

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
SEPTEMBER 10, 2019**

CALL MEETING TO ORDER

Chair Vergun 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, King, Lindquist, Masood, Rich, Seelye, Vergun**

Members Absent: **None**

Others Present: **Attorney Zalewski and Zoning Supervisor Randt**

SITE VISIT September 10, 2019

Chair Vergun 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

Regarding New Business Item C. ZBA Case: 9-19-5659:

Leroy Asher, Miller Canfield, 150 W. Jefferson Ste 2500, Detroit MI, speaking for the applicant, asked to have the case adjourned to November 12, 2019. Mr. Asher noted that the Planning Commission would be discussing raising the height limit for non-residential districts at their September meeting. If an amendment raising the height limit appeared to be moving forward, the variance for this application would not be needed.

Zoning Supervisor Randt further explained that the Planning Commission was discussing raising the height limit for non-residential districts to 50 feet.

MOTION by Masood, support by King, to adjourn ZBA Case 9-19-5659 to the November 12, 2019 meeting.

Motion carried 7-0.

City Attorney Zalewski advised that this item would not be re-noticed for the November 12 meeting, as the case was adjourned to a date certain.

MOTION by King, support by Barnette, to amend and approve the agenda as follows:

- Under New Business, delete Item C. ZBA Case: 9-19-5659, as the case had just been adjourned at the request of the applicant to the November 12, 2019 meeting.

Motion carried unanimously.

MOTION CARRIED 7-0.

NEW BUSINESS

A. ZBA CASE: 9-19-5657
LOCATION: 34918 W. Eight Mile
PARCEL I.D.: 23-33-376-024
REQUEST: In an RC-2 Zoning District, the following variances are requested in order to build a new multi-family development consisting of 8 buildings and 78 dwelling units.
1.) A 31.7 foot variance to the required 50 foot front yard setback to permit 12 parking spaces to be located within the 50 foot front yard setback.
2.) A 19.9 foot variance from the required 87.5 foot rear yard setback.
CODE SECTION: 34-5.2.1.; 34-3.5.2.R.
APPLICANT/OWNER: Ari Kosterlitz

Member Masood called the case.

Utilizing a PowerPoint presentation, Zoning Supervisor Randt gave the background for this variance request. The subject site was vacant and located between two apartment complexes. The applicant had submitted a site and landscape plan, along with building facades. Today the applicant had provided additional information to the Commission, including more detailed renderings and an updated site plan.

Reid Cooksey, Stonefield Engineering and Design, 607 Shelby Street, Detroit, was present on behalf of this application for variances to the rear and front yard setbacks, in order to construct a new multi-family development on the narrow, deep, undeveloped lot. Because the existing County drain at the rear of the lot made that portion undevelopable, the rear building had to be spaced in a way that encroached on the rear yard setback, with parking then encroaching on the front yard setback.

Mr. Cooksey noted that this was not the first time the Zoning Board of Appeals had seen a plan for this site. The applicants had been working with the City on plans for the site since 2015, trying to put forward the best possible plan for the owner and the City, as well as for the surrounding neighbors.

Member King asked why the County drain was causing the rear building to be pushed into the rear yard setback, and why parking in the front yard setback was being requested.

Mr. Cooksey explained that normally parking would be allowed in the rear yard setback, but because of the County drain the rear yard could not be utilized for that purpose. Also, the setback was calculated by ordinance formula; in this case per formula the setback would be 87.5 feet. Because parking was not provided in the rear, the building was pushed back further into the rear of the site, at a 67.6 rear yard setback. Therefore they were asking for a variance of 19.9 feet from the required minimum rear yard setback. They were providing significant additional buffering between the back of their building and the single family homes to the north.

The front yard parking setback variance request was the result of a domino-effect of the rear building placement. The applicants had worked with the City to develop an appropriate layout for the site. The other buildings on the site were at the minimum required separation, and in order for the land to be useable, the plan showed 12 parking spaces within the minimum 50-foot front yard setback. 11 spaces in

the front yard setback were for dwelling units within Building #8, and one was for the office/workout building. A substantial hedgerow as well as trees screened the front yard parking from the street.

Mr. Cooksey reiterated that the lot was very narrow, and they needed to meet the side yard setbacks as well as provide the required building separations. The layout as shown was the best layout for the lot, and made the site more appealing to future tenants.

In response to a question from Member Rich regarding the rear building placement, Mr. Cooksey explained that normally parking could be constructed up to 10 feet of the rear property line. Because of the County drain, 60 feet of the rear yard was unusable, and parking needed to be in front of Building 1 rather than behind it. Additionally they had to provide for the building separation requirements between Buildings 1, 2 and 3, as well as provide a drive aisle for emergency vehicles.

Because 60 feet of the rear yard was unusable, they had decided to add more trees and create a greater green space there, resulting in a dense buffer between Building 1 and its single-family residential neighbors to the north.

Member Rich acknowledged that Building 1 acted as a buffer for the residential neighbors, screening headlights from the neighbors' property. He asked if there was room for any parking spaces behind Building 1.

Mr. Cooksey said they had 160 parking spaces on site, which was the minimum required. The space behind Building 1 could not be used as parking. Although the building was constructed about 10 feet from the 60 foot County drain line, parking behind the building would require a drive aisle, or a total width – parking plus drive aisle – of 44 feet.

Mr. Cooksey continued that they had provided minimum required spaces between the buildings, and had prioritized the green space behind Building 1. The single family lots to the north had significant green space at the rear of their lots, and the applicants were adding to the existing greenbelt that abutted the northern neighbors' properties.

Member Rich asked if the circulation pattern shown on the plan had been approved by the Fire Department. Mr. Cooksey said the plans had been sent to the Fire Department. The radii and the drive aisle widths were in excess of the minimum requirements. They had provided truck turning analyses to show that the largest ladder truck the Fire Department had could circulate the site. The traffic circles gave an easier turnaround within the parking lot.

In response to a further question from Member Rich, Mr. Cooksey said the units would be studios and one-bedroom apartments.

Member Lindquist asked if there was another reason other than economic viability that kept the applicants from reducing the number of units, thereby reducing the need for the variances.

Mr. Cooksey said that creating a development on a difficult site like this one that was economically worthwhile to both the tenants and the owner was a driving factor. Because of the dimensional requirements, including the rear yard setback formula and separation requirements between buildings, removing some units in the rear building would not absolve the applicants of needing variances.

Member Lindquist asked why the development as shown was more appealing to tenants, which was a claim made by the applicant this evening. Also, it appeared that this development's rear building was set further back than the complexes adjacent to either side.

Mr. Cooksey said that a broader aerial would show that the complex to the east actually had a building that was further north than the one on the subject site. The rear yard setback formula involved the length and height of the building; the buildings on the adjacent properties might have different setbacks because of their building lengths. Also, the abutting developments did not have properties as narrow as this one, although they were just as deep. The applicants could present two rear buildings that would require only a 50 foot setback, but in doing so they would have to meet 45-foot separation requirements which would then push them into the side yard setback. They felt that encroaching on the rear yard setback was a better option than encroaching on the side yard setbacks, due to the large single family lots to the north and the ability to enrich the greenbelt there. The neighbors on the east and west were only 20 feet from their property line.

Member Rich noted that the drawings called out the units as condominiums. Were the units apartments or condos? Mr. Cooksey said that was a nomenclature error; the units were apartments.

Zoning Supervisor Randt asked for the square footage per apartment. Mr. Cooksey said he did not have that information, but the units were at least 100 square feet over minimum requirements.

Member Lindquist asked if the units were town homes. Mr. Cooksey said they were town home style with garages and no basements.

Member Masood asked Zoning Supervisor Randt about the variances granted in 2015 for this parcel. Zoning Supervisor Randt explained that the 2015 project had not been developed and those variances had expired after one year.

Member Masood said that if 2 buildings were removed on the east and the whole site plan was shifted east, the variances would not be necessary. Mr. Cooksey said he would need to look at that idea, but he was unsure that based on the ordinance formula, no variances would be needed.

Member Masood asked Zoning Supervisor Randt to comment. Zoning Supervisor Randt said that the setback calculation was somewhat confusing; however based on that calculation the applicants did need a rear yard variance.

Member Masood said that for purposes of discussion, it seemed like the applicants were trying to utilize the property to the fullest extent. If the site plan was adjusted with fewer units, a variance might not be needed.

Zoning Supervisor Randt said that while he couldn't comment either way, this plan was discussed before the Planning Commission, which determined that this project was feasible as long as the variances were granted. Engineering and road issues would be discussed later in the development process.

Member Lindquist summarized that the Planning Commission had approved this plan with the condition that it would require variances as requested this evening. City Attorney Zalewski said that was correct: Planning Commission's approval was conditioned on the applicant receiving variances as requested, and complying with all other City requirements.

Mr. Cooksey commented that tonight's request was their last piece before they moved on to engineering approvals, which were not part of the Planning Commission approval process.

Chair Vergun opened the public hearing. Seeing that no one came forward to speak, Chair Vergun closed the public hearing and brought the matter back to the Board.

Member Masood noted that there was an affidavit of mailing on file, with 2 returns.

MOTION by King, support by Rich, in the matter of ZBA Case 9-19-5657, 34918 W. Eight Mile Road, to GRANT the petitioner's request for 1) a 31.7 foot variance to the required 50 foot front yard setback to permit 12 parking spaces to be located within the 50 foot front yard setback and 2) a 19.9 foot variance from the required 87.5 foot rear yard setback, because the petitioner did demonstrate practical difficulties exist in this case in that he did set forth facts which show that:

1. Compliance with the strict letter of the ordinance will render conformity with the ordinance unnecessarily burdensome.
2. Granting the variances requested will do substantial justice to the petitioner as well as to other property owners in the district.
3. The petitioner's plight is due to the unique characteristics and circumstances of the property; specifically, it being a particularly narrow site with a County drain in the rear portion of the lot.
4. The problem is not self-created.

With the following condition:

- Landscaping be consistent with that depicted on the plans presented this evening, especially regarding the screening on the north and south ends of the property.

Motion to grant carried 7-0.

B. ZBA CASE: 9-19-5658
LOCATION: 29652 Fernhill Drive
PARCEL I.D.: 23-03-451-018
REQUEST: In an RA-1 Zoning District, the following variances are requested in order to construct an addition to a house:
1.) A 5.1 foot variance to the required 40 foot front yard setback.
2.) A 0.5 foot variance to the required 10 foot side yard setback
CODE SECTION: 34-7.1.3.A.; 34-3.1.4.E.
APPLICANT/OWNER: Celestin John Walby

Member Masood called the case.

Utilizing a PowerPoint presentation, Zoning Supervisor Randt gave the background for this variance request. The subject site at 29652 Fernhill was located between Orchard Lake Road and Halsted Road, south of Bond Boulevard and north of 13 Mile Road; Fernhill Drive did not go through to 13 Mile. An

overhead view showed the layout of the property. An existing and proposed site plan had been submitted, along with elevations of the proposed addition.

Celestin John Walby, 29652 Fernhill, was present on behalf of this application for two variances in order to construct an addition to his home. He explained that the variance on the south side of the building was for a garage extension in order to add an extra bay, as shown on the elevation. The variance to the north side was to add balance to the front facade by covering and extending the existing front porch to the north end of the building, and to add a 12 foot addition to the rear, again up to the existing north line of the house.

The existing home already extended into the north side yard setback by 6 inches. The porch and rear addition would also extend into the side yard setback by the same amount.

The existing uncovered front porch projected 5.1 feet into the front yard setback. Covering the front porch and adding the extra garage bay would continue that same projection.

Mr. Welby summarized that in order to construct an addition that was aesthetically pleasing and in alignment with the current lines of the home, the variances were necessary.

Member Rich pointed out that the proposed additions to the property on the north and west did not encroach further into the setback than the existing building. The 6-inch variance was required because the proposed addition expanded the nonconformity, but did not extend any further into the setback than the original home. Member Masood added that if the applicant did not cover the front porch, the 5.1 foot variance would not be needed for the porch. Zoning Supervisor Randt agreed.

Member Masood asked if there was a minimum amount of variance that triggered a formal request. Zoning Supervisor Randt said there was not a minimum amount. If an applicant was an inch over a setback requirement, they would need to seek a variance.

Mr. Welby said that even if the front porch wasn't covered, he would still need a front yard setback variance for the garage extension.

In response to questions from the Board, Mr. Welby said they were expanding the garage by a single bay; the garage was not going further back. The rest of the addition was for living space. Floor plans for the addition had not been presented as part of this variance request, but the Planning Department did have a full set of plans.

Planning Supervisor Randt explained that the Planning Department would determine that the garage space complied with the ordinance formula regarding accessory space. If the garage space had not complied with the formula, it would have been called out in the variance request.

Member Barnette said that if the rear addition and the porch didn't line up with the existing building, the 6-inch variance would not be needed. Mr. Welby said that was correct, but it would be odd to have a 6-inch jog from the existing building to the addition, and to have the porch end 6 inches from the line of the building.

Member Barnette summarized that if the Board granted the variance requests, the size of the footprint would not increase, but the size of the nonconformity would increase.

Member King noted that even if the side yard variance was granted, the total of the two side yards would be over 25 feet.

Chair Vergun opened the public hearing. Seeing that no one came forward to speak, Chair Vergun closed the public hearing and brought the matter back to the Commission.

Member Masood said that there was an affidavit of mailing with no returns.

MOTION by Masood, support by Lindquist, in the matter of ZBA Case 9-19-5658, 29652 Fernhill Drive, to GRANT the petitioner's request for a 1) a 5.1 foot variance to the required 40 foot front yard setback and 2) a 0.5 foot variance to the required 10 foot side yard setback, in order to construct an addition to a house, 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. Granting the variance requests will do substantial justice to the petitioner as well as to other property owners in the district.
3. The petitioner's plight is due to the unique circumstances of the property.
4. The problem is not self-created, in that the existing porch already projects 5.1 feet into the front yard setback which is the same setback the petitioner is requesting, and the petitioner is only asking for a 6-inch variance on the north side, the same as the existing side yard setback, which is 9.5 feet.

Motion carried 7-0.

PUBLIC QUESTIONS AND COMMENTS: None.

APPROVAL OF MINUTES: July 23, 2019, August 13, 2019

MOTION by King, support by Barnette, to approve the Zoning Board of Appeals meeting minutes of July 23, 2019 as presented.

Motion carried 7-0.

MOTION by Rich, support by Seelye, to approve the Zoning Board of Appeals meeting minutes of August 13, 2019 as presented.

Motion carried 7-0.

PROPOSED 2020 ZONING BOARD OF APPEALS MEETING SCHEDULE

MOTION by Rich, support by Seelye, that the Zoning Board of Appeals adopt the 2020 meeting schedule as presented:

January 14, 2020
February 11, 2020
March 17, 2020
April 14, 2020
May 12, 2020
June 9, 2020
July 14, 2020
August 11, 2020
September 8, 2020
October 13, 2020
November 10, 2020
December 8, 2020

Motion carried 7-0.

ADJOURNMENT

MOTION by Seelye, support by Barnette, to adjourn the meeting at 8:29 p.m.

Motion carried unanimously.

Respectfully submitted,
Adam Masood, Secretary

/cem