MINUTES
ZONING BOARD OF APPEALS
AUGUST 10, 2021 – 7:30 PM
CITY OF FARMINGTON HILLS
31555 W ELEVEN MILE ROAD
FARMINGTON HILLS, MICHIGAN

CALL MEETING TO ORDER

Chair Vergun called the meeting to order at 7:33 P.M. and made standard introductory remarks explaining the formal procedure, courtesies and right of appeal.

ROLL CALL

Members Present: **Irvin, King, Masood, O'Connell, Rich, Vergun**

Members Absent: **Lindquist**

Others Present: **City Attorney Morita, Zoning Supervisor Randt, Recording Secretary McGuire**

APPROVAL OF AGENDA

MOTION by King, support by Rich, to approve the agenda as published.

MOTION carried unanimously by voice vote.

NEW BUSINESS

A. ZBA CASE: 8-21-5680
LOCATION: 28011 Rollcrest
PARCEL I.D.: 23-11-451-012
REQUEST: In an RA-2B Zoning District, the following variances are requested in order to build a 784 square foot attached garage in addition to 2,304 square feet of already existing non-conforming accessory use: 1. A variance from the requirement that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district; 2. A variance of 784 square feet from the maximum allowed 1,250 square feet allowed for all accessory uses.
CODE SECTION: 7-7.1.1A,34-5.1-2. D.
APPLICANT/OWNER: Donald and Wendy Puckett, Puckett Family Trust

Utilizing a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. Aerial views and schematics showed the location of the property at 28011 Rollcrest, east of Orchard Lake Road and north of 12 Mile Road. An aerial view showed a condominium development to the south, and single family residential to the north. The property was located in the RA-2B zoning district.

Donald Puckett, 28011 Rollcrest, was present on behalf of this application for variances in order to build a 784 square foot attached garage in addition to 2,304 square feet of already existing non-conforming accessory use.

Mr. Puckett said that they were asking for a variance to add a garage to their home, to use for the storage of vehicles and garden tools. They were in process of completing two additions to the home. They had lived in the home for 11 years and had removed a lot of snow and ice during that time; having a garage

addition would help them stay in their home "for the rest of their lives," especially given the harshness of Michigan winters.

In response to Board questions, Mr. Puckett gave the following information:

- The property was still being used as a kennel. The back building was a little over 2,000 square feet which they used to operate a boarding kennel.
- They did no business out of the home at all. The kennel was self-contained with its own office and kitchen, and had been renovated in 2013.
- The additions to the home were approved.
- The wood on the property had been ordered by the builder in anticipation of the garage being approved.
- The shed was 144 square feet.
- There was an occupied home on the property to the rear of the neighboring parcel to the north. They had spoken with those residents, who had no concerns about the kennel itself.

In response to further Board questions, City Attorney Morita gave the following information:

- The boarding kennel was a grandfathered use that pre-existed the ordinance.
- If the Board granted the 2nd variance request, it would not include a variance for the pre-existing non-conformity. Therefore, the area of the kennel was excluded from the variance calculation.
- The Board had two requests this evening: 1) whether or not to grant a variance from the requirement that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district, and 2) the actual dimensional variance of 784 square feet from the maximum allowed 1,250 square feet allowed for all accessory uses. These were two separate requests, and granting the dimensional variance for the proposed 784 square foot garage would not confer a variance (legal status) to the non-conforming use.
- The Board should first decide whether the variance request to enlarge a non-conformity should be granted. If this first hurdle was not met, the 2nd request would not be considered.
- If the kennel did not exist, the proposed garage would not need a variance.
- City Attorney Morita emphasized that the 1st variance request was a big hurdle. The expansion of a non-conforming use was something the City preferred not to see absent exceptional circumstances. If, however, the Board did grant the first request, the granting of the 2nd request needed to be very specific, so as to be clear the non-conforming use was not granted legal status by mistake. The most important decision being made tonight was the request to expand the non-conformity.

Chair Vergun opened the public hearing. Seeing that no public indicated they wished to speak, Chair Vergun closed the public hearing and brought the matter back to the Board.

Member Masood reported that there was an affidavit of mailing with 22 returns.

Member Masood said that he did not see a way forward with this request; he felt the applicant had not met the criteria that the request was not self-created.

