MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
APRIL 10, 2018

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: **Barnette, King, Lindquist, Masood, Rich, Seelye, Vergun, O'Connell**

Member Lindquist was recused from C. ZBA Case 4-18-5633. Alternate O'Connell sat on that case.

Members Absent: None

Others Present: **Attorney Morita and Zoning Division Representative Grenanco.**

SITE VISIT April 8, 2018

Chair Seelye noted when the Zoning Board of Appeals members visited the site.

The Sunday site visit begins at 9:00 a.m. at City Hall. It is an advertised open, public meeting under the Open Meetings Act, is only for informational purposes; the Board members abstain from any action, hearing testimony, or any deliberations.

APPROVAL OF AGENDA

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

MOTION CARRIED 7-0.

NEW BUSINESS

A. ZBA CASE: 4-18-5631
LOCATION: 34300 Lyncroft
PARCEL I.D.: 23-16-376-010
REQUEST: An appeal of the Planner's determination that the proposed use at 34300 Lyncroft zoned RA-1A does not meet the definition of a farm as defined in the ordinance.
CODE SECTON: 34-2.2
APPLICANT: Jill and Todd Watson
OWNER: Alice Chorkey Trust (Nancy McMacken, Trustee)

Jill and Todd Watson, 26055 Northpointe, applicants, and Anthony Chubb, Giarmarco, Mullins & Horton, P.C., were present to represent the request.

Zoning Division Representative Grenanco provided background relevant to the appeal. The case originated on November 9, 2017 when City Planner Stec was contacted by the applicants' architect regarding the proposed use of the property as a private garden with accessory structures. A series of emails and phone calls followed, in which the applicants began to refer to the property as a farm. In an

email sent on November 15th, the applicants stated that the primary purpose of the proposal would be to grow produce and that the property would be operated as a farm that could be run as a CSA (community supported agriculture). An administrative decision was made by City Planner Stec that the proposed use did not meet the definition of a bona fide farm as defined in Chapter 34 Zoning of the Farmington Hills Municipal Code. Applicants were advised that they might appeal that decision before the Zoning Board of Appeals. Tonight the Board was being asked to determine if the proposed use of the property, as submitted, met the definition of a bona fide farm.

Attorney Morita confirmed that the Board was only concerned with whether or not the proposed use of the property constituted a farm under the zoning ordinance. This was not a typical variance case, but an appeal of the interpretation of City Planner Stec. The issue was whether the Board agreed or disagreed with City Planner Stec's interpretation of the zoning ordinance.

Ms. Watson discussed their proposed plan for the property in question. They lived in the neighborhood and wanted to purchase the property in order to farm the land. They would not live there, but instead the primary purpose would be to grow fruits, vegetables, and herbs while maintaining a park-like appearance. They would remove the home that was on the property because it was in disrepair and would be cost prohibitive to restore. They believed that they could save the shed and large garage, which could be used to store equipment. They would like to build a large greenhouse, farm some acreage, and have a fruit orchard. As they read through city ordinances, it seemed to them that what they wanted to do was considered a farm. As far as they could tell, their plan met all of the definitions for a farm.

They were looking for clarification on the term "bona fide." They were trying to meet all city ordinances as well as ensure that the neighbors would be happy with their plan. They believed that their proposed plan would add value to the property and to the neighborhood as well as be beautiful.

The thirteen acres would provide more product then they could use and they had been discussing a CSA and there were several families excited to take part in shares. Additionally, they would have at least one and probably more employees to help them with the farm.

Mr. Watson indicated that they would have a variety of vegetables rather than a single crop. They would not be growing marijuana and there would be no animals – just extensive garden areas. They would also have walking paths through the wooded section of the property, keeping the natural beauty of the wooded area.

Responding to questions from Chair Seelye, Ms. Watson indicated that they would be filling in the pool and keeping the driveway.

Chair Seelye stated that possibly half of the property was on the hill in the back that would not be farmable. He wondered how many acres they planned on farming.

Ms. Watson stated that they were not planning on doing anything down the hill, into the woods, or around the stream as those areas were not farmable. The side lot and acreage in front would be farmable. The land that bordered Lyncroft would be an ideal spot for a mixed orchard. Ms. Watson indicated the area on the map that would be used for a greenhouse that would open out into a vegetable area and possible fruit or raspberry bushes.

Chair Seelye wondered if their plan included taking down any existing trees.

