

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
JULY 8, 2014**

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: Barringer, Lindquist, Masood, Rich, Seelye, Stevens, White

Members Absent: Vergun

Others Present: Attorney Morita, Zoning Division Supervisor Randt

SITE VISIT JULY 6, 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

Zoning Division Supervisor Randt stated that ZBA Case 7-14-5535 has withdrawn from the agenda.

MOTION by Stevens, support by White, to approve the agenda as amended.

MOTION CARRIED, 7-0

OLD BUSINESS:

A. ZBA CASE: 4-14-5515
LOCATION: 22610 Clear Lake
PARCEL I.D.: 23-29-379-012 ZONE: RA-1
REQUEST: A 25 foot variance to the required 35 foot rear yard setback in order to build an addition at the back of the home.
CODE SECTION: 34-3.1.4.E
APPLICANT/OWNER: Larry G. Ehlers

Zoning Supervisor Randt discussed the location of the property and presented sketches, photos and a site plan of the proposed addition. He noted that the applicant has submitted additional information since the last time this item was before the Board which includes a new plan, new mortgage survey and a sketch identifying the locations of the different utility easements. He added that the proposed addition has been revised so that it is not encroaching on the easements.

Larry Ehlers, applicant, explained that he legally may not meet the setback requirements but technically he does as his property backs up to a pond and the lot line does not extend all the way to the water. He noted that other lots in the surrounding area have odd sizes and shapes.

Mr. Ehlers stated that he has moved the Florida room over so it cannot be seen from the street and the only neighbors that can see it now are the ones that live west of him on the edge of the pond and he is confident that he could get their signature of approval if necessary. He added that he has addressed all other requirements of the Board as discussed at the prior meeting.

Member Rich questioned the proponent's property line in relation to the waters edge. Mr. Randt stated that the property line did not go all the way to the edge of the water.

Member Rich asked who was responsible for maintaining the property between the proponent's property line and the water. Mr. Randt stated that he assumed it was the subdivision association's responsibility but he did not know for a fact.

Member Rich asked the proponent if the subdivision association has ever mowed or maintained that area. Mr. Ehlers stated that they had not and he is head of the maintenance division of the association.

Member White questioned the easement for the power lines. Mr. Ehlers stated that the Edison line is 13 feet 2 inches from the back edge of the proposed Florida room and Edison has informed him that as long as he does not back up to another house the easement is 6 feet on either side of the line and if he backed up to another house it would be a 12 foot easement on each side so either way he is good.

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

Secretary Stevens confirmed there was an affidavit of mailing on file with 2 returned mailers.

MOTION by Rich, support by White, in the matter of ZBA Case 4-14-5515, to GRANT the petitioner's request for a 25 foot variance to the required 35 foot rear yard setback in order to build an addition at the back of the home because the petitioner did demonstrate practical difficulties in this case in that he set forth facts which show:

1. Compliance with the strict letter of the ordinance is 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 that the addition improves the petitioner's property and the surrounding properties will benefit from the increase in value of this home.
3. That the petitioner's plight is due to the unique circumstances of the property; as the property is an odd configuration.
4. That the problem is not self-created; as the orientation of the lot and location of the property lines was not created by the petitioner.

SUBJECT to the condition that the addition is built according to the proposed plans and the materials and style be consistent with the existing home.

MOTION CARRIED, 7-0

NEW BUSINESS:

B. ZBA CASE: 7-14-5532
LOCATION: 28968 Orchard Lake
PARCEL I.D.: 23-11-101-013 ZONE: B-4
REQUEST: In order to expand a non-conforming building by building an addition to rear of the building, the following variance is needed: **1.** A 10 foot variance to the required 10 foot southern side yard setback requirement.
CODE SECTION: 34-3.1.26.E. & 34-7.1.3.a.
APPLICANT: Adnan Asmar, QKA L.L.C., Manager
OWNER: QKA, L.L.C.

Zoning Supervisor Randt discussed the location and overview of the property and presented a site plan of the proposed addition. He noted that the applicant wishes to increase the size of the building in the same direction of the current building about 14 feet off of the rear.

Peter Tzilos, 18277 Filmore, architect representing the applicant, explained that the purpose of the addition is to replace one of the existing toilet rooms with a new ADA compliant toilet room and the rest of the area will be the food prep and supply receiving area. He stated that the prep area and kitchen area are currently one area and they want to relocate the prep and food supply receiving area to free up the kitchen for cooking purposes only.

