacks. In addition, city governments may consider granting exceptions to the enforcement of certain laws as a form of reasonable modification. For example, a municipal ordinance banning animals from city health clinics may need to be modified to allow a blind individual who uses a service animal to bring the animal to a mental health counseling session. 28 C.F.R. § 35.130(b)(7).*

It is fortunate that the neighboring home and garage to the south is built on a large lot, and it does not appear that this addition would have a significant effect on that property.

As in other zoning issues, the property owners within 300 feet of this property have received notice of this public hearing and have an opportunity to comment on this request for variance.