Ms. Watson stated that they did not plan on removing trees from the wooded area, but might take down some of the scrub trees on the side or any trees that were diseased. They might take down something but had not looked at that in detail.

Mr. Chubb introduced himself as representing the Watsons. He discussed the term "bona fide." He quoted from the local ordinance indicating that a farm was a

> *single unit on which bonafide [sic] farming is carried on directly by the owner-operator, manager or tenant farmer, by such person's own labor or with the assistance of members of the household or hired employees . . . farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards . . .*

He then indicated that the denial of the city from City Planner Stec seemed to stem from the proposal being more in the nature of a personal garden, greenhouse and landscape park area that was originally proposed and not a farm in the sense of producing farm products for market.

He stated that the idea that a farm required farm products for market was not in the local ordinance, but that he believed that interpretation came from the Michigan Right to Farm Act which was a state law rather than a local ordinance and related specifically to commercial farming. He argued that the Michigan Right to Farm Act should not be imposed on the local ordinance – by using the word bona fide to mean commercial.

He believed that the apparent ambiguity of the term "bona fide" should be looked at within the intent of the ordinance. Farming was a primary permitted use only within residentially zoned areas, which showed that farming was also thought to be something to be carried out on a small subsistence level because large farming operations wouldn't be allowed in a residentially zoned area. The more local, small farming that the Watsons had proposed was consistent with the local definition of the word "farming." Additionally, the Watsons were considering the adoption of a CSA that would give them a commercial component. It was noted in the Right to Farm Act that even farm side stands constituted commercial activity.

Member Rich wondered if the paths through the back of the property would be for general public usage, for the neighborhood, or for the applicants.

Ms. Watson imagined that people would end up walking on the paths, but they would not have a sign inviting people to walk on their property.

Mr. Watson indicated that they might have neighbors, with their permission, on the pathways.

Member Rich wondered if there was any plan to sell produce outside of a CSA at a roadside stand, a farmers market, or in another way.

Ms. Watson stated that this was not planned to start with, although she wasn't opposed to the idea. She liked the idea of growing enough to sell to local restaurants, but they would need to first get the farm running and then see what types of excess there might be before opening up such possibilities. It could happen down the road, but they had no specific timeline.

Mr. Watson stated that if it were required, they would do so as they were trying to figure out how to comply with city ordinances.

Responding to questions from Member Rich, Ms. Watson indicated that the land used city water. They would not be using chemical fertilizers or pesticides. A tributary to the Rouge ran through the back and they had no intention of polluting it.

Mr. Watson stated that, for the moment, their plan was to have one employee.

Ms. Watson said that the future would depend on how successful they were and how large the production became. She foresaw them having a handful of employees, but not as many as twenty. She further indicated that there were no plans to have an operation where people came to the property and picked fruit.

Chair Seelye wondered what types of equipment, such as tractors, would be on the farm.

Ms. Watson stated that she did not envision tractors because the nature of the operation would be mixed beds and more hand-oriented.

Member Lindquist wondered about the Watsons' experiences with farming and expressed some concerns that they were not bona fide farmers and that the property was not currently a farm.

Mr. Watson noted his experiences as a teen working on farms and Ms. Watson said that they would not be doing this on their own, but would be venturing into the world of farming. The property had originally been a farm.

Member Lindquist stated that the property had been a residence, and not a farm, for fifty years. He shared some further concerns about the tributary of the Rouge. He noted that that even if they were an organic operation, that there could still be organic pollution running into the river. Such pollution, for example, could be manure that was not naturally occurring but brought in for the growth of crops.

Ms. Watson noted that anytime somebody lived by a river, anything that they put on their lawn would go into the river. The Watsons would not be putting chemicals in the river, as they would use organic methods.

Member Lindquist said that the property was currently a residential property with a blue grass lawn with some natural foliage and that farming would change the nature of what ran into the river from the property.

Ms. Watson said that she would argue that change would be for the better.

Member Lindquist stated that the Board had to consider what would happen if the property were designated a farm now and then later changed hands.

Ms. Watson stated that the property was already zoned as a farm.

Member Lindquist stated that the property was zoned residential.

Ms. Watson stated that it was zoned RA-1A where a primary permitted use was farming.

Member Lindquist clarified that the permitted use included farming with a residence and that it was currently a residential property but not a farm.

Ms. Watson thought that it could be a residence *or* it could be a farm *or* it could be several other things. She didn't think that it was zoned as a residence *and* a farm.

Member Lindquist wondered about the organic nature of the proposal and whether using city municipal water would allow them to qualify as an organic operation.