Member King suggested that since the kennel existed prior to the zoning ordinance, its continued use should not be considered a self-created condition under the current zoning ordinance. He suggested the kennel should be ignored in this case because it existed prior to the ordinance, and the homeowner should be entitled to the same consideration for auxiliary structures as any other homeowner.

Member Irvin agreed.

Member O'Connell asked if the kennel included living space, since it did include a kitchen. Did the kennel fit under some other definition rather than accessory structure?

City Attorney Morita said that staff had determined the kennel met the definition of accessory structure in the zoning ordinance.

The applicant affirmed the kennel did not include actual living space. The kitchen was a kitchenette only.

Member Irvin said he had been concerned that the proposed garage might be used as living space. However, the business at this property was a registered business, and had to operate under the rules of that business.

Member King said the garage would provide some benefit in that it would shield the view of the kennel from the street. Along with the improvements to the house, the general appearance of the property was enhanced.

Member Rich said that while he empathized with Member King's position, if the Board ignored non-conforming uses in determining whether to grant variances, in the future the portion of the ordinance preventing expansion of a non-conformity would be moot, because the non-conformity could be ignored. Also, if the Board ignored the non-conformity as discussed, there would not need to be a variance at all. Deciding that the non-conformity can be ignored when deciding to approve a structure rendered the ordinance irrelevant. If City Council wanted to eliminate the requirement of the ordinance, that would be something they could do, but the Board did not have the authority to do that.

Member King said that the Board had often been advised that every case stands on its own merits.

City Attorney Morita said that while every case stood on its own facts, in terms of ethical actions, if the Board were to ignore a non-conformity in this case and then deny a variance in the future for someone else in a similar situation, that could present problems for the City. The intent of Section 7.1 was to bring non-conformities into conformity over time. In this instance there was a business operating in a residential district that is asking to increase its accessory space, on top of what was already there that already exceeded ordinance limits. Her office was primarily concerned with consideration of the 1st request which is whether or not a variance should be granted at all from the City's prohibition on increasing non-conforming uses.

Member King said that denying the accessory structure did not resolve the issue of a business operating on this property.

City Attorney Morita said Section 7.1 prohibited the expansion of a non-permitted accessory use that has been grandfathered in because it preceded the ordinance. Once the Board allowed more accessory space on the property, it was not preventing the accessory space from being used for the same purposes as the business. There was no way for the City to police that. The Board should take the first request very seriously; the City does not want to encourage the expansion of non-conformities; there were reasons for this policy that went beyond this case. But if the Board did find a reason to grant the first request, they should make sure their motion was very careful and very specific regarding both requests.

Chair Vergun said that all accessory uses needed to be kept under one umbrella, and those that exist on the property far exceeded the allowable maximum. While the Board was allowed a good amount of leeway to make their rulings, it was important not to push the boundaries in terms of what the Board was given the right to do.

Chair Vergun indicated he was ready to entertain a motion.

MOTION by Masood, support by O'Connell, that in the matter of ZBA Case 8-21-5680, the Board of Zoning Appeals DENY the petitioner's request for a variance from the requirement that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district, in order to construct an attached garage, because the petitioner DID NOT demonstrate practical difficulties exist in this case in that he DID NOT 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.

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 involved.

3. That the petitioner's plight is due to the unique circumstances of the property.

4. That the problem is not self-created. Indeed, the problem is entirely self-created.

And with the finding that:
As the first variance request is not approved, the second variance request is moot.

Roll call vote:

Irvin	nay
King	aye
Masood	aye
O'Connell	aye
Rich	aye
Vergun	aye

MOTION to DENY carried 5-1.

B. **B. ZBA CASE: 8-21-5681**
LOCATION: Vacant lot (between 22621 Purdue and 22641 Purdue)
PARCEL I.D.: 23-26-476-016
REQUEST: In an RA-4 Zoning District, the following variances are requested in order to build a house on a non-conforming lot. 1. A 20-foot variance from the minimum 60-foot lot width requirement. 2. A 3,614.2 square foot variance from the minimum required 8,500 square foot lot area.
CODE SECTION: 34-7.1.10. B.; 34-3.17. E.
APPLICANT/OWNER: Michael McGrath

Utilizing a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. Aerial views and schematics showed the location of the vacant property known as Parcel ID 23-26-476-016, between 22621 and 22641 Purdue, north of 9 Mile Road and west of Middlebelt Road. The property was located in the RA-4 zoning district.

