

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
APRIL 11, 2017**

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, Lindquist, Rich and Seelye

Members Absent: Stevens and Vergun

Others Present: Attorney Morita and Zoning Division Representative McGuire

SITE VISIT APRIL 9, 2017

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 Rich, support by Lindquist, to approve the agenda as published.

MOTION CARRIED 6-0.

NEW BUSINESS:

A. ZBA CASE: 4-17-5609
LOCATION: 32906 Middlebelt
PARCEL I.D.: 23-01-101-075
REQUEST: Permission for temporary outdoor sales of plants/materials in a B-2, P-1 Zoning District during May and June 2017, 2018, 2019, and 2020. This will entail the use of a 60 foot by 40 foot tent (approximately) plus use of two 7 foot by 3 foot signs, to be mounted on the north side of tent along with other outdoor storage areas. Set-up starts April 20 with take down/clean-up to finish July 20.

CODE SECTION: 34-7.14.6.E.

APPLICANT: Dan Sonenberg for Johnny Pomodoro's Fresh Market

OWNER: Broadway Plaza Acquisitions

Zoning Division Representative McGuire explained that per the ordinance, this permission can only be for one year, so if the Board considers granting the permission it will be for the year 2017 only.

Chair Seelye questioned if City Council had approved to allow these types of sales for the length of four years. Attorney Morita responded no, the ordinance states that the Board is only allowed to grant these types of permissions for up to 12 months.

Utilizing overhead slides, Zoning Representative McGuire gave a brief description of the property, showing an overhead view of the property and parking lot and a sketch indicating the location of the tent and display area for the plants.

Chair Seelye noted that this sale has been going on for years and asked if there had been any complaints. Zoning Representative McGuire responded that she is not aware of any complaints.

Dan Sonenberg, 5123 Westmont Circle, explained that he has owned the market for 9 years and they did not hold the sale last year due to a conflict with the landlord, they have a new landlord now that will allow the sale of plants so he is asking for the permission to present flowers in the parking lot just as it has been done for many years in the past. He stated that during flower season there is not enough room in the front of the store to adequately display the amount of items to make it a complete flower lot.

Chair Seelye asked if everything will be the same as in years past, including the location of the tent. Mr. Sonenberg responded yes.

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 confirmed there was an affidavit of mailing on file with 7 returned mailers.

Member Masood questioned how this was different than the fireworks or other temporary sales. Attorney Morita responded that it is different because it is an accessory use, an extension of the existing business, and the other sales that have been treated differently were non-accessory to the main use going on inside the buildings.

MOTION by Lindquist, support by Barringer, in the matter of ZBA Case 4-17-5609, to GRANT the petitioner's request for a permission to allow temporary outdoor sales of plants/materials in a B-2, P-1 Zoning District during May and June 2017, with the use of a 60 foot by 40 foot tent (approximately) plus use of two 7 foot by 3 foot signs to be mounted on the north side of tent along with other outdoor storage areas, set-up starts April 20 with take down/clean-up to finish July 20 as the proponent has met the following requirements necessary for a permission in this case set forth in Section 34-7.14.6.E of the Farmington Hills Zoning Ordinance.

SUBJECT to the following conditions:

- Event shall be as described in the application, including the size of the tent, placement, location, hours of operation
- Must be consistent with the approval issued by Police Chief Nebus, dated January 28, 2017
- Must be consistent with the other approvals related to electrical, fire safety and fire lanes
- Issuance of a letter of direction from the Zoning Department staff as to the specifics of the setup and operation of the temporary sales

MOTION CARRIED 6-0.

B. ZBA CASE: 4-17-5610
LOCATION: 31151 W. Ten Mile
PARCEL I.D.: 23-26-101-059

REQUEST: A variance from the requirement that in a B-3 Zoning District, required walls be constructed of brick, brick veneer or poured concrete simulating brick, be installed adjacent to a residential district, in order to substitute a 6 foot high vinyl fence.

CODE SECTION: 34-5.15

APPLICANT: Michael Tobin

OWNER: Mel Ten Mile, L.L.C./The Tobin Group

Zoning Division Representative McGuire explained that the applicant is requesting a variance from the requirement that a certain kind of masonry wall be built between a business and residential district, they instead want to construct a 6 foot vinyl fence. She described the location of the property, showed an overhead view of the property, noting the retention area and 40 foot area in question, a site plan and photos of the existing vinyl fence.

Jill Jackson, 3015 Garden Ave, explained that they are putting in a 12 foot storm sewer in that area and it has already been disturbed for sanitary sewer, which will leave the area unstable for footings. She stated that the vinyl fence will match the existing fence and it will allow the City easier access to the 6 foot easement. She noted that by matching the existing fence it will be more consistent and aesthetically more appealing for the residential side.

Chair Seelye asked if there were any problems from Engineering. Zoning Representative McGuire responded that as far as she knew there was no problem from Engineering on doing it this way.

Member Rich asked, in regard to matching the existing fence, where the existing fence was obtained and if that will be the same place in which the proposed fence will be purchased. Ms. Jackson responded that she did not know where the original fence came from but they get their materials from Home Depot.

Ms. Jackson noted that she had spoken to Mr. Smith, the neighbor behind the site, and he would like a vinyl fence as it will be more affordable for him to match.

Zoning Representative McGuire noted that the Board received a letter of support from Mr. Smith.

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 confirmed there was an affidavit of mailing on file with 3 returned mailers.

MOTION by Rich, support by Masood, in the matter of ZBA Case 4-17-5610, to GRANT the petitioner's request for a variance from the requirement that in a B-3 Zoning District, required walls be constructed of brick, brick veneer or poured concrete simulating brick, be installed adjacent to a residential district, in order to substitute a 6 foot high vinyl fence; because the petitioner did demonstrate practical difficulties exist in this case which show that:

1. Compliance with the strict letter of the ordinance would render conformity with the ordinance 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.

3. That the petitioner's plight is due to the unique circumstances of the property.
4. That the problem is not self-created; specifically the proposed fence would accomplish the same purpose as intended by a masonry wall, it will adequately shield the residential area from the commercial area and due to the nature of the development, the location of the sewer, the additional water lines, the retention pond, all make this variance appropriate in this case, as well as the aesthetics and approval from the neighbors.

SUBJECT to the condition that the fence be of similar material and color of the existing fence to the east.

MOTION CARRIED 6-0.

PUBLIC QUESTIONS AND COMMENTS

There were no public comments.

APPROVAL OF JANUARY 10, 2017 MINUTES

MOTION by Rich, support by Barnette, to approve the Zoning Board of Appeals meeting minutes of January 10, 2017 as submitted.

MOTION CARRIED 5-0-1 (Masood abstained).

ADJOURNMENT

MOTION by Masood, support by Rich, to adjourn the meeting at 7:52pm.

MOTION CARRIED 6-0.

Respectfully submitted,

James Stevens, Secretary
Zoning Board of Appeals

/ceh