

**MINUTES  
CITY OF FARMINGTON HILLS  
ZONING BOARD OF APPEALS  
CITY HALL – COUNCIL CHAMBER  
FEBRUARY 13, 2018**

**CALL MEETING TO ORDER**

Chair Seelye called the meeting to order at 7:35p.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: King, Lindquist, Rich, Seelye and Vergun

Members Absent: Barnette and Masood

Others Present: Attorney Morita and Zoning Division Supervisor Randt

**SITE VISIT FEBRUARY 11, 2018**

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 5-0.**

**NEW BUSINESS**

- A. ZBA CASE: 2-18-5626  
LOCATION: 39001 Sunrise  
PARCEL I.D. 23-18-201-002  
REQUEST: In order to permit a 9 foot tall fence with 1 foot of barbed wire in an IRO, FRW-3 Zoning Districts, the following variances are requested. 1. A variance from the requirement that fences not contain barbed wire or razor wire. 2. In non-residential districts a fence may not exceed 8 feet. The barbed wire adds an additional one foot for a total height of 9 feet.  
CODE SECTION: 34-5.12.2.C. and 34-5.12.B  
APPLICANT: Nissan Technical Center, North America, Inc.  
OWNER: Nissan Technical Center, North America, Inc.

Utilizing overhead slides, Zoning Division Supervisor Randt presented an aerial view of the property, diagrams of the parking lot, location of the barbed wire fencing along with a schematic of the proposed fence and photos of the existing fence. He noted that barbed wire fencing exists throughout the complex especially by the areas where research vehicles are stored.

Mark Heber, HED Architectural Design, 26913 Northwestern Highway, explained that the location where research vehicles are stored is on the south end of the site, it backs up to Bosch Technical Center and is

not visible from any perimeter streets. He stated that the purpose of the fence is to keep out those who would like to look at and take photographs of the research vehicles for magazines, as these vehicles are several years ahead of the models that are currently out. He noted that this is a Nissan standard and the fencing currently exists around a large part of the property and this extension is just to add to the research vehicle parking area and to keep that area very private.

Chair Seelye commented that the issue is the one foot barbed wire and he does not see how the barbed wire will stop anyone from taking photos of the vehicles.

Mr. Heber stated that barbed wire is currently what they have elsewhere on the property as an existing condition, and photographing is not the only issue, they are also concerned with fence scaling. He stated that the area is guarded and this is what Nissan believes is necessary in order to secure these significant technical secret vehicles.

Member Rich questioned if there is a concern of people physically going into the lot and touching the vehicles. Mr. Heber responded yes, because they cannot fence the perimeter of the property so the ability for someone to walk into the site is available. He added that they have cameras and staff but the kind of people who would like to put an image in Car and Driver are very persistent and the fence is an added deterrent.

Member Rich commented that someone that persistent could wear heavy jeans or a Kevlar vest and the barbed wire would not stop them, and with today's technology drones could be flown over the top of the lot and go within inches of any vehicle that they want to take photos of.

Member Rich explained that regardless of what already exists, and he is not aware of when that barbed wire was put in and what variances were granted at that time, they do not want to turn parts of Farmington Hills into prison yards. He stated that he understands that the property is setback from any other buildings and not visible from the road but questioned if the barbed wire is necessary or does it just provide a false sense of security. Mr. Heber responded that it is similar to having a deadbolt lock on your house, it will not stop someone but it acts as a deterrent, and if it takes someone a little longer to access the area it gives the security personal a little more time to fend off the intruder.

Mr. Heber stated that he recognizes that there is drone technology but he knows that it is illegal to fly a drone over properties and take images. He added that the barbed wire is a deterrent for physical access to this highly secretive engineering which they do not want shared with the public or their competitors and short of storing the vehicles inside of a building, this is the best option they have at the moment.

Member Lindquist asked what Nissan was doing with these vehicles before they put up the 8 foot fence and barbed wire. Mr. Heber responded that they have a smaller area and they are now researching more vehicles at this location as their technical center is growing in terms of significance in North America.

Member King informed the Board that he spent his life working at the proponents firm, HED, prior to his retirement four years ago and asked if that is a conflict of interest.

Attorney Morita asked if Member King is being compensated in any way from the firm. Member King responded that there is a current contractual agreement that the firm has with him in which they are paying out over time.

Attorney Morita suggested that Member King recuse himself and step down from the dais.