Michael McGrath, 34124 Freedom Road, Farmington, was present on behalf of this application for variances to minimum lot width and area requirements, in order to build a house on a non-conforming lot. Mr. McGrath referred to written correspondence he had provided regarding this variance request dated January 31, 2021 and June 2, 2021.

Mr. McGrath gave the following information:

- The lot was purchased in 2016 from the non-profit Helping Hands of America. At that time the lot was presented as a buildable lot, and Mr. McGrath's realtor confirmed that his research with the City confirmed this was a buildable lot. Mr. McGrath also verified with the City that the lot was buildable, and the seller's realtor sold the lot as a buildable lot.
- When Mr. McGrath sought a permit, it was discovered that there was a City ordinance regarding previous common ownership of adjoining parcels – Section 34-7.1.10.b.
- However, this parcel is a separate parcel that has a sewer tap in the road which infers it was meant to be built upon, even though it is a 40-foot lot.
- Again, when Mr. McGrath visited City Hall, staff gave him the setbacks and building requirements, and even told him the tree in the middle of the property could not be removed until a building permit was granted.
- When seeking a permit, it was discovered that the referenced ordinance disqualified the lot as non-buildable.
- When the previous owner, Maple Properties, sold the adjacent house, they inadvertently included the lot number for the subject parcel in the sale. They subsequently corrected that problem, and eventually donated this property to Helping Hands of America.
- Adjoining homes were built on 40-foot lots; the character of the neighborhood would not be negatively impacted. A new home would increase the property values of other homes in the area, and would increase taxable value to the City.
- There is a push to improve this area of the City.

Regarding the criteria for approval, Mr. McGrath said that:

1. Complying with the strict letter of the ordinance would prevent him from building on this property, when there were other similar sized properties in the area that had homes on them.
2. Regarding substantial justice to the petitioner as well as to other property owners in the district, the majority of homes in the area were on 40-foot lots. Granting the variance would not change the character of the neighborhood, and other property owners would benefit from having a new home built on the lot which would increase property values, and the City would benefit by having increased tax values.
3. The unique circumstances of the property involve a not well known provision of the ordinance regarding common ownership of adjoining parcels; without this provision the lot would qualify as a buildable lot, rendering the circumstances of this parcel unique. It was only when the applicant sought a permit and met with City Planner Stec that this ordinance was brought to light.
4. Regarding whether the problem is self-created, the applicant did not create this situation, and researched whether the property was buildable before purchase via conversations with both realtors, and with city staff. In talking with city staff, the applicant received information regarding setbacks, building envelope, water and sewer tap fees, permit fees, the fact that no water payback was required, and advised that the large tree in the middle of the lot could not be cut down until a building permit

was obtained. All of this information was documented, including handwritten notes given to the applicant by city staff.

Member Rich asked the definition of *buildable lot* in the ordinance.

City Attorney Morita explained that a buildable lot had to meet certain width and area requirements. In the case of homes in this area, which were platted with smaller lots prior to current ordinance requirements, the Board traditionally looks at how the area was originally platted, and a map had been provided that showed other lots in the neighborhood that had 40-foot widths.

Zoning Supervisor Randt confirmed that a buildable lot was defined by width, area, and depth requirements, as well as the ability to construct a home within required setbacks.

Member Rich asked if there were records that showed ordinance changes that might render a lot unbuildable.

Zoning Supervisor Randt said that when the ordinance changed to require 60-foot widths, many parcels in this neighborhood became non-conforming.

Member Rich asked when the ordinance changed to require 60 foot widths. City Attorney Morita said while she did not have the exact date, they had looked at this and the ordinance was in place prior to the original sale of the property by Maple Properties.

Chair Vergun said the issue tonight was not exactly whether the lot was buildable, because there were other similarly sized lots in the area that had homes on them. Rather the issue was regarding the ordinance requirement that when two or more lots with a continuous frontage are non-conforming and both lots are, or have been, under single ownership, they are not permitted to be developed as separate parcels.

Mr. McGrath pointed out that the two properties had separate tax id numbers. Maple Properties had owned both properties, and sold both properties to the house adjacent to this property. He believed the owner of the adjacent property never actually owned the subject parcel. Yet without this history of common ownership, he would be able to build on this lot.

In response to a question from Member King, Mr. McGrath confirmed that he had never owned either of the properties on either side of the subject site.

Member Rich pointed out that the prior owner, Maple Properties, had acquired the two properties, and thus had prior ownership for both parcels. Also, Maple Properties had purchased both properties from someone who also had common ownership.