Ms. Watson stated that they would be farming the land organically, but had no intention of seeking organic certification.

Chair Seelye requested clarification on the zoning of the property as farm or residential or both.

Zoning Division Representative Grenanco noted that the property was zoned RA-1A, for which there were many uses. One of the uses did allow for farming on certain parcels of certain sizes. The parcel in question was of the size that could be a farm. The key component was the building. The applicants had stated that they were planning to take down the house. If they were not going to take down the house, it could be a farm.

Attorney Morita further explained that farming was a permitted principal use in that zoning district and if this were a vacant parcel it could be used as a farm. The issue was that only certain types of farm were permitted on properties that didn't also have a residence. Also, under the zoning ordinance, no outbuildings or non-accessory uses would be permitted because there was no residence on the property. If the house were taken down, the accessory buildings would no longer conform to the zoning ordinance. If the applicants kept the house, they could plant their gardens or have a CSA without having to seek the interpretation. Because they were taking down the house they had to be considered a bona fide farm under the ordinance to proceed without having to take down both the house and outbuildings.

Ms. Watson stated that her understanding was that a farm did not require a residence but could have a greenhouse and could have sheds to hold their equipment.

Attorney Morita clarified that a bona fide farm, that is, one where there was produce or animals being produced for commercial purposes, could have outbuildings without a residence. This was the issue under discussion because City Planner Stec's interpretation was that this was not a bona fide farming operation as proposed.

Attorney Morita reminded the Board that the appeal under consideration was limited as an appeal of City Planner Stec's interpretation based on the facts that were presented to City Planner Stec. She noted that other ideas had been presented at this meeting about the applicants' intentions that might impact other zoning ordinances. The Board's considerations were limited to the proposed plan that was presented to City Planner Stec and the applicants' appeal of that opinion on whether or not the operation they proposed constituted a bona fide farm under the city's zoning ordinance.

Member Rich asked for clarification on whether the interpretation would affect any other regulations, oversight of other departments, ordinances or what other governmental entities might decide with respect to the operation of the farm, if it were determined to be a farm.

Attorney Morita stated that it could have an affect under certain circumstances dependent on the regulations being dealt with, for example there were times when local ordinance superseded the management protocols from the state. The definition of farm in the local ordinance allowed for keeping animals and slaughtering them for personal use on a farm and also allowed for commercial use for farm product.

Member Rich asked about the commercial aspect of the farm, noting that he didn't see that term used in the ordinance.

Attorney Morita stated the term "bona fide" was important. She noted that there was case law about what was considered a true farm and farming. A backyard garden was not a farm but two acres of lettuce that were intended for selling on the market would be a farm.

Member Vergun clarified that the Board's final determination would be a simple yes or no and not a list of conditions.

Attorney Morita confirmed that that the Board either agreed or disagreed with City Planner Stec's interpretation that the proposed activity, as it was presented to him, did not constitute a farm.

Mr. Watson noted that they were trying to understand all of the ordinances so that they could come up with a proposal that complied. They were looking for an interpretation of the ordinance and specifically clarification on the meaning of "bona fide."

Member Vergun wondered how far along the applicants were in their planning.

Ms. Watson stated that they had not yet purchased the property. She believed that the issue was that they wanted to take down the house. It would be cost prohibitive to keep the house, but they wanted to keep the shed and garage and they wanted a greenhouse and to farm the land. They wanted the land to be pretty to look at because it was in a neighborhood.

Member King stated that the Board was being asked to make a determination about the definition of a bona fide farm. There were few requirements in the ordinance on which to base that judgment. One requirement was that it must be a minimum of ten acres. Because of the heavy woods, extreme slopes, the river, and the configuration of the property, it seemed that perhaps as little as one half or one third of the property was truly farmable, which would fall well below the ten-acre requirement for a bona fide farm activity.

Ms. Watson agreed that it would be very difficult to farm parts of the land, but pointed out that the definition did not require ten farmable acres, simply ten acres. She noted that few plots in Farmington Hills were ten acres or more and that if further limited as ten farmable acres, the Board might be disallowing any residents the right to farm.

At a question from Chair Seelye, Attorney Morita stated that the ordinance did not require ten farmable acres, but did require a lot that was ten acres or more.

Chair Seelye stated that the Watsons did not yet own the property and that the property owner had not signed the application. He wondered if they could even rule on the application.

