

**MINUTES  
CITY OF FARMINGTON HILLS  
ZONING BOARD OF APPEALS  
CITY HALL – COUNCIL CHAMBER  
OCTOBER 14, 2014**

**CALL MEETING TO ORDER:**

Chair Seelye called the meeting to order at 7:32 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: Barringer, Lindquist, Masood, Rich, Seelye, Vergun, White

Members Absent: Stevens

Others Present: Attorney Morita, Zoning Division Supervisor Randt

**SITE VISIT OCTOBER 12, 2014**

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

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**

There were no changes to the agenda.

**MOTION** by Vergun, support by White, to approve the agenda as published.

**MOTION CARRIED, 7 - 0**

**NEW BUSINESS:**

- A. ZBA CASE: 10-14-5541  
LOCATION: 29902 Barwell  
PARCEL I.D.: 23-14-477-017  
REQUEST: In order to retain a 6 foot tall privacy fence in the exterior side yard in an RA-2 Zoning District, the following is requested: (1) A 3 foot height variance from the requirement that fences not to exceed 3 foot in height shall be permitted in the exterior side yard.  
CODE SECTION: 34-5.12  
APPLICANT/OWNER: Daniel and Daniela Costea

Zoning Supervisor Randt stated that the proponent has requested that the case be adjourned to the November meeting due to illness.

**MOTION** by Lindquist, support by Masood, to ADJOURN consideration of ZBA Case 10-14-5541, to the Zoning Board of Appeals meeting of November 11, 2014.

**MOTION CARRIED, 7 - 0**

- B. ZBA CASE: 10-14-5542  
LOCATION: 22043 Lujon  
PARCEL I.D.: 23-31-132-017  
REQUEST: In order to construct a new home in an RA-1 Zoning District, the following variances are requested: (1) A 2 foot variance to the required 35 foot front yard setback, (2) A 3 foot variance to the required minimum combined total of 20 feet side yard setback, (3) A 9.62 foot variance to the required 35 foot rear yard setback.  
CODE SECTION: 34-3.15; 34-3.1.4.E.  
APPLICANT/OWNER: Adorno Piccinini

Zoning Supervisor Randt discussed the location of the property and presented a location map, photos of the area and a sketch showing the requested variances and the proposed home. He stated that this property is a vacant lot that backs up to a commons area. He noted that at one time the rear yard setback for a building on a commons area was 30 feet and approximately 10 years ago the ordinance was changed to require all buildings to have a rear yard setback of 35 feet.

Adorno Piccinini, 41626 Steinbeck Glen, applicant, explained that at the time the subdivision was developed the rear yard setback requirement was 30 feet, the requirement has changed and it is now 35 feet, therefore, pushing his variance request above what it would have been under the old rules. He stated that he has shared the plans for the home and has walked the site with the adjacent neighbors as well as members of the subdivision association. He added that the association president has signed off on the proposed plans and both adjacent neighbors are in support of the home and have submitted letters to that regard. He explained that the home would add value to the neighborhood and there would not be a negative impact on anyone. He added that both adjacent homes have driveways that face his home and both are 35 feet away. He stated that his request is within the spirit of the intent of the development as it was originally envisioned and the main reason the lot has been sitting vacant so long is because it is nearly impossible to build a first floor master bedroom home or large ranch on the site without variances.

Chair Seelye indicated that the Board did receive two letters in support of the variances from the association.

Mr. Piccinini submitted additional letters in support of the proposed home to the Board.

Chair Seelye questioned how long the applicant has owned the lot. Mr. Piccinini stated he has owned the lot for approximately 6 months.

Member Lindquist commented that he understands the request for the rear yard setback variance but he questions the reason for the side and front yard setback variances and asked if it would be the same house without the additional variances. Mr. Piccinini responded stating that it would essentially be the same home but he would have to cut back into the living space in order to make the garage work and to get the appropriate turn radius in and out of the garage, therefore that is why he is asking for the front yard variance. He noted that across the street there is an open space so he would not be getting any closer to or impacting any homes.

Member Lindquist stated that the variance requested on the side of the tandem garage would not affect the turning radius of the other garage and he questions the reason for the front and far side cantilever variance request, both of which do not affect the two car garage. Mr. Piccinini responded stating that the cantilever was the master bath bathtub and in order to get enough living space in the inside of the home they had to push out on the outside. He added that he collects vintage Mustangs and that is what the tandem garage will be used for.