Mr. Tzilos stated that when the building was constructed it was in compliance having a zero foot setback but the zoning ordinance has changed and now requires a 10 foot setback, therefore, the building is currently a legal non-conforming building. He added that the addition is continuing on the same line as the existing building and it would not be encroaching any further than it is now.

Member Rich questioned how many deliveries there were in a day and the times that they occurred. Mr. Tzilos stated that the deliveries occur in the morning hours, 7:00 – 8:00 A.M., before they are open for business and are approximately 2-3 times a week.

Member White asked if the proponent owned the building. Mr. Tzilos stated that the applicant did own the building.

Member Stevens asked if the site plan had gone before the Planning Commission. Mr. Randt responded stating that it had.

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

Secretary Stevens confirmed there was an affidavit of mailing on file with 21 returned mailers.

Member Rich indicated that he has concerns with the build out being closer to the residential area which means that the deliver trucks will be closer to the residential areas, however, the build out is still within

the zoning regulation requirements and he does not believe it is proper to hold the applicant to a stricter standard than what the ordinance requires.

MOTION by Rich, support by White, in the matter of ZBA Case 7-14-5532, to GRANT the petitioner’s request for a 10 foot variance to the required 10 foot southern side yard setback requirement in order to expand a non-conforming building by building an addition to rear of the building because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show:

1. Compliance with the strict letter of the ordinance is 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; as this case deals with the fact that two buildings are connected and to penalize the property owner is not appropriate as there is an issue with this type of construction.
3. That the petitioner’s plight is due to the unique circumstances of the property; in that the building was constructed under prior zoning law and it complied with the law at that time and there is no impact on neighboring properties as a result of the non-conforming building.
4. That the problem was not self-created; as the building was constructed properly and it is only because the zoning ordinance has changed that this case is before the Board.

SUBJECT to the condition that the addition conforms to the plans provided by the applicant, including the dimensions, and the construction materials and look of the addition be consistent with the existing building.

Member Stevens stated that he would be in support of the motion but has concerns with the site plan itself.

MOTION CARRIED, 6-1 (Stevens opposed)

C. ZBA CASE: 7-14-5533
LOCATION: 29709 and 29775 Grand River Avenue
PARCEL I.D.: 23-35-281-001, -002 ZONE: B-3
REQUEST: In order to allow outdoor space for sale of motor vehicles in a B-3 zoning district, the following permission, variances are needed: **1.** Permission for an existing wood screen fence on residential side of alley to remain in current location in order to meet the obscuring wall requirement. **2.** A variance from the requirement that a brick or concrete material wall shall be constructed on the residential side of alley. **3.** A 10 foot variance to the required 10 foot greenbelt for 70 feet of the required 240 foot frontage along the Grand River right-of-way in front of the building on Grand River. **4.** A 30 foot variance from the requirement that access to the outdoor sales area shall be at least 60 feet from the intersection of the Purdue street entrance to maintain the existing approach. **5.** A 52 foot variance from the requirement that access to the outdoor sales area shall be at least 60 feet from the Colgate street entrance to maintain the existing approach.

CODE SECTION: 34-5.15; 34-5.15.4; 34-4.36-1.B; 34-3.5

APPLICANT/OWNER: Behrouz Oskui

Zoning Supervisor Randt discussed the location and overview of the property and presented photos of the existing buildings, fences and the proposed site plan. He indicated that a similar case came before the Board previously but a lot has changed since that time; they have submitted a new site plan, intend to remove a building and have been working with the Engineering Division on closing entrance ways off Grand River Avenue. He added that the applicant wishes to sell used on site and they been before the Planning Commission and received approval, subject to ZBA approval.

Ziad El-Baba, 4570 Robert, engineer for applicant, explained that they have been working with Engineering, Planning and the Road Commission throughout the site design and the plan presented is the finalized plan based on their recommendations; closing two approaches off Grand River Avenue, providing the City with an easement that goes through the front of the property for future relocation of the water main and paving the alley.

Mr. El-Baba stated that in regard to the fences, they are willing to remove the wood fences and replace them with brick walls but the property owners want to keep the existing fences in place as they are in good condition and they are concerned for the existing trees and landscaping along those fences.

Mr. El-Baba discussed the issue with the sales area being 60 feet from the intersection of the Colgate and Purdue entrances and noted that only the west property will display cars and they will be located within the site, not on the property lines. He stated that they have added two interior islands with shrubs to block the view from Purdue and they are also installing a 10 foot landscaping area with trees and shrubs along that side of the road.