Attorney Morita stated that this had been accounted for and as it had been represented to them, the owner was unable to sign the application due to illness, and that the city was trying to accommodate as much as possible under the circumstances.

Ms. Watson noted that they had an email from the daughter of the property owner and that the sister of the owner was in the audience and a trustee of the property.

Chair Seelye opened the public hearing.

John Goodman, 311 S. Rodgers, Northville, stated that he was the realtor representing the property. He noted that the house had been shown to over a hundred people over the last three years. There had been a few second showings, but the cost of renovations was too prohibitive. The house was dilapidated inside, water coming through the roof when it rained and had mold growing. The house had not been lived in for over seven years.

Ed Battersby, 33960 Ramble Hills, stated that he did not believe City Planner Stec had made a mistake. He noted the Ordinance 34-3.11 indicated that the intent of RA-1A family residential districts was to be the most restrictive of the residential districts. He stated that he did not want a farm in his neighborhood. He noted that intentions could change and owners could change. He also believed that the definition of farm denoted that the land was already being operated – something that already existed.

John Speck, 34324 Ramble Hills, stated that he and his wife, Nancy, liked the Watsons' proposal.

Terry Lewis, 34173 Quaker Valley Lane, stated that she came to the meeting to oppose the use of the property as a farm, but found that she had to support that use because a CSA was a commercial venture and thus a bona fide way of operating a farm.

Bill Cowdin, 34508 Ramble Hills, stated that personally he and his wife were in support of this venture. He stated that if it were operated as a CSA, it would fit as a commercial operation. The only other use that he could see for the property was a developer coming in and making several lots, which he did not want to happen. He was also present as a representative of the Board of Directors for the Ramble Hills Homeowners Association. The members of the association had shared some concerns: fences and deer, traffic and road usage, people coming and going to purchase goods and the effect of a farm on home values.

Replying to some questions from Member Lindquist, Mr. Cowdin clarified that he was speaking on behalf of the Board of the Homeowners Association who had reached out to the entire association by email and received feedback over the course of the past week. The Association was neutral on the interpretation of the property as a bona fide farm.

Adam Godin, 34143 Quaker Valley Lane, stated that while he was concerned about the property being parceled into smaller lots, he also had concerns about the proposal for a farm. In particular he was worried about runoff that would run into the properties that utilized well water at the bottom of the hill. While it sounded like intentions were good, he would like guarantees that no pesticides, fertilizers or chemical runoff would be able to get into their water. He would also hate to see the beautiful view go away and had concerns about hours of operation for the farm, noise of tractors etc. in the evenings, possible light pollution, and the attraction of coyotes and other small animals to the property.

John Plonka, 34135 Quaker Valley Lane, noted that the stream was the cleanest stream of the Rouge River system with fifteen species of animals and that he also shared concerns about pollution in the river and in their wells. He noted that the average well depth in his subdivision was about 55 feet and very old. He did not approve of the proposal for a farm and felt that it would be dangerous to residents in the neighborhood.

Pat Allen, 34370 Ramble Hills, supported the Watsons' proposal, as it appeared the house must be torn down anyway.

Chair Seelye closed the public hearing and invited the applicants to provide a rebuttal.

Ms. Watson wished to reassure her neighbors. To those with concerns about runoff, she pointed out where most of the planting would take place and she noted that the same river ran through their yard. They had no intention of polluting the river and would not use pesticides or fertilizers. They wouldn't want to do anything to lower property values, as that would also lower their property value. They wanted to farm the land in an unconventional way. If the Board stated that they didn't have to have a commercial component, they could do without the commercial component. They would not have tractors or trucks tearing up the road: they were planning a very small operation.

Member Lindquist confirmed that there was an affidavit of mailing on file with one returned.

Member Masood wondered about the number of bona fide farms that existed in Farmington Hills and Member Rich wondered if farming was allowed in any other district aside from residential.

Attorney Morita stated that she would need to get back to the Board with those questions but that the zoning was not exclusionary as it was permitted in every single residential district. Members Masood and Rich indicated that they did not need those answers at present.

MOTION by Masood, support by King, in the matter of ZBA Case 4-18-5631, that the determination of the city planner be affirmed in that section 34-2.2 of the Farmington Hills Zoning Ordinance that the proposed use at 34300 Lyncroft zoned RA-1A does not meet the definition of a farm as defined in the ordinance. Further, the ordinance specifically states bona fide farming, which I interpret as commercial. I find this is not a commercial venture. Also, the ordinance states that a farm includes a continuous parcel of more than 10 acres. My interpretation is that this means the ten acres all have to be farmable.