Member King recused himself.

Chair Seelye stated that someone could backup a pickup truck, stand in the bed with a camera and take photos over the fence and he does not see where the barbed wire will stop that.

Mr. Heber explained that it is intended to deter both visual and physical access as there is a material woven into the fence to make it more opaque and barbed wire to keep someone from climbing the fence. He added that the property is staffed and there are cameras and this is the level of containment they believe is appropriate to give them the time to intercept anyone who would want to physically get into that space.

Chair Seelye asked if there was 24 hour security guards onsite. Mr. Heber responded yes.

Member Rich asked how many vehicles are currently being stored on site and how many are planned to be stored.

Andrea Zammit, HED, 26913 Northwestern Highway, explained that the current lot that is fenced in with the barbed wire is on the right and holds approximately 50 cars, the lot to the left that is being added has about 80 cars and the filler piece in the middle has about 30. She noted that they are more than doubling the cars that are currently being stored on the site.

Member Lindquist noted that one of the conditions of a previous variance is that there will be no more than 150 vehicles stored on the property at any one time.

Mr. Heber commented that according to the plans it appears that the count is just about 150 total based on 48 in the existing lot on the east side, 32 and 78 in the proposed areas.

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

Member Lindquist confirmed there was an affidavit of mailing on file with 32 returned mailers.

Zoning Division Supervisor Randt informed the Board that this case was brought forward from the Planning Division when they were looking at the parking lot and they determined, because of the barbed wire fence, this case had to go before the Zoning Board of Appeals.

Member Lindquist asked if there was an application or notification given to the City that they were constructing the fencing and barbed wire topper. Mr. Randt responded that he was not aware of any notification.

Member Vergun stated, for clarification, that there is no location in the City where barbed wire is permitted. Mr. Randt confirmed that was correct.

**MOTION** by Lindquist, support by Rich, in the matter of ZBA Case 2-18-5626, to DENY the petitioner's request for the following variances: 1) A variance from the requirement that fences not contain barbed wire or razor wire and 2) In non-residential districts a fence may not exceed 8 feet, the barbed wire adds an additional one foot for a total height of 9 feet because the petitioner did not demonstrate practical difficulties exist in this case that 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; the property is already in use for that permitted purpose and the 8 foot fence is sufficient for the purposes of protecting the vehicles.

2. The granting of the variance would give relief to this owner of the property and owners continuing overtime, which is not consistent with the relief offered to other property owners under the ordinance.
3. That the petitioner's plight is not due to the unique circumstances of the property.
4. That the problem and solution is self-created.

**MOTION CARRIED 4-0. (King recused)**

- C. ZBA CASE: 2-18-5628  
LOCATION: 32906 Middlebelt  
PARCEL I.D.: 23-01-101-075  
REQUEST 1. Permission for temporary outdoor sales of plants/materials in a B-2, P-1 Zoning District that cannot exceed the allowed 14 consecutive days and a total of 28 days during any twelve month period during May and June 2018, 2019, 2020, and 2021. This will entail the use of a 60 foot by 40 foot tent (approximately) 2. Special exception to allow two 7 foot by 3 foot signs, to be mounted on the north side of tent along with other outdoor storage areas that exceed the allowed 14 consecutive days and total 28 days per calendar year. 3. Special exception to allow two temporary free standing signs that exceed the 64 day maximum time frame. Set-up starts April 20 with take down/clean-up to finish July 20.
- CODE SECTION: 34-5.5.4.C; 34-3.26.14.D.  
APPLICANT: Dan Sonenberg for Johnny Pomodoro's Fresh Market  
OWNER: Broadway Plaza Acquisitions, L.L.C.

Utilizing overhead slides, Zoning Division Supervisor Randt presented an aerial view of the property and sketches indicating the location of the tent and display area for the plants. He noted that the applicant has been before the Board in previous years for the same type of relief.

Chair Seelye questioned if this was the same request as in prior years and if there have been any complaints. Mr. Randt responded that was correct and there have been no complaints.

Dan Sonenberg, applicant, 32906 Middlebelt, explained that, as they have done in previous years, they are looking to beautify Farmington Hills by making available many plants and other outdoor ornaments so people can purchase them for their homes. He stated that they have done this 8 of the 9 years he has owned the business and he is back again to ask for permission to have the sale this year.

Chair Seelye asked if the applicant was using the same size tents and signs. Mr. Sonenberg responded that was correct.