Mr. El-Baba explained that they are installing a 10 foot landscaping greenbelt along Grand River Avenue in front of the sales area but they have an issue with installing the greenbelt in front of the lube center as that area is needed for stacking vehicles. He noted that there is only 32 feet from the face of the building to the property line and that is not enough for two cars to stack, therefore, if they have to add more landscaping it will make it very difficult for cars to get in and out of the lube center.

Chair Seelye questioned if the fences were located on the applicants property.

Rouzben Oskui, 41 Warner, applicant's son, explained that the fences are on the border of City property, which is the alley, and the residential properties. He stated that the residents approve of the site plan with the condition that the existing wood fences stay in place; they do not want a brick wall.

Mr. El-Baba stated that they are willing to install the brick fence on their property but the neighbors do not want it. He noted that they would maintain and take responsibly of the fences.

Mr. El-Baba explained that they wanted to close the access to Purdue but after discussions with the Road Commission and Engineering, it was determined that Purdue should remain open two approaches off Grand River Avenue can be closed and this was approved by the Planning Commission.

Member Rich asked the proponent how many cars they plan to display for sale and how many parking spaces there will be for customers. Mr. El-Baba stated that they would only display 14 cars and there will be 7 parking spaces for their customers.

Member Rich asked if the 7 parking spaces were compliant with the ordinance. Mr. Randt stated that it was.

Member White questioned the type of vehicles the proponent would be selling. Mr. El-Baba responded stating that they will be desirable, clean, low maintenance vehicles and this is not a junkyard so all cars must be drivable and well maintained. He stated that they will not be selling RV's, trucks or motorcycles; the lot will be strictly for medium to high end vehicles.

Member White questioned the proposed hours of operation. Mr. El-Baba stated that the hours will be 8:00 A.M. to 6:00 P.M. for the lube center and 9:00 A.M to 6:00 P.M. for used car sales, Monday through Saturday and they will be closed on Sunday.

Mr. Oskui indicated that the business is currently open as a quick lube and auto repair center and part of the proposal is to close and demolish the repair center and build a 2-bay car detail, wash and light duty repair area. He stated that the bays will be used for detailing, buffing and minor repairs in order to prep the vehicles for sale; there will be no heavy duty repairs.

Chair Seelye opened the public portion of the meeting.

John Nobuian, 29675 Grand River Avenue, business owner, stated that he is against the variances and has 13 signatures from the neighboring properties on Colgate and Purdue that are also opposed. He stated that one of the issues is the shrubs that were planted as they are creating a sight issue when trying to pull out onto Grand River Avenue. Another issue is the lighting for the used car lot; the neighbors do not want lights shining in on their homes during the night. He stated that the car haulers dropping off vehicles and blocking Grand River Avenue could also create issues.

Linda Audrin, 29675 Grand River Avenue, stated that she is against the variances and that the shrubbery is causing issues when trying to get out of the subdivision onto Grand River Avenue and she is also concerned with the amount of traffic the new business will have and the lighting.

Mr. Oskui stated that these were his neighbors and they have a competing business next door and, in regard to the issues with the shrubbery, they are requesting less greenbelt and he is unsure how the sight issues have anything to do with their request for reducing the greenbelt.

Behrouz Oskui, 29709 Grand River Avenue, applicant, stated that these are his business neighbors and they do not want him to sell used cars and compete with their business.

Member White questioned if the proponent has discussed the intentions of the site with the neighbors. Mr. El-Baba responded stating that the neighbors were sent notifications by the City because this site plan was going before the Board but they have not met with the neighbors personally to discuss the site plan. He added that this is the first he has heard about the 13 signatures against the variances.

Mr. R. Oskui stated that there are only two houses that abut the fence and they have talked to those neighbors and have received signed letters in favor of keeping the existing fence and those letters have been submitted to the Board.

Chair Seelye questioned if the car hauling truck will be unloading on the property or on Grand River Avenue. Mr. El-Baba stated that there is a designated loading and unloading area in the back of the property and the trucks will not be coming to the site everyday.

Chair Seelye questioned the lights on the lots. Mr. El-Baba responded stating that the lighting is shown on the proposed plan; there is only one 14 foot light pole, which is shielded down and has been approved by the Planning Commission.