Member Rich said his understanding was that when Maple Properties sold the house to the north, they also sold this parcel, and then Maple Properties said they didn't intend to sell the vacant lot as well, so they pulled it back. Subsequently Maple Properties donated the property to Helping Hands of America, instead of letting the buyer of the home have it as part of their original purchase. Instead Maple Properties basically gave a property away that was theoretically buildable.

Member Rich hypothesized that Maple Properties originally pulled the property back because they thought it was buildable. But for them to later give it away led one to believe they discovered the lot was not buildable.

Member Masood asked that if this request was approved, would the applicant then be coming back for variances for setbacks and easements?

City Attorney Morita said that any future variance requests would depend on what was built there. She pointed out that 40-foot wide lots in this area were not unusual. She encouraged the Board to look at the requested lot size in context. However, Member Masood's point was correct – there could be problems building on the lot because of setback requirements.

Mr. McGrath said he had already reviewed this situation with the builder, who believed he could build an appropriate house within the zoning restrictions for the lot.

Member Masood asked Mr. McGrath's intent when he purchased this parcel. Mr. McGrath said he had had purchased the property from a charitable organization as an investment, thinking this would be a buildable lot based on conversations with City staff at the time.

Member Rich asked if there had been attorney review during the purchase process. Mr. McGrath said he had not engaged an attorney as the process seemed straightforward.

Mr. King confirmed with Mr. McGrath that no one told him that there might be issues with the property.

City Attorney Morita advised that a single zoning lot could be made up of two or more parcels that had individual parcel numbers. Several non-conforming lots can be combined to make a single conforming parcel. The subject site was not "grandfathered in" because it was a single zoning lot with the abutting neighbor for many years. The situation of non-compliance had only arisen when Maple Properties tried to sell the lots separately. Originally this lot and the lot to the north were under common ownership as a single parcel.

Member Rich asked if staff knew how many of the vacant lots shown on the overhead map might be in a similar situation. Zoning Supervisor Randt said he did not know.

Member O'Connell asked if the lot had never been part of common ownership, would it be buildable?

City Attorney Morita said that based on the age of the plat which predates the ordinance, and if the lot was always separately owned, it would be considered a buildable lot, as a pre-existing non-conformity.

After discussing the common ownership clause in detail, along with the history of plats in the City, the Board returned to consideration as to whether the applicant had met the criteria for a variance in this case.

Chair Vergun opened the public hearing.

George Schlotta, 22711 Purdue, opposed this variance request. Mr. Schlotta lived two houses north of this site since the 1980's, and his property had 80 feet of frontage. Mr. Schlotta gave some history and details of other 80-feet wide properties in the area, and property issues that had occurred. He thought granting this variance would encourage other property owners to consider splitting off their commonly-owned 40-foot lots. He did not want the City to encourage the construction of 900 square foot houses on small lots. The subject site had always been commonly owned with the lot next door; it had never been a single lot.

Mary Li, 22655 Purdue, opposed granting this variance request. She gave some history of her property, which was originally 80 feet wide, but she had lost the 40-foot-wide adjacent parcel due to tax sale.

Elsie Price, 22641 Purdue, opposed granting this variance. She said that when she bought her house in 2007 she was told she had bought both parcels, and she had brought a deed tonight showing both parcel id numbers. She had looked this up many times since 2007. Older aerials showed a small shed on the vacant parcel, with a walkway going to her side door from the shed; this had been the situation since approximately 1946. After she registered the deed, she noticed the vacant lot was being maintained by someone else. When she asked, she was told that even though she had the deed to the property, she did not own it. Maple Properties said they would make this right, which they did by putting the property in the Maple Properties' owner's name. Upon seeking legal counsel, Ms. Price was told the cost of taking this to court could end up being more than the property was worth. After the property was donated to Helping Hands, and then later put up for sale, she had tried to buy the property again, but Mr. McGrath beat her to it.

Member Masood said there was an affidavit of mailing, with zero returns.

Seeing that no other public indicated they wished to speak, Chair Vergun asked Mr. McGrath to respond to the public comments.

Mr. McGrath said that as others had confirmed, while there were double lots in the neighborhood with a house built on one of the lots only, there was a large number of homes that were built on 40-foot lots, and from the addresses he could list, it appears that more homes were built on 40-foot lots than on double lots.