Chair Seelye noted that the Department of Public Works, Police Department and Engineering Division have signed off on this request.

Member King noted that the request is for approval for 4 years and asked if that has been done in the past or has it been an annual approval. Attorney Morita responded that as the ordinance is written the

approval cannot be for more than 12 months. She noted that her office is looking at amending this particular ordinance to possibly allow for a longer time frame, but as it stands, the Board's approval should not be for more than 12 months.

Member Rich commented that the request includes a special exception to allow for 2 temporary free standing signs and noted that was not part of the application nor does he recall it being part of what was granted in prior years. He asked the applicant to explain the 2 free standing signs. Mr. Sonenberg responded that he has not created the signs yet and the person who prepared the application copied what they did before, and if this is new to the request, they would just be signs he creates to draw more attention to the sales area but he does not own the signs at this time.

Member King asked if the applicant had similar signs in years prior. Mr. Sonenberg responded that he does not have free standing signs on hand but he has erected signs in the past around the tent to draw attention. He noted that the signs are not a deal breaker if the Board does not approve them.

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

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

Attorney Morita informed the Board they may want to ask the applicant where the temporary free standing signs will be placed and whether or not approvals have been obtained and if the Board is considering granting the motion, they should have a condition that the signs are approved by the necessary departments.

Mr. Sonenberg stated that the signs would be placed next to the tent on the ground not along Middlebelt Road or 14 Mile Road.

Attorney Morita explained to the Board that if they are going to grant the signs they should condition them on being located to the south of the tent and storage area and not in the grass areas, as indicated by the applicant.

Member Lindquist noted that this new request is for 2 temporary free standing signs to be up in excess of the 64 day maximum and this was not included in last year's request.

Mr. Sonenberg stated that he was caught off guard with what the application requested and perhaps the person that filled it out was hoping to get a couple more signs but if the Board declines the third request he will make do with his original signs located in the tent area.

**MOTION** by King, support by Lindquist, in the matter of ZBA Case 2-18-5628, to GRANT the petitioner's request for 1.) A permission for temporary outdoor sales of plants/materials in a B-2, P-1 Zoning District that cannot exceed the allowed 14 consecutive days and a total of 28 days during any twelve month period during May and June 2018 only, with the use of a 60 foot by 40 foot tent (approximately) and 2) A special exception to allow two 7 foot by 3 foot signs, to be mounted on the north side of tent along with other outdoor storage areas that exceed the allowed 14 consecutive days and total 28 days per calendar year, with set-up starting April 20 and take down/clean-up to finish July 20; and to DENY 3) The special exception to allow two temporary free standing signs that exceed the 64 day maximum time frame.

**SUBJECT** to the following conditions:

- Event shall be as described in the application
- Must be consistent with the approvals and requirements of any City Officials

**MOTION CARRIED 5-0.**

B. ZBA CASE: 2-18-5627  
LOCATION: 36025 W. Fourteen Mile  
PARCEL I.D.: 23-05-201-020  
REQUEST: A 3.75 foot variance to the 3 foot height limit is requested in order to permit a fence/gate and associated pillars/appurtenances 6.75 feet in height in the front yard of an RA-1 zoned property.  
CODE SECTION: 34-5.12  
APPLICANT/OWNER: Jayanth Koneru

Chair Seelye noted that the applicant was not present.

Attorney Morita explained that because the applicant failed to appear the Board may deny the case or adjourn to a date certain.

Zoning Division Supervisor Randt noted that the applicant has business in India and is out of the country for long periods of time.

**MOTION** by Lindquist, support by King, in the matter of ZBA Case 2-18-5627, to adjourn the case to the ZBA Meeting of March 13, 2018, as the applicant was not present at tonight's meeting.

**MOTION CARRIED 5-0.**

**PUBLIC QUESTIONS AND COMMENTS**

There were no public comments.

**APPROVAL OF JANUARY 9, 2018 MINUTES**

**MOTION** by Rich, support by Lindquist, to approve the Zoning Board of Appeals meeting minutes of January 9, 2018.

**MOTION CARRIED 5-0.**

**ADJOURNMENT**

**MOTION** by Rich, support by Vergun, to adjourn the meeting at 8:22pm.

**MOTION CARRIED 5-0.**

Respectfully submitted,

Erik Lindquist, Secretary  
Zoning Board of Appeals

/ceh