Mr. R. Oskui stated that the light is mostly for security purposes because they will not be open in the evening.

Member White inquired about the signage. Mr. R. Oskui stated that there will be signs depicting the services they offer but there will be no change in what is currently on site.

Member Barringer asked where the dumpster will be located. Mr. El-Baba responded stating that there will be a new dumpster located behind the building and because the parcels are being combined there will only be one, per ordinance, and it will have an enclosure.

Member Masood questioned the existing building operations. Mr. R. Oskui stated that the existing businesses include a mechanic shop and quick lube; they plan to demolish the mechanic shop and add two dry bays on the side of the building for detailing. He added that the existing quick lube waiting area will also be used for sales paperwork, therefore, they are not proposing any other changes to the existing building.

Member Rich questioned the area where the proponent is seeking the variance from the greenbelt and if any cars will be displayed there or if it was the intended stacking area. Mr. R. Oskui stated that the area was for cars to pull into the quick lube and it is only because they are making these changes to the site that they are required to put in a greenbelt. He noted that there was no greenbelt there when the building was built and if they have to install a greenbelt it will render the quick lube as a useless building as you will not be able to pull cars in and out.

Member Rich asked if the proposed landscaping was already installed. Mr. R. Oskui responded stating that it was not but there is some landscaping on site. Member Rich asked if the existing landscaping was going to be removed. Mr. R. Oskui stated that it would be removed as they change over to the new site plan.

Member Rich questioned if the traffic engineer and landscape architect have determined that there are not any issues with the proposed plan. Mr. Randt stated that the traffic engineer has been working with applicant on a regular basis, in regard to the approaches, in order to come up with the best solution for the site and this proposed plan is what they have agreed upon.

Member Stevens asked if the traffic engineer approved of the approaches on Purdue and Colgate as currently proposed. Mr. Randt stated that was correct.

Discussion was held in regard to the size of the dumpster and if it was adequate for this type of business.

Member Stevens questioned that if Board were to grant the fence variance is there any options for Board to condition that it is the businesses requirement to reinstall a new fence or get a wavier from the property owner that they will install a new fence, as this it is a wood fence and will need to be replaced in the future.

Attorney Morita stated that there are two considerations that the Board has in regard to the fence, one is a permission to allow the fence to exist in the current location as permitted by ordinance with the agreement of the property owner and, because it is a permission, the Board is able to set conditions including that if the adjoining property owners decided that they did not want the fence to be located on their side of the alley, it can be relocated. She added that the second consideration is a variance for the material and the Board is able to set any conditions necessary in order to keep the fence in good condition including the requirement that the applicant is to maintain it as part of the variance from the brick requirement to the

wood requirement and if the applicant did not keep the fence up to the standards that the Board set forth in the variance approval, then the City can determine that they have failed to comply with the terms of the variance, therefore, the variance is revoked. She noted that the Board can only get to the variance request for materials if they agree to the permission to allow the wood fence to remain in its current location.

Mr. R. Oskui stated that they are willing to take responsibility for the fence and to put a bond to cover the cost of any repairs to the fence if necessary.

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 4 returned mailers.

REQUEST #1

MOTION by Rich, support by White, in the matter of ZBA Case 7-14-5533, to GRANT the petitioner's request for a permission to allow for an existing wood screen fence on residential side of alley to remain in current location in order to meet the obscuring wall requirement because the proponent has met the requirements necessary for a permission in this case as set forth in Section 31-5.15.4 of the Farmington Hills Zoning Ordinance.

SUBJECT to the condition that the proponent must replace, repair or otherwise maintain the fence in good condition and if the fence falls into disrepair, the proponent must correct the issue.

MOTION CARRIED, 7-0

REQUEST #3

MOTION by Stevens, support by Rich, in the matter of ZBA Case 7-14-5533, to GRANT the petitioner's request for a 10 foot variance to the required 10 foot greenbelt for 70 feet of the required 240 foot frontage along the Grand River right-of-way in front of the building on Grand River because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted use and would render conformity with the ordinance unnecessarily burdensome; as the existing condition of the deficient greenbelt is currently in place and it is needed for drive access and turning movements in front of the existing building and if the required greenbelt existed it would provide hardship to the property owner.
2. That granting the variance requested would do substantial justice.
3. That the petitioner's plight is due to the unique circumstances of the property.
4. That the problem is not self-created.