Mr. McGrath said that he had brought the documentation that showed the handwritten notes from City staff regarding the requirements for building on this lot. He did not seek an attorney's opinion at the time of purchase, since he had come to the City and talked to the staff in the Building Department, and he trusted that what they were telling him was accurate. He reiterated that he met all the criteria for granting a variance.

City Attorney Morita directed the Board to consider the location and issue before them this evening, and not other issues that had been brought forward by the neighbors for other properties.

Member Irvin said that since both lots were no longer under common ownership, some of the public who spoke tonight were living on 40-foot lots. Also, even though the parcel used to be an 80-foot parcel, it was no longer owned by the same person, and the argument to keep the integrity of the 80-foot width could not stand.

Member King said he was in favor of the variance, because in spite of the unfortunate history, the current owner came into ownership of this lot without being party to that history. The Zoning Ordinance did not intend to deny someone the right to use a property to construct a home, when that construction was possible. Notwithstanding the neighbors' concerns, there were many houses in this area that sat on 40-fooot wide lots.

Member O'Connell pointed out that the current zoning requirement was for a 60-foot lot. Granting this variance could "open a can of worms," encouraging every owner of a 40-foot lot to seek a variance from the ordinance requirements.

Member King said each situation was evaluated on its own merits. In this case, there were several houses already constructed on 40-foot lots. The City passed the ordinance requiring wider lots in the hopes that over time the lot sizes would increase, but that did not mean the City should deny someone the right to build a house on their own residential property. This did not do justice to the owner of the lot, when the current owner had no involvement in the historical situation.

MOTION by King, support by Irvin, that in the matter of ZBA Case 8-21-5681, the Board of Zoning Appeals GRANT the petitioner's request for 1.) A 20-foot variance from the minimum 60-foot lot width requirement, and 2.) A 3,614.2 square foot variance from the minimum required 8,500 square foot lot area, in order to building a house on a non-conforming lot, 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.

2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district, particularly those who currently live on 40-foot lots.

3. That the petitioner's plight is due to the very unique circumstances of the sale history of this property.

4. That the problem is not self-created.

Chair Vergun opened the motion for discussion.

Member Rich said he was having a difficult time with this case, for reasons already stated by Member King as far as the non-involvement of the current owner in creating the situation. Regarding the written application document (Jun 2, 2021) from Mr. McGrath, the 2nd criteria for practical difficulty claims that allowing a home to be built on this lot would somehow increase the property values of the other houses in the neighborhood or on the street. Member Rich said that this did not make sense, and he did not see how having more houses on smaller lots, with the increased traffic, smaller houses, those sorts of things in a neighborhood, increased the property values of the neighboring properties.

Member Rich's second concern was that while this particular property owner was not part of the whole transaction of sale and common ownership vs. not common ownership, as was pointed out the history of this property shows that there was common ownership going back to at least the time that the property was sold to Maple Properties; there was long-time common ownership. As counsel has also pointed out, the fact that there are multiple parcel IDs on a parcel does not necessarily mean that there are multiple zoning lots – those are two different things. So the fact that a particular parcel ID is separate from another parcel ID does not necessarily mean you can build a separate structure on the 2nd parcel. The Board doesn't know exactly when the ordinance changed from a 40' to a 60' minimum width requirement, but it was known that this change was implemented before Maple Properties sold the property, by first selling two parcels, then pulling one back, and then giving that one away. The history of the property should have raised some sort of red flags that something wasn't going to allow for a home to be built on that parcel. It would not make sense that a for-profit company would take a property back, obviously thinking it would be buildable, and then just give it away to a non-profit. While people do things charitably for a number of reasons, Maple Properties simply gave the property away to the Helping Hands organization. If a property is worth $20,000, a for-profit organization giving it away to a non-profit entity may or may not

be worth a $5,000 tax deduction, for instance. But it seemed unlikely the property was donated solely to gain a tax advantage.

Member Rich continued that the ordinance is in place and that while there were certainly a number of properties that currently exist on 40 foot frontages, in looking at the schematic of the subdivision, homes on 40-foot lots do not constitute a majority of those sites. Additionally the Board did not know how many of those side to side lots were under common ownership. For those reasons, and there were arguments that can be made on both sides, Member Rich would oppose the motion.