Member Vergun expressed his belief that the commercial term that had been brought up was subjective and inferred but not exactly in the regulations. He noted that there was much of the case that this Board did not have jurisdiction over but that the matter tonight looked like a farm, seemed like a farm and was described as a farm and he felt that it was a farm.

Member Lindquist noted that he would support the motion but that he disagreed with some of the statements. He did not agree that the acreage was supposed to be ten farmable acres. However, the property was not currently a farm and had not been a bona fide farming operation for at least fifty years. The applicants were not farmers or bona fide farmers. The CSA did not currently exist and so could not be considered as the operator of the farm. He felt that there was a fairly simple work around to most of the issues.

Member Rich wondered if they could make their interpretation based on the applicants being required to have a CSA.

Attorney Morita stated that the vote was limited to an appeal of City Planner Stec's interpretation of the facts, as they were presented to him, which included the thought that they could have a CSA, not a definite plan to have one. If the applicants were to come back in six months saying, for example, that they had bought the property and had fifty people signed up for a CSA then they might get a different interpretation, but that was not what was presented to City Planner Stec.

MOTION CARRIED 4-3 (Barnette, Rich, Vergun opposed).

Chair Seelye informed the applicant that the Board had decided that the property was not a bona fide farm and referred them back to City Planner Stec.

B. ZBA CASE: 4-18-5632
LOCATION: 38276 Lana Court
PARCEL I.D.: 23-30-453-013
REQUEST: In an RA-2 zoning district, a request for a 605 sq. ft. variance from the maximum 1250 sq. ft. allowed for all accessory structures in order to permit the construction of a 1371 sq. ft. attached garage and breezeway and so that the total combined accessory structure floor area would be 1855 sq. ft.
CODE SECTION: 34-5.1.2.D
APPLICANT: Artemio Sessions for Garages R Us
OWNER: James Ciolfi

Artemio Sessions, 2097 Hidden Values, Walled Lake, applicant, and James Ciolfi, 38276 Lana Court, homeowner, were present to represent the request.

Zoning Division Representative Grenanco introduced this case and explained that the owner wished to build a three-car garage that would require a 605 square foot variance.

Mr. Sessions introduced himself as the builder, with Garages R Us. They proposed to build a garage that was 1,204 square feet but that because the garage had to be attached to the house due to the homeowner association bylaws, the attached breezeway and garage would be 1,855 square feet. The owner was looking towards retirement and was a hobbyist. He had a motorcycle and car in the garage and needed more space for his spouse and mother-in-law to park their cars. The homeowners association had approved the request because they believed it would help the house look good and increase the value of the property.

Mr. Ciolfi introduced himself and invited any questions.

Chair Seelye noted that one reason the city had ordinances was so that neighborhoods didn't look like a large garage with a little house attached.

Mr. Ciolfi noted that he designed the garage so that it would not appear big, as the garage would meet the same peak as the house. Due to association requirements, the garage had to be attached to the house, which was why they had the breezeway. Also the association required that the garage doors face away from the street. He needed space for cars and his Harley.

Chair Seelye pointed out that the variance request would have to be unique to the property and not self-created.

Mr. Sessions stated that the property was pie shaped which allowed them to place the garage in back where it was not visible to others. The garage would also block the view of the nearby commercial park. Other properties on that side did not have the same size lot.

Mr. Ciolfi added that his property was up against the industrial park and the Piemontese Club, where there was a fence with barbed wire. The garage would cut down on noise from the industrial park. He also noted that his two neighbors had no issues with the planned garage because it would look like part of the house instead of an added structure.

Responding to questions from Member King, Mr. Ciolfi noted that he had approval from his homeowners association and that the president, vice-president and secretary were present. The approval was provided in writing and could be shared with the Board as needed. He confirmed that he went over his plans with his neighbors and that they had no issues with the proposed garage.

Member King noted that the addition requested was large and that it had to be done in a dogleg fashion. He inquired as to what would be lost if they didn't do the dogleg portion, but went to the property line and stopped there.

Mr. Ciolfi stated that he had not wanted the garage to look like a long barn and that he needed to fit the requirements of the homeowners association. He noted that fitting in a three-car garage that didn't look like a box was difficult in his scenario.

Member King stated that the same thing could be done with the breezeway and the garage door on the back instead of having a second leg.

Mr. Ciolfi stressed that he needed the space to fit three cars and that it was right on his corner lot.

Chair