MOTION CARRIED, 5-2 (Barringer, Lindquist opposed)

REQUEST #2

MOTION by Stevens, support by Barringer, in the matter of ZBA Case 7-14-5533, to GRANT the petitioner's request for a variance from the requirement that a brick or concrete material wall shall be constructed on the residential side of alley because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show:

1. Compliance with the strict letter of the ordinance would be unnecessarily burdensome; as the adjacent property owners that abut the fence have provided signed letters stating that they are in favor of keeping the existing wood fence in place due to concerns with existing trees and landscaping.
2. That granting the variance requested would do substantial justice to the property owner as well as the adjacent property owners.
3. That the petitioner's plight is due to the unique circumstances of the property.
4. That the problem is not self-created.

SUBJECT to the condition that if the existing wood fence falls into a state of disrepair, the variance will be voided unless signed agreements from the adjacent property owners, stating that the wood fence can be replaced, are provided to the City.

MOTION CARRIED, 7-0

REQUESTS #4 & #5

MOTION by Rich, second by White, in the matter of ZBA Case 7-14-5533, to GRANT the petitioner's request for 4) a 30 foot variance from the requirement that access to the outdoor sales area shall be at least 60 feet from the intersection of the Purdue street entrance to maintain the existing approach; and 5) a 52 foot variance from the requirement that access to the outdoor sales area shall be at least 60 feet from the Colgate street entrance to maintain the existing approach because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show:

1. Compliance with the strict letter of the ordinance is unnecessarily burdensome with respect to using the property for a permitted purpose in the area.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district or that a lesser relaxation than that relief applied for would give substantial relief to the owner of the property; in that there is not a lesser relaxation that could give relief to the owner of the property, specifically to the extent that the City's landscape architect and traffic engineers have found that the variances would not cause any safety hazards.
3. That the petitioner's plight is due to the unique circumstances of the property; the location of the access to the property is determined by how the property is set up.

4. That the problem is not self-created as the applicant has been working with the appropriate agencies including the State of Michigan.

SUBJECT to the following conditions: 1) closure of the curb cuts from Grand River Avenue as indicated on the site plan approved by the Planning Commission,

MOTION FAILED, 3-4 (Barringer, Masood, Stevens, White opposed)

REQUESTS #4 & #5

MOTION by White, support by Barringer, in the matter of ZBA Case 7-14-5533, to DENY the petitioner's request for 4) a 30 foot variance from the requirement that access to the outdoor sales area shall be at least 60 feet from the intersection of the Purdue street entrance to maintain the existing approach; and 5) a 52 foot variance from the requirement that access to the outdoor sales area shall be at least 60 feet from the Colgate street entrance to maintain the existing approach because the petitioner did not demonstrate practical difficulties exist in this case in that he set forth facts which did not show based on the facts set forth:

1. Compliance with the strict letter of the ordinance would be unnecessarily burdensome; the existing property, for its permitted purpose, would not render conformity and therefore would be burdensome.
2. That granting the variance requested would cause substantial justice to the petitioner or other property owners in the district.
3. That the petitioner's plight is due to the unique circumstances of the property; it is due to the intended purpose of the property.
4. That the problem is not self-created.

Member Lindquist commented that the two variances that remain are for access from the side streets which already exist, and would not change, but would allow by variance so that the access would not be prohibited or limited from Grand River Avenue under the rules of the Road Commission. He stated that those who opposed to grant the variances or those who would support to deny these variances, which will effectively prohibit the applicant from using the property for the purpose that the Board has already established and provided accommodations by granting two other variances and a permission, should provide some identification as to what the issue is specifically with the retention of access from these two side streets. He added that he sees no difference among the access as it currently exists on the property and the proposed property other than it is a requirement due to the redevelopment of the site and the combination of the uses into one business.

MOTION FAILED, 3-4 (Lindquist, Rich, Seelye, Stevens opposed)

Member Rich explained that the only reason why these variances are being required is because there will be cars sold on the lot, there could be the same number of cars coming to the current businesses using the Purdue and Colgate access and egress and he does not see an excessive extended use just because they will have used cars for sale on the property. He noted that, as identified by Member Lindquist, those entrances exist already and the proponent is not asking for the Board to change anything physically about the property, with respect to these two variance requests.

Discussion was held on the amount of traffic the proposed business would create, the traffic impact on the side streets, delivery trucks and customers test driving vehicles on Purdue and Colgate.

Mr. R. Oskui stated that they will prohibit delivery trucks to use the access on Colgate and Purdue and they will post signs on site stating that.

