

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
AUGUST 9, 2016**

CALL MEETING TO ORDER

Chair Seelye called the meeting to order at 7:30p.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, Barringer, Masood, Rich, Seelye, Stevens and Vergun

Members Absent: Lindquist

Others Present: Attorney Morita and Zoning Division Representative McGuire

SITE VISIT AUGUST 7, 2016

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

The Sunday site visit begins at 9:00a.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 Stevens, support by Barnette, to approve the agenda as published.

MOTION CARRIED 7-0.

NEW BUSINESS:

- A. ZBA CASE: 8-16-5596
LOCATION: 24410 Farmington
PARCEL I.D.: 23-22-351-018
REQUEST: In order to construct a 20'6" x 22' detached garage within an exterior side yard setback in an RA-1 Zoning District, the following variances are requested: 1. A 23'8" foot variance to the required 40 foot side yard setback requirement. 2. A 2'6" variance to the requirement that accessory structures must be 10 feet from the home.
CODE SECTION: 34-5.1.1.B.
APPLICANT/OWNER: Danny and Jeanette Miller

Utilizing overhead slides, Zoning Representative McGuire described the location of the property, showed an overhead view of the property, and noted that the property has a unique shape and the configuration of the home and garage has been basically the same since 1963. She indicated that the applicant is requesting to erect a new garage in the exterior side yard with a setback of 16.4 feet, in approximately the same location as the current structure with the main difference being extending the length about 3.5 feet. She noted that per the ordinance, accessory buildings are not permitted in the exterior side yard setback and in this case, the exterior side yard setback is equal to the minimum front yard setback of 40 feet. She also noted per the ordinance, a detached accessory building cannot be located within 10 feet of the main building and the new garage is proposed to be located 7.6 feet from the home.

Jeanette Miller, applicant, 24410 Farmington, stated that they have lived in Farmington Hills for 23 years and the last 3 years in their current home. She explained that their current garage has many safety concerns with overall structural integrity; the walls are not built to standards, the roof is bowed, there is insufficient header size above the doors which does not accommodate today's vehicles and the concrete floor has heaved leaving a gap that is a tripping hazard. She stated that moving the location of the garage would cost more money, destroy their backyard, require numerous trees to be removed and due to the unique shape of the property it would not allow the relocation of both the garage and driveway. She added that their neighbors have stated that they have no opposition to the project and since they have occupied this home they have been improving and updating it which has increased the property value and this garage would be a step in completing the process.

Chair Seelye noted that one of the reasons for the 10 foot setback from the main building is fire safety and if the garage were attached to the home that issue would go away. He asked if the applicant had considered that option. Mrs. Miller responded that they had not thought about doing that.

Chair Seelye asked if the new garage will be exactly the same square footage as the existing garage.

Dan Miller, applicant, 24410 Farmington explained that they are adding 2.5 feet to the back and 1 foot to the front and it will have the same width.

Chair Seelye stated that the front and back of the garage is not an issue, it is the sides. He noted that the lot is unique and he is not a fan of taking down trees but there is the problem of this issue not being self-created and asked the applicant how to get around that. Mr. Miller responded that the old garage is currently within the 10 foot separation required.

Zoning Representative McGuire stated that the existing garage is grandfathered in.

Chair Seelye opened the public portion of the meeting.

Tom Hafener, 25072 Castlereigh, stated that he is the applicant's brother-in-law and explained that they have lived in the City for 23 years and when they lived on 10 Mile Road they improved the home to the point where they made good money from it and he thinks the Board should consider that when thinking about this case as they are doing the same exact thing to this property. He asked if the Board's decision would change if they decided to attach it to the house.

There being no further public comments, Chair Seelye closed the public portion of the meeting.

Secretary Stevens confirmed there was an affidavit of mailing on file with zero returned mailers.

Member Stevens asked if the Building or Fire Department commented with regards to the setback between the two structures. Zoning Representative McGuire responded that staff inquired with the Building Department and the issue is that sometimes garages are used to store flammable materials and that is the reason for the 10 foot separation, and if it is attached to the home there is a firewall.

Member Barnette stated that a firewall just requires a heavier layment of drywall and he has seen situations where homeowners are required to put a drywall layment over the area between the house and garage to form a firewall, so that is something the Board may want to consider.

Member Rich questioned if any City Department has gone out to inspect the existing garage to determine whether it is unsafe. Zoning Representative McGuire responded that they have not.

Member Rich asked if there was a specific reason for the added space in the proposed garage. Mr. Miller responded that it is for more storage to fit their vehicle, lawn equipment and tractor.

Member Rich asked if they will need to pour a new slab. Mr. Miller responded yes along with new footings.

Member Masood asked if there will be utilities in the proposed garage and if the applicant intends to store any flammable or hazardous material. Mr. Miller responded that the only utility will be electric for lights and one outlet and there will be no storage of flammable materials.

Member Stevens questioned the separation between the garage and house and if there was any staff discussion on moving the garage 2.6 feet. Zoning Representative McGuire responded that there was no discussion regarding that option.

Member Stevens noted that the current garage has existed for quite some time and asked if there had been any issues in its current location. Zoning Representative McGuire responded that there have been no issues.