Member King said that the Board needed to put aside the history of ownership for this lot, and look solely at the ownership of the current owner who bought the lot in good faith in order to build a residential structure in a residential neighborhood. It would serve justice well to allow him to do so, particularly because the applicant is doing so in a manner that is consistent with many other existing structures. Otherwise, as the applicant said, what is he going to do with this piece of property? This was a unique situation and it would be inappropriate for the Board to go back in history and on that basis come up with an argument denying this owner the right to use his property.

Member O'Connell asked if the applicant was building the home to live in or as a spec house. Mr. McGrath said he had a builder that was interested in building the home, within the required building envelope. He would be building a house that would improve the values of the area.

Member O'Connell said the reason he asked that question was that his fear was in future years a builder will swoop in and grab the 40-foot lots in order to build houses on them, with negative affect.

Mr. McGrath explained that if the builder doesn't move forward to construct a home on this property, his daughter's partner was interested in building a home on the site. He reiterated that he had a written record of conversations with 3 employees at City Hall that indicated he would be able to build on this lot, as long as he met zoning ordinance standards. The fact that there was an existing sewer tap at the street indicated that this property was planned as a separate buildable lot. Only later when he talked to City Planner Stec did it become apparent that there was an ordinance prohibition regarding building on this site.

Member O'Connell said while he felt badly about this situation, unfortunately City staff was not correct in giving the impression this was a buildable lot.

Roll call vote:

Irvin	aye
King	aye
Masood	aye
O'Connell	nay
Rich	nay
Vergun	nay

MOTION to GRANT failed 3-3.

C. ZBA CASE: 8-21-5682
LOCATION: 32900 West Ten Mile
PARCEL I.D.: 23-22-353-016

REQUEST: In an RA-1 Zoning District, the following variance is requested in order to build a 1,250 square foot garage. 1. A 388 square foot variance from the maximum allowed of 862 square feet for all accessory buildings and uses.
CODE SECTION: 34-5.1-2. D.
APPLICANT/OWNER: Staci Wegener and Evan Trivedi

Utilizing a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. Aerial views and schematics showed the location of the property at 32900 Ten Mile Road, north of Ten Mile between Farmington Road and Orchard Lake Road. The property was zoned RA1.

Staci Wegener, 32900 Ten Mile Road, was present on behalf of this application, as was Steve Schneeman, S3 Architecture, Farmington.

Ms. Wegener made the following points:

- They were requesting to construct a new garage on their property, to store equipment and vehicles. The equipment would be used to maintain their large property.
- All existing accessory structures on the property would be removed.
- Their lot was large and unique to the RA-1 zoning district. There were approximately 19,000 homes in the RA-1 district per GIS data. Of those, approximately 150 parcels had lot sizes greater than 1.5 acres. 1.5 acres required a substantial amount of lawn equipment for maintenance purposes, including lawn tractor, large mower, and other lawn equipment. They would also like an area to store their vehicles.
- The lot was almost all lawn and grass, as compared to other large lots, which were significantly wooded.
- They shared their entire western border with the Kingdom Hall Church. While the church members were very kind and good people, there was significant turn-around in the parking lot at the back of the Wegener's property, and it was impossible to tell if those cars actually belonged to anyone in the church or not. This created a security issue.
- During recent storms they had trees come down; they needed a secure place to park their vehicles, which were currently stored outdoors.
- They also owned an equipment trailer that they were currently storing off site; a picture had been provided in the packet. This trailer was located several hours away; they would like to store the trailer in the garage.
- The size of garage they were allowed was based on the square footage of the home. Because their home was a Cape Cod, the assessor's resultant 1.25 multiplier for the second story decreased the square footage total allowed for the garage.
- During the pandemic when both partners were working from home, they converted their basement workshop area to a work space. The workshop area had been used to store tools and equipment that now had to be stored elsewhere.
- They cared a lot about their property. The home was built in 1948 and they owned the original blueprints of the home. The design of the garage would blend with the style of the house and would also enrich the neighborhood.
- Neighbor's responses to this project were included in tonight's submission. No one had any concerns and the neighbors were supportive.
- It was not unprecedented for homes on parcels greater than 1.5 acres to have large accessory buildings. Of the approximately 150 lots in the RA-1 zoning district that are greater than 1.5 acres, over half had nonconforming accessory structures. Approximately 30% have accessory structures that are in conformance with the ordinance.

Member King asked if the applicant had measured the occupied square footage on the 2nd floor. Ms. Wegener said she had not measured it herself, but per the bank assessor, the measurement was 2,068 square feet total for both stories.