Member Lindquist explained that he feels as if the Board is second guessing the proposed plan for traffic flow as provided by the State, as this plan reflects their suggestions, and they should respect the State's recommendation and also take into consideration that the plan has been approved by the Planning Commission.

MOTION by Rich, support by Lindquist, in the matter of ZBA Case 7-14-5533, to GRANT the petitioner's request for 4) a 30 foot variance from the requirement that access to the outdoor sales area shall be at least 60 feet from the intersection of the Purdue street entrance to maintain the existing approach; and 5) a 52 foot variance from the requirement that access to the outdoor sales area shall be at least 60 feet from the Colgate street entrance to maintain the existing approach because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show:

1. Compliance with the strict letter of the ordinance is unnecessarily burdensome with respect to using the property for a permitted purpose in the area.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district or that a lesser relaxation than that relief applied for would give substantial relief to the owner of the property; in that there is not a lesser relaxation that could give relief to the owner of the property, specifically to the extent that the City's landscape architect and traffic engineers have found that the variances would not cause any safety hazards.
3. That the petitioner's plight is due to the unique circumstances of the property; the location of the access to the property is determined by how the property is set up and there would not be other access to the property for a permitted use unless the Road Commission were to allow the additional curb cuts on Grand River Avenue, which would create a higher burden and more safety issues.
4. That the problem is not self-created as the applicant has been working with the appropriate agencies including the State of Michigan and the physical nature of the problem already exists.

SUBJECT to the following conditions: 1) closure of the curb cuts from Grand River Avenue as indicated on the site plan approved by the Planning Commission, 2) truck traffic and deliveries are prohibited from using the Purdue and Colgate approaches; and 3) test vehicles are prohibited to be driven on Purdue or Colgate other than to gain access onto Grand River Avenue.

MOTION CARRIED, 5-2 (Barringer, White opposed)

LOCATION: 23185 Albion
PARCEL I.D.: 23-26-428-056 ZONE: RA-4
REQUEST: 1. A 3.75 foot variance to the required total 15 foot side yard setback requirement in order for a carport to remain in its current location. 2. A variance to allow a commercial vehicle that exceeds ordinance requirements to be parked as an accessory use to a one-family dwelling.
CODE SECTION: 34-5.1.1.A; 34-3.1.7.E., 34-4.14
APPLICANT/OWNER: Vladimir Murkis

Zoning Supervisor Randt discussed the location and overview of the property and presented diagrams of the carport and vehicle, a site plan and photos of the carport and vehicle. He noted that this property has come to the Board from enforcement as the Zoning Inspector had observed the carport and the vehicle.

Patrick Donnelly, 7259 Colony, representing the applicant, explained that he would address the issue of the carport first; Mr. Murkis put up the carport up in order to protect his van not realizing that a City permits would be required. He stated it is a good quality job and there is plenty of access through it for safety issues, there is no blocking of access to the backyard. He added that the carport will be painted white to match the existing house.

Chair Seelye inquired about the metal fence between this property and the neighbor's property and if it was located on the property line. Vladimir Murkis, applicant, responded stating that he believes that it is.

Discussion was held regarding the setback requirements in this type of residential district.

Mr. Donnelly discussed the issue of the van; that the van is used primarily for personal daily use and also for Mr. Murkis's business, the vehicle is registered in Mr. Murkis's personal name and titled personally, therefore, it is not technically a commercial vehicle but it falls under the ordinance as commercial because of the height. He added that Mr. Murkis uses it to carry speakers to free concerts he puts on in the community one to two times a month. He noted that the van cannot be seen when traveling northbound on Albion and the traffic coming southbound is very minimal because it is a dead-end street. He stated that the van is not a step van nor a cargo van and it weighs less than a suburban, so the only issue that is before the Board is the height.

Member Barringer questioned how the vehicle was insured and what the insurance company classified it as. Mr. Murkis stated that it was insured as a personal vehicle and his insurance company classifies it as a passenger van, same as his previous van which was a GMC Savannah. He stated that this van is much better on gas as it is a blue diesel engine and is very quiet like a car.

Member Masood asked if this was the applicant's principle vehicle and if he owed any other vehicles. Mr. Murkis responded stating that this was his daily driving vehicle and his wife has another vehicle.

Member Masood inquired as to where the van is parked. Mr. Murkis stated that he only parks the van in the carport, not in the driveway or on the street.