Discussion was held regarding the garages, the space required to maneuver a vehicle into the two car garage and the size of the proposed driveway.

Member Lindquist commented that he does not see how the tandem garage encroaching on the north side setback, the bathtub encroaching on the south side setback or the front of the two car garage encroaching on the front yard setback affects the driveway size.

Mr. Piccinini stated that the overall layout ended up this way because there were certain rooms that they wanted to be certain sizes and because they wanted a first floor master bedroom. He added that he has certain things he wants to do in the tandem garage with the Mustangs, as far as displaying, and this layout is the result.

Member White asked if the rendering that the applicant brought with him depicts anything that has not been submitted to the Board. Mr. Piccinini responded stating that it was essentially the same only his architect had photo shopped the rendering onto the lot to scale.

Member Rich commented that the applicant is requesting variances on basically all four sides and questioned if the applicant knew where the house would be situated in the front yard, if it would sit closer than the other houses on the block.

Mr. Piccinini stated that it appears that most are in line at the 35 foot setback not at 33 feet. He noted that there might be one or two that are a little closer but he does not know if they received a variance.

Member Rich asked if the applicant would have an objection to moving the house back 2 feet and increasing the rear yard setback request so a front yard variance would not be needed at all. Mr. Piccinini responded stating they did consider that but they did not want to impact the trees in the woods behind the house as that was part of what attracted them to the lot. He stated that he had his architect put together a site showing the radius of the street and how it was intended to flow and having the house where he is proposing would go along with the flow and he would prefer to leave it out front.

Chair Seelye opened the public portion of the meeting.

John Lowry, 21972 Heatheridge, explained that he is the homeowner of one of the homes directly behind the proposed home on the other side of the wetlands and commons area and he is in objection to the 9.6 foot variance. He questions whether or not a lot of trees will die because the proposed home will be close to the wood line and just digging the basement alone is likely to kill many trees. He added that if the homeowner wanted to put a deck on the back of the house there is no space to do it with a 9.6 foot variance and the request is greater than what would be allowed with the original 30 foot setback. He stated that one of the values of his lot is the beautiful view off the back and this proposed house is going to be big and further back than any of the other homes along the wood line and he feels the value of his home would go down.

Paul Beaubien, 22014 Heatheridge, explained that he is the homeowner of the house kitty-corner behind the proposed home and he is in objection to the variances and shares many of Mr. Lowry's concerns regarding the trees. He stated that when they built the houses in the area a lot of trees died and he wonders if the proposed home could go more towards the front, then they would not have to worry about the trees.

Pam Lowry, 21972 Heatheridge, stated that she is in objection to the variances and in 2000 when they built the other homes the developer tried to take some of the woods down and install a sewer system but the area is considered a wetland area and they would like to preserve that.

Mr. Piccinini explained that a big part of the attraction to the lot was the trees and the main reason they are building is because they do not have trees where they live now. He stated that they measured and the closest tree to the basement wall would be at 16 feet and the basement will be a walkout so the grade is about where it will stay, therefore, there will be no excavation and no uprooting of trees. He added that the area is not considered a wetland by DNR regulations, they checked when they did the soil borings on the property, it is a natural overflow and he is sure that the City has regulations for soil erosion and the proper procedures will be put into place during construction to prevent anything from flowing into the natural drain.

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

Secretary Vergun confirmed there was an affidavit of mailing on file with no returned mailers.

Member Rich commented that he is concerned that the zoning requirement existed for a number of years and the applicant designed this house in conjunction with full knowledge of the regulations and the response from the applicant as to the reason for the variances was because it is just the way he wants it. He stated that the Board evaluates every case on its own merit but this type of response whether from this applicant or any other is concerning and though the variances are not huge they are on all four sides of the house. He noted that the applicant has the approval of the two neighbors on the north and south side of the property with respect to the side yard variances but there are certainly issues with the rear yard variance and it is not known what damage may or may not occur to the trees during construction of this home. He stated that they certainly could not move the house any more forward as that would impact the general look of the neighborhood. He added that he is inclined to grant the side yard variances but is concerned about the variances overall.