In response to a question from Member King, Ms. Wegener explained that the trailer was used to haul vehicles when they needed maintenance. It was not used for any commercial purpose.

In response to questions from Member Rich, Ms. Wegener gave the following information:
- They had lived at this location for 9 years.
- They trailered their lawn equipment approximately once a year. They would also use the trailer for hauling items such as mulch, rock supplies, and plants.

Member Irvin pointed out that the pandemic situation had required the applicants to convert their basement into an office, thus forcing them to use their garage to store all the tools and equipment that had previously been stored in the basement.

Member O'Connell asked about the reference to the 500' of living space in the basement. Ms. Wegener said that referred to the space they had converted for office space. City Attorney Morita said the basement living space was not considered in the area requirement that determined the allowable size of an accessory structure.

Member O'Connell asked if the applicants were anticipating any future kitchen space or living space in the proposed garage. Ms. Wegener said they were not.

Member O'Connell asked what the buildings looked like that were being removed. Ms. Wegener said the existing 20 x 20 small white garage would be demolished, along with a shed.

Chair Vergun asked about the dormers on the proposed garage. Ms. Wegener said the dormers in the front helped the structure match the house, and allowed useable light in the garage. There would be no loft in the garage, and one entry in and one out. The taller ceilings will allow them to put in taller storage shelves.

In response to questions from Member Rich, Ms. Wegener said a smaller lawn mower was currently stored in the shed. An electric vehicle charge station would be installed in the garage.

In response to questions from Member King, Ms. Wegener said the garage would be 30 feet deep. They had considered a smaller structure, but she knew from the experience of others that a 900 square foot garage was not large enough to serve a property this large.

Mr. Schneeman added that the north door would be used for the large pieces of lawn equipment to get into and out of the garage.

Chair Vergun opened the public hearing. Since no public was present, Chair Vergun closed the public hearing and brought the matter back to the Board.

Member Masood said there was an affidavit of mailing with 8 returns.

Member Rich asked if the applicants had received any feedback from the church. Ms. Wegener said while they had not directly sought out church leadership, they had talked to people at the church, who expressed

support for the new garage, especially since it would provide an additional level of privacy for church members exiting a church door that faced their property.

Member King commented that he thought the proposed garage was well planned and beautifully designed. However, he was struggling with the issue of whether or not the problem was self-created.

In response to comments from Member O'Connell, City Attorney Morita said the bank appraiser's square footage calculations could not be used by the City. However, the Cape Cod style roof might be a unique circumstance to the property as it results in reduced square footage for an accessory structure.

Chair Vergun indicated he was ready for a motion.

MOTION by O'Connell, support by Irvin, that in the matter of ZBA Case 8-21-5682, the Board of Zoning Appeals GRANT the petitioner's request for a 388 square foot variance from the maximum allowed of 862 square feet for all accessory buildings and uses, in order to build a 1,250 square foot garage, because the petitioner did demonstrate practical difficulties exist in this case in that she 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.

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 involved and be more consistent with justice to other 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, because the Cape Cod style home reduces the square footage allowed for a new garage.

with the following conditions:

1. Garage will be constructed in conformance with the plans submitted this evening.
2. No livable space, plumbing, or heat in the structure.
3. Garage will be located as shown on the submitted plans.

Roll call vote:

Irvin	aye
King	nay
Masood	aye
O'Connell	aye
Rich	nay
Vergun	aye

MOTION to GRANT carried 4-2.

PUBLIC QUESTIONS AND COMMENTS None.

APPROVAL OF MINUTES: July 13, 2021

MOTION by King, support by Masood, to approve the July 13, 2021 Zoning Board of Appeals meeting minutes as presented.

Motion carried unanimously by voice vote.

ELECTION OF ZBA OFFICERS

Member Irvin nominated Member Lindquist as chair.
Member King nominated Member Masood as vice-chair.
When asked, Member O'Connell said he would be willing to serve as secretary.

MOTION by King, support by Irvin, to elect Member Lindquist as chair, Member Masood as vice-chair, and Member O'Connell as secretary, for the term beginning at the next meeting.

Motion carried unanimously by voice vote.

ADJOURNMENT

MOTION by Irvin, support by King, to adjourn the meeting at 10:11 p.m.

Respectfully submitted,
Azam Masood, Secretary

/cem