

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
AUGUST 13, 2019**

CALL MEETING TO ORDER

Chair Seelye called the meeting to order at 7:30 P.M. and made standard introductory remarks explaining the formal procedure, courtesies and right of appeal.

ROLL CALL

The Recording Secretary called the roll.

Members Present: **Barnette, Irvin (alternate), Masood, O’Connell (alternate) Rich, Seelye, Vergun**

Members Absent: **King, Lindquist**

Others Present: **Attorney Morita and Zoning Representative Grenanco**

SITE VISIT JUNE 9, 2019

Chair Seelye noted when the Zoning Board of Appeals members visited the site.

The Sunday site visit begins at 9:00 a.m. at City Hall. It is an advertised open, public meeting under the Open Meetings Act, is only for informational purposes; the Board members abstain from any action, hearing testimony, or any deliberations.

APPROVAL OF AGENDA

MOTION by Vergun, support by Rich, to amend and approve the agenda as follows:

- Under Approval of Minutes, add and July 23, 2019, so that the agenda now reads: *Approval of Minutes: June 11, 2019 and July 23, 2019.*

Motion carried 7-0.

NEW BUSINESS

A. ZBA CASE: 8-19-5654
 LOCATION: 28144 Thorny Brae
 PARCEL I.D.: 23-09-477-003
 REQUEST: In an RA-1 Zoning District, a request for a 274 square foot variance from the maximum 750 square feet allowed for all accessory structures in order to build a 624 square foot garage. The total amount for all accessory uses would be 1,024 square feet.

 CODE SECTION: 34-5.1.2.D.
 APPLICANT: William Ross Williamson and Bonny E. Williamson
 OWNER: William Williamson

Vice Chair Vergun called the case.

Utilizing a PowerPoint presentation, Zoning Division Representative Grenanco gave the background for this variance request. The property was located north of 12 Mile Road and west of Farmington Road. The

home had an attached garage; the applicant would like to construct a 2nd, 624 square foot detached garage, which would bring the total square footage of accessory uses to 1,024 square feet. That exceeded the maximum accessory square footage for accessory uses for this property by 274 square feet.

Scarlett Williamson, 28144 Thorny Brae, said that she represented her parents, William Ross and Bonnie Williamson, who were also present.

Ms. Williamson explained that theirs was the 3rd largest lot in the subdivision. The requested detached garage was not uncharacteristic of other homes in the neighborhood, as many of the homes had additions. Next door the neighbor had a 2nd story, directly across the street the neighbor had a detached shed. Ms. Williamson pointed out that a previous addition on the home was a year-round room, with 2 x 6 insulated walls and R-38 insulation, which resulted in the room being a completely liveable space; it was not a seasonal room.

Chair Seelye asked Zoning Division Representative Grenanco to comment on the room just described. Zoning Division Representative Grenanco explained that the addition was a sunroom.

Ms. Williamson said they were petitioning for the addition to be considered part of the square footage on which the size of accessory structures was based.

Zoning Division Representative Grenanco explained that the variance request was for a 274-square foot variance from the maximum 750 square feet allowed for all accessory structures in order to build a 624 square foot garage.

City Attorney Morita further explained that the applicant had not requested an interpretation of the addition's square footage in order that it be considered as living space.

Ms. Williamson reiterated that the requested garage was appropriately sized for the lot and was in character with other garages and additions in the neighborhood. The existing driveway would allow access to the garage.

In response to questions from Chair Seelye, Ms. Williamson said the garage would be for storage for their classic vehicle, as well as seasonal decorations and lawn equipment. The classic vehicle had been stored off site. There would be no heat or plumbing in the garage.

Member Vergun asked for clarification regarding the house addition. The house was listed as being 1,725 square feet in the application, but the City showed the house to be 1,385 square feet.

City Attorney Morita explained that the sunroom addition did not meet requirements under the Building Code to be considered livable space.

Mr. Williamson said the assessor had labeled the addition a sun porch, but the addition met all the requirements to be considered liveable space, except that the heat source, an electric fireplace, was not hard wired. He felt the house was currently 1725 square feet.

Member O'Connell said that even if the house was considered to be 1725 square feet, the applicant would still need a variance to construct the proposed garage. He noted that a standard 20 x 20 detached garage would not need a variance. Why was the proposed structure oversized?