Member Lindquist asked if the homes on Heatheridge are part of the Meadowbrook Forest East Subdivision. Mr. Lowry stated they were not, they are a separate subdivision.

Member Lindquist explained that he is not inclined to grant the side yard or front yard setback variances because he finds them frivolous and they do not fulfill any practical difficulty in constructing a home on this lot. He stated that with respect to the rear yard setback, he was initially inclined to grant the variance before hearing the objections of the neighbors to the rear; respectfully, he would not be inclined to grant a setback variance greater than the original 30 feet which is consistent with the other homes even though the requirement has changed. He stated that the only variance that he would be willing to consider would be a reduction from the request to the rear yard setback to follow along the 30 foot setback line which would be a variance of 4.6 feet.

Member Barringer stated that he agrees with the reduction of the rear yard setback to the original 30 feet and he is inclined to grant the front yard setback because as he stood there and lined up the stakes with the house to the north it seem to make it more uniform and the proposed home appeared to line up with the house to the north.

Member Lindquist stated he agrees that the proposed house does seem to line up with the front of the house to the north from where it was staked, however, he continues on with the same reasoning to not grant the variance.

Mr. Piccinini stated that he hears the concerns from the neighbors about the possibility that trees might die but he is not getting close to the trees so for that to even be considered is irrelevant in this case. He explained that the home will be 16 feet from the nearest tree and the lot is at grade so there will be no excavation. He stated he can see concerns if they were going within 2 feet of the trees and cutting some of them down for a basement but that is not the case and should not be considered.

Member Lindquist asked the applicant what his plan would be for the property if the variances were not granted. Mr. Piccinini responded stating that the lot has been sitting for more than ten years because the builder did not want to ask for any variances. He stated that he would probably build the minimum square foot home and then sell it. He added that the proposed home would bring values up in the neighborhood, pay association dues and pay property taxes to the City, as it sits vacant it is no good to the City.

Member Lindquist asked if the applicant purchased the lot within the past year. Mr. Piccinini responded stating yes and at the time they were buying the lot the deeds and restrictions were reviewed by his attorney and it showed a setback of 30 feet, they found out later that the rules had changed and the setback requirement is now 35 feet. He noted that they would have had to been much more due diligent in order to find that the rule had change.

Member Rich questioned the size of this lot compared to other lots in the neighborhood. Zoning Supervisor Randt stated they are all the same, there is no major deviation.

Member White questioned the square footage of the proposed house and if it was the same size as other homes on the street. Mr. Piccinini stated the home is approximately 3,700 square feet and a home just sold at 4,200 square feet two doors down.

Zoning Supervisor Randt stated that the proposed home was not out of character for the area.

**MOTION** by Rich, support by Lindquist, in the matter of ZBA Case 10-14-5542, to DENY the petitioner's request for the following variances: (1) A 2 foot variance to the required 35 foot front yard setback, (2) A 3 foot variance to the required minimum combined total of 20 feet side yard setback, (3) A 9.62 foot variance to the required 35 foot rear yard setback; because the petitioner did not demonstrate practical difficulties exist in this case, in that specifically:

1. Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property as a residence and the ordinance is not unnecessarily burdensome.
2. It was not found that the petitioner's plight is due to the unique circumstances of the property, as there would not be a problem granting a variance of 4.62 feet to the rear

in order to align the home with the prior setback rules, however, that is not what the petitioner has requested.

3. The problem is self-created as the petitioner knew the size of the lot and it is understood that there may have been a problem identifying the change in the rear yard setback requirements but that is why a 4.62 foot variance would be considered.

**MOTION CARRIED, 6 – 1 (Barringer opposed)**

- C. ZBA CASE: 10-14-5543  
LOCATION: 24360 Independence Court  
PARCEL I.D.: 23-20-300-019  
REQUEST: In order to construct a new entranceway sign on Grand River in an RC-3 zoning district, the following special exception is requested: A 9 foot special exception to the 10 foot setback requirement.  
CODE SECTION: 34-5.5.3.E.  
APPLICANT/OWNER: Independence Green Associates, L.L.C., c/o Mr. Alan J. Hayman

Zoning Supervisor Randt discussed the location of the property and presented an overview of the apartment complex, photos of the existing sign, the proposed new sign and location of the new sign. He indicated that the proposed sign meets all the requirements for a subdivision entrance way sign except for the setback requirement.