MOTION by Vergun, support by Masood, in the matter of ZBA Case 8-16-5596, to GRANT the petitioner's request for a 23'8" variance to the required 40 foot side yard setback requirement and a 2'6" variance to the requirement that accessory structures must be 10 feet from the home; because the petitioner did demonstrate practical difficulties exist in this case which show that:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose.
2. That granting the variance requested would 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. Due to the fact that it is not a square lot and it is located on a corner, there is little opportunity to move the garage and bring it into compliance. If the case were denied, the applicant would have to keep the existing garage until it possibly collapses and perhaps have to do without a garage; this should not be a requirement.
4. That the problem is not self-created.

SUBJECT to the following conditions:

- The new garage be constructed as put forth in the plans provided to the City
- The materials shall be consistent and similar to the existing home
- Only electric utilities may be added to the proposed garage
- The applicant shall work with the Building Department so that concerns about fire jumping from the garage to the principal residence be minimized and follow the Building Departments recommendations

MOTION CARRIED 7-0.

- B. ZBA CASE: 8-16-5598
LOCATION: 35279 Gary
PARCEL I.D.: 23-09-103-001
REQUEST: A variance from the restriction of storage of recreational equipment or trailers over 6 feet in height in an RA-2 Zoning District to be located in the rear yard only, in order to store a recreational trailer exceeding 6 feet in height in an interior side yard.
CODE SECTION: 34-5.7
APPLICANT/OWNER: Thair Shaba

Utilizing overhead slides, Zoning Representative McGuire described the location of the property, showed an overhead view of the property and photos of the property and trailer provided by the applicant. She noted that the ordinance states that any recreational equipment over 6 feet tall cannot be stored in an interior side yard but may be stored in the rear yard and the applicant would like to store in the interior side yard.

Thair Shaba, applicant, 35279 Gary Street, explained that he has had this trailer since 2001 and it has been parked there with no problem and his neighbor has not complained. He stated the only access to move it to the back is to cut down a pine tree and some bushes.

Chair Seelye stated that the Board must consider if the petitioner's plight is due to the unique circumstance of the property and noted that the applicant has a lot of room off of Caryn Street to store the trailer in the rear yard. Mr. Shaba responded that there is a curb around his home and there is a lot of water in the back area and he cannot build or store anything back there.

Chair Seelye stated that they also must consider that the problem is not self-created and he feels that this issue is totally self-created.

Member Rich asked what the trailer is used for. Mr. Shaba responded that he uses it to transport his DJ equipment as that is his hobby.

Member Barnette questioned the height of the trailer. Mr. Shaba responded that the title states it is 6 feet and it has one axel and when it is not level it goes up about 2 inches.

Zoning Representative McGuire stated that the discussion within the department has indicated it was about 4 inches too high, although she has not personally gone out to measure.

Member Rich stated that there was a letter from the resident at 35290 Gary Street and he asked how far that was from the applicant's home. Mr. Shaba responded that he did not know.

Joseph Litvin, 35265 Gary, explained that he has lived in the neighborhood for 47 years and Mr. Shaba moved in about 15 years ago and he is the next door neighbor. He stated that he believes that 35290 Gary Street is two houses further east and they would not even be able to see the trailer from there.

Member Barnette indicated that according to the map provided, 35290 Gary Street is across the street and to the west.

Mr. Litvin stated they would be quite upset if Mr. Shaba had to cut down trees and bushes to store the trailer, as some of those are theirs and it would be costly to bring it in off Caryn Street. He does not feel

you can tell the difference between 2-3 inches and it has not bothered them being next door for over 10 years.

Chair Seelye opened the public portion of the meeting.

Laura Litvin, 35265 Gary Street, stated that her and her husband submitted a letter of support along with pictures to the Board. She explained that if he has to move the trailer he would have to cut down 40 year old arborvitaes and bushes and she objects to that.

There being no further public comments, Chair Seelye closed the public portion of the meeting.

Secretary Stevens confirmed there was an affidavit of mailing on file with zero returned mailers.

Member Masood questioned how this was brought to zoning's attention. Zoning Representative McGuire responded that the inspector for the area did some enforcement and wrote a ticket and they appeared before the Magistrate and at that time the applicant said he wanted to seek a variance.

Member Stevens asked if there have been any complaints about the trailer over the years. Zoning Representative McGuire responded that she did not know.

Member Stevens asked when the ordinance was put into place and if it was prior to the trailer being stored on the property 10 years ago. Zoning Representative McGuire responded that the ordinance is old and has been in place a long time.

MOTION by Rich, support by Masood, in the matter of ZBA Case 8-16-5598, to DENY the petitioner's request for a variance from the restriction of storage of recreational equipment or trailers over 6 feet in height in an RA-2 Zoning District to be located in the rear yard only; because the petitioner did not demonstrate practical difficulties exist in this case, in that:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose, which is as a single-family residence; and he does not find that enforcing the ordinance would be unnecessarily burdensome.
2. The problem is self-created, in that the trailer is used for storage of equipment that does not have anything to do with the residence itself.

MOTION CARRIED 5-2 (Barringer and Stevens opposed).

APPROVAL OF JULY 12, 2016 MINUTES

MOTION by Masood, support by Vergun, to approve the Zoning Board of Appeals meeting minutes of July 12, 2016 as submitted.

MOTION CARRIED 7-0.

PUBLIC QUESTIONS AND COMMENTS

There were no public comments.

ADJOURNMENT

MOTION by Rich, support by Stevens, to adjourn the meeting at 8:08p.m.

MOTION CARRIED 7-0.

Respectfully submitted,

James Stevens, Secretary
Zoning Board of Appeals

/ceh