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

Member Rich asked the applicant if he transports patient/clients in the van, as he works for a home health care and if he is required to provide or is compensated extra for travel. Mr. Murkis responded stating that

he is a subcontractor and the company does not require him to transport clients and he does not get compensated extra. He added that he has no choice but to provide transportation because his clients do not have any family and they cannot pay for transportation, so he does this as a favor. He noted that he works in a Russian community and helps the elderly.

Member Rich questioned if the applicant was not able to transport clients, would he still be hired as the subcontractor for this company. Mr. Murkis stated that the company does not require them to have big vehicle but it is a benefit for him to have it so he can provide more services to his clients and they will want to stay with him since they are willing to choose their caregivers. He added that he is required to stay with his clients for a certain number of hours each day and it is helpful to be able to transport them but he does not get compensated or is required to transport them.

Member Rich questioned if it would be permissible for the Board to make an interpretation, with respect to this particular case, that this vehicle is not a commercial vehicle.

Attorney Morita stated that if the Board considers the use standards in Section 34-4.14, they can interpret the ordinance in terms of whether or not this is a commercial vehicle and therefore, not require a variance under the circumstances of this particular case. She cited the commercial vehicle ordinance and the definition of commercial vehicle and stated that if the Board interprets that the definition of a commercial vehicle does not meet this particular vehicle, then that section does not apply to this case and the Board can interpret it to mean that the applicant does not need a variance for this particular vehicle.

Secretary Stevens confirmed there was an affidavit of mailing on file with 1 returned mailer.

Member Stevens questioned that in the material provided by the applicant, it was mentioned that he was attracted this type of vehicle because of the height to transport musical equipment because of a back issue. Mr. Murkis stated that he has a bad back due to an injury.

Member White questioned if outside of transporting speakers to community events and for general assistant to transport the elderly, if the applicant has another way of supporting himself. Mr. Murkis stated no, those are the only things that he has.

REQUEST #2

MOTION by Rich, support by Masood, in the matter of ZBA Case 7-14-5534, to determine that no variance is required to allow a commercial vehicle that exceeds ordinance requirements to be parked as an accessory use to a one-family dwelling because it has been interpreted that this vehicle does not meet the commercial vehicle definition as identified by Section 34-2.2 of the Farmington Hills Zoning Ordinance.

MOTION CARRIED, 6-1 (Lindquist opposed)

REQUEST #1

MOTION by Stevens, support by White, in the matter of ZBA Case 7-14-5534, to GRANT the petitioner's request for a 3.75 foot variance to the required total 15 foot side yard setback requirement in order for a carport to remain in its current location because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show:

1. Compliance with the strict letter of the ordinance is unnecessarily burdensome due to the constraints of the existing property and side yard setbacks for constructing a facility to house a vehicle of such height.
2. That granting the variance requested would do substantial justice to the petitioner as well as other property owners; as the adjacent residents have submitted in writing that they support this request for a variance.
3. That the petitioner's plight is due to the unique circumstances of the property as well as the vehicle.
4. That the problem is not self-created.

SUBJECT to the condition that the carport fascia, sides and posts be painted to match the color and character of the home.

MOTION CARRIED, 4-3 (Lindquist, Rich, Seelye opposed)

PUBLIC QUESTIONS AND COMMENTS:

There were no public comments

Member Lindquist commented that the Board is clearly going to have a lot of these popular vehicle cases in the future if the ordinance remains the same, therefore, the Board should notify City Council to consider relieving the height restrictions and also consider adding that if the vehicles are titled and licensed to the owner of the residential property, as long as there is no commercial signage, they should not be looked at as commercial. He added that the daily use of the vehicle does not affect the neighbors, the esthetics of the vehicle does.

Mr. Randt stated that he has been directed to research the ordinance and check with other cities regarding this potential issue.

Attorney Morita stated that her office has been alerted to the issue and Mr. Joppich is aware of the situation, however, a change of the ordinance would have to come from the City.

APPROVAL OF JUNE 10, 2014 MINUTES:

MOTION by Rich, support by White, to approve the June 10, 2014, Zoning Board of Appeals meeting minutes as submitted.

MOTION CARRIED, 7-0

ADJOURNMENT

MOTION by White, support by Barringer, to adjourn the meeting at 10:07 p.m.

MOTION CARRIED, 7-0

Respectfully submitted,

James Stevens, Secretary
Zoning Board of Appeals

/ceh