Larry Leib, attorney representing the applicant, explained that the Halsted Road sign has been reduced from a nonconforming sign to a conforming sign in size and setback, the special exception they are requesting is for the Grand River Avenue sign which is going from a nonconforming size sign to a reduced sized, two sided conforming sign. He stated that they are asking for the 9 foot special exception to allow the sign to be one foot from the property line located within the greenbelt and perpendicular to the road, unlike the current oversized nonconforming sign which is parallel to the road. He noted that there is no variance or exception needed for the size of the proposed sign.

Member Rich questioned if the existing temporary sign, which indicates one, two, three bedroom apartments and where to call for leasing information, will be removed. Mr. Leib responded stating that the existing sign will be removed.

Member Rich questioned if the information on the existing sign will be deemed not necessary as the new sign does not include any of that information.

Alan Hayman, 1500 Crooks Road, applicant, explained that there is a lot of information on the existing sign in which drivers do not have time to read and if they did take the time to read the information, it could create an uncomfortable traffic situation on Grand River Avenue. He stated that they are trying to upgrade the property and conform more with the competing properties in the area and they believe that this proposed sign will help them with that and will be more pleasing to the other property owners in the area.

Member Lindquist commented that when he did the site visit he could not understand why the sign was proposed on the west side of the opening of the driveway and not on the east side where it would be visible before the turn for westbound drivers but after seeing the diagram presented,

he understands that there is simply not enough room on the other side of the driveway to put the sign and have it perpendicular to the roadway without it jetting out into the service drive.

Member Barringer questioned if the proposed sign meets setback requirements from the curb of Grand River Avenue. Zoning Supervisor Randt stated that he does not see any issues with the placement of the sign, however, he recommends that the Board include in their motion that the sign be reviewed by the Traffic Engineer for any possible site issues.

Member Masood questioned if the leasing center sign was part of the property and if that particular sign had a variance or special exception. Mr. Hayman responded stating he was not sure if it was on their property as it is located between the service drive and Halsted Road.

Zoning Supervisor Randt stated that these signs are also nonconforming and they were probably put up with the other signs years ago, they would be considered directional signs and can remain in place as long as they are not enlarged upon.

Mr. Leib commented that the directional signs will also be removed.

Member Lindquist clarified that the two billboards and the leasing center sign are to be removed and the special exception request is for a proposed new sign along Grand River Avenue. Mr. Leib confirmed that was correct.

Member Lindquist questioned if there will be any signage on Halsted Road. Mr. Leib responded stating that there will be a conforming sign on Halsted Road which will not require a variance or exception.

Chair Seelye asked if the applicant gave any thought to having the sign parallel with Grand River Avenue. Mr. Hayman responded stating that it is not good to have signs parallel to the road because drivers cannot see the sign until they are opposite of it, if the sign is perpendicular drivers can easily read the sign.

Member White questioned if the trees in the location of where the sign is proposed will have to be removed. Mr. Leib responded stating that no trees will be removed as they will not impede the flow of the sign.

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

Secretary Vergun confirmed there was an affidavit of mailing on file with 22 returned mailers.

**MOTION** by Lindquist, support by White, in the matter of ZBA Case 10-14-5543, to GRANT the petitioner's request for a 9 foot special exception to the 10 foot setback requirement, because the proponent has met the requirements necessary for an exception in this case as set forth in Section 34-5.5.3.E. of the Farmington Hills Zoning Ordinance:

- The construction of the new sign, perpendicular and more visible to the drivers on Grand River Avenue and the elimination of the large and rather obtrusive billboard signs is a general good that justifies the exception.

- The proponent has demonstrated why the exception is needed to place the sign in a narrow envelope and why it is not on the eastside of the small intersection.

**SUBJECT** to the following conditions: 1) The two large billboard signs on Halsted Road and on Grand River Avenue be removed at the same time as the new signs are placed, 2) The approval by the Traffic Engineer and any other appropriate authorities of Farmington Hills or Oakland County, that the placement of the sign in the new location does not interfere with traffic flow or site lines to the sidewalk or either of the two roadways, 3) The removal of the directional sign as pictured in the photograph and described; and 4) The sign be placed in the location as shown in the material provided and built in conformance with the representations as presented.

**MOTION CARRIED, 7 – 0**

Member Rich commented that the sign looks very attractive and he appreciates the upgrades that Mr. Hayman, as the new owner, is doing with the Independence Green project.

- D. ZBA CASE: 10-14-5544  
LOCATION: 25463 Witherspoon  
PARCEL I.D.: 23-21-152-015  
REQUEST: In order to retain a 4 foot high aluminum fence in the exterior side yard in an RA-1 zoning district, the following is requested: (1) A 1 foot height variance from the requirement that fences not to exceed 3 foot in height shall be permitted in the exterior side yard.  
CODE SECTION: 34-5.12  
APPLICANT/OWNER: Michael A. Cuschieri

Zoning Supervisor Randt discussed the location of the property and presented an overview of the property and photos of the pool and existing fence. He stated that the proponent applied for a fence permit and was denied because it exceeded the height allowance for fencing in the front an exterior side yards; fences are not to exceed 3 feet in height in exterior side yards and the proponent wishes to have a 4 foot high fence.

Michael Cuschieri, 25463 Witherspoon, applicant, explained that they extended the concrete patio around their pool and they would like to keep the same 4 foot fence that is currently around the pool also around the new patio.

Chair Seelye questioned if the minimum height for a fence around a pool is 4 feet. Zoning Supervisor Randt stated that is correct, in order to have a pool that meets Zoning and Building codes it has to be surrounded by a 4 foot high fence.

Discussion was held regarding the height requirements for fences around swimming pools, the height requirements for fences in exterior side yards and the Building and Zoning Code requirements for swimming pools.

Attorney Morita stated that this case came in to the City because the property owner tried to get a fence permit, therefore, the property owner notified the City of the problem, it did not come to the City as a complaint.

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

Secretary Vergun confirmed there was an affidavit of mailing on file with no returned mailers.

**MOTION** by Lindquist, support by Barringer, in the matter of ZBA Case 10-14-5544, to GRANT the petitioner's request for a 1 foot height variance from the requirement that fences not to exceed 3 foot in height shall be permitted in the exterior side yard 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 would unreasonably prevent the petitioner from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome. In this case, compliance with the ordinance would ultimately require two fences; one 4 foot high to fence the swimming pool and another 3 foot high to enclose the patio and that requirement would be unnecessarily burdensome.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district, in the strict sense that swimming pools and the 4 foot fence required by City Code around swimming pools are an attractive nuisance on properties and the location of this fence into an exterior side yard is consistent with justice to both this property owner and others.
3. That the petitioner's plight is due to the unique circumstances of the property as this is a corner lot with an exterior side yard facing one of the two street frontages and this would not be an issue for an inline lot.
4. That the problem is not self-created, as the property has a pool and the requirement is that a 4 foot fence surrounds the pool, so placing it in the location requested to enclose the entirety of the patio is reasonable in the sense that the proponent did not create the fence requirement.

**SUBJECT** to the following conditions: 1) The fence be constructed consistent with the style of the existing 4 foot fence which goes around the remainder of the swimming pool and with similar/identical materials, color, etc., 2) The fence not be placed any further beyond the boundary of the patio area; and 3) The vegetation screening for the fence be retained and maintained consistent with the current level, including superior to the height of the new 4 foot fence and surrounding as much of the fence as it does now and, if practicably, the entirety of the fence line.

**MOTION CARRIED, 7 – 0**

**APPROVAL OF SEPTEMBER 9, 2014 MINUTES:**

Member Rich noted grammar corrections to the minutes of September 9, 2014.

**MOTION** by Masood, support by White, to approve the September 9, 2014 Zoning Board of Appeals as revised.

**MOTION CARRIED, 6 – 0 – 1 (Lindquist abstained)**

**2015 ZBA PROPOSED MEETING SCHEDULE**

**MOTION** by Rich, support by Vergun, to approve the 2015 Zoning Board of Appeals Meeting Schedule as submitted.

**MOTION CARRIED, 7 - 0**

**PUBLIC QUESTIONS AND COMMENTS:**

There were no public comments

**ADJOURNMENT**

**MOTION** by White, support by Masood, to adjourn the meeting at 8:56 p.m.

**MOTION CARRIED, 7 – 0**

Respectfully submitted,

James Stevens, Secretary  
Zoning Board of Appeals

/ceh