Mr. Williamson said he needed the larger garage in order to meet his storage needs.

City Attorney Morita explained that without a heat source connected to the original home, the Building Code would not include the addition in liveable space. In any event, the issue before the Board was the request for a 274 square foot variance. The applicant had not asked for a determination as to whether or not the addition met Building Code requirements in order to be included in the home's liveable space square footage. However, even if that space was determined to be liveable space, the applicant would still need a variance to construct the proposed garage.

In response to a question from Chair Seelye, the applicants explained that the lawn equipment was currently being stored in the attached garage, and outside in the driveway area.

Chair Seelye opened the public hearing.

Jon Murrell, 28139 Thorny Brae Road, spoke in support of this variance request. Given the size of the applicant's lot, and the need to keep equipment, including a classic vehicle, stored inside, the request for the proposed garage seemed reasonable. Mr. Murrell spoke to the issues outlined so far, and said he agreed that the detached garage would be in character with the existing neighborhood.

Seeing that no one else came forward to speak, Chair Seelye closed the public hearing.

Mr. Williamson said that if he needed to hardwire his fireplace in order for the sunroom addition to be considered liveable space, he would do so.

Member Masood reiterated that the issue at hand was the variance as requested. Again, even if the addition was determined to be liveable space, the applicant would still need a variance to construct the proposed garage.

MOTION by Masood, support by Irvin, in the matter of ZBA Case 8-19-5654, to DENY the petitioner's request for a 274 square foot variance from the maximum 750 square feet allowed for all accessory structures in order to build a 624 square foot garage, because the petitioner DID NOT demonstrate practical difficulties exist in this case in that he DID NOT set forth facts which show that:

1. Compliance with the strict letter of the ordinance will unreasonably prevent the petitioner from using the property for a permitted purpose or will render conformity with the ordinance unnecessarily burdensome.
2. That granting the variance requested will do substantial justice to the petitioner as well as to other property owners in the district.

Additionally,

3. There does not appear to be any unique circumstances to the property.
4. The problem is entirely self-created.

Member Vergun noted that several letters had been received in support of the variance request, including letters from property owners to the rear of the subject site. However, despite the lack of opposition, the request did not meet the requirements for a variance.

An affidavit of mailing was on file, with no returns.

Seeing there were no further comments, Chair Seelye called the question regarding the motion.

Motion to deny carried 7-0.

B. ZBA CASE: 8-19-5656
 LOCATION: 28425 Lake Park Drive West
 PARCEL I.D.: 23-09-329-011
 REQUEST: In an RA-1 Zoning District, a 10 foot variance to the required 35 foot rear yard setback in order to build a covered screened in porch.
 CODE SECTION: 34-3.1.4.E.
 APPLICANT/OWNER: Silvio Barile

Vice Chair Vergun called the case.

Utilizing a PowerPoint presentation, Zoning Division Representative Grenanco gave the background for this variance request. The property was located between 12 and 13 Mile Roads and east of Drake. The applicant was proposing a covered screened in porch where there was currently an open deck. The open deck met the 25-foot rear yard setback requirement. However, enclosing the deck increased the rear yard setback to 35 feet. The rear of the property abutted two commons areas, with a pathway to the east. The deck was shielded from the pathway by large arborvitae.

Mr. Barile, 28425 Lake Park Drive West, was present on behalf of this application for a variance in order to build a covered screened in porch. Mr. Barile explained that they were outgrowing their home, and needed to construct a screened in room to increase their living area. They were proposing to remove the existing deck and replace it with an enclosed room that would be consistent with the architecture and standards of the neighborhood. Plans had been presented this evening showing the dimensions and location of the new addition, which was basically in the same location as the existing deck. Cedarworks Deck Builders would do the work.

Mr. Barile provided pictures from other homes in the neighborhood that had screened in rear porches. Several neighbors had written in support of this project, along with the Farmington Green Homeowners Association Board.

Mr. Barile said their property was unique in that it abutted 2 commons areas. The south location of the home was the only place a covered porch could be constructed. It was not feasible to add another floor to the home. The only reasonable solution to provide additional living space was to construct the enclosed porch as shown.

He did not believe the problem was self-created.

In response to questions from Chair Seelye and Member Masood, Mr. Barile said there were 6 arborvitae shielding the existing deck. The 3 that faced south would be removed. There would be skirting around the new deck, and they planned on replacing the removed arborvitae with new shrubs to would cover the skirting. They would paint the new exterior the same color as the vinyl on the home.

Member Rich pointed out that the application listed the height of the structure as 10 feet, but that didn't seem accurate, since the structure began at the upper level. Mr. Barile said the new room would not be taller than the existing roof line. The gutters would line up with the existing gutters.

Member O'Connell said that the plans showed the structure as being 14 feet tall. Regarding the arborvitae, there were no neighbors nearby that would have a view of the covered porch.

In response to questions from Member Masood, Mr. Barile said the house was approximately 2,000 square feet. The existing deck was about 24 feet long and approximately 10 feet wide.

City Attorney Morita explained that when the subdivision was constructed the rear yard setback was 25 feet. Since then the ordinance had been changed to require a 35-foot setback. The neighborhood did have other covered porches that were 25 feet from the lot line; those had likely been constructed before the ordinance change.

Chair Seelye opened the public hearing. Seeing that no one came forward to speak, Chair Seelye closed the public hearing.

Member Vergun said there was an affidavit of mailing, with no returns.

Chair Seelye brought the matter back to the Board for discussion or a motion.

MOTION by O'Connell, support by Barnett, in the matter of ZBA Case 8-19-5656, to GRANT the petitioner's request for a 10 foot variance to the required 35 foot rear yard setback in order to build a covered screened in porch, because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show that:

1. Compliance with the strict letter of the ordinance will unreasonably prevent the petitioner from using the property for a permitted purpose or will render conformity with the ordinance unnecessarily burdensome.
2. That granting the variance requested will do substantial justice to the petitioner as well as to other property owners in the district.
3. That the petitioner's plight is due to the unique circumstances of the property.
4. That the problem is not self-created.

With the following conditions:

- The 3 arborvitae to be removed will be replaced on the property.
- Construction of the covered screened-in porch and deck comply with the plans as presented in the Board packets.

A general discussion was held regarding whether a variance could be conditioned on an applicant contributing to the City's tree fund, and whether or not the applicant should be required to replace the three arborvitae that would be removed for this project.

Member Irvin said that while he supported the variance request, he opposed imposing a condition requiring replacement of the arborvitae, which the applicant could remove if he was not constructing this addition. He therefore would oppose the motion.

Motion carried 6-1 (Irvin opposed).

PUBLIC QUESTIONS AND COMMENTS None.

APPROVAL OF MINUTES: June 11, 2019 and July 23, 2019

For purposes of clarification, Member Rich asked to have verbatim comments substituted in the June 11, 2019 minutes as noted in the motion below.

MOTION by Rich, support by Vergun, to approve the Zoning Board of Appeals meeting minutes of June 11, 2019, with the following amendment:

- Page 5, next to last paragraph:
Member King ~~thought it might be possible to reverse the last 4 parking spaces in the adjacent parking lot so they could become pull-off spaces,~~ *said it would be possible to peel off those last four spaces in the adjacent parking lot and essentially reverse them so that they could become pull-off spaces from the Tim Horton's lot so there would be a place for vehicles to be directed to pull off,* if that could be worked out with the owners of the two properties.

Motion carried 7-0.

As the July 23, 2019 minutes had not been received by the Board until 4:00 today, approval of those minutes was postponed until the next meeting. However, it was noted that the July 23 minutes had a record of the nominations for officers: Daniel Vergun as chair, Eric Lindquist as vice chair, and Azam Masood as secretary.

ELECTION OF OFFICERS

City Attorney Morita advised that the alternates present (Irvin, O'Connell) could not vote on the election of officers.

Chair Seelye called the vote on the slate of officers nominated on July 23, 2019: Daniel Vergun as chair, Erik Lindquist as vice chair, and Azam Masood as secretary.

Motion carried 5-0.

ADJOURNMENT

MOTION by Rich, support by Masood, to adjourn the meeting at 8:30 p.m.

Motion carried unanimously.

Respectfully submitted,
Azam Masood, Secretary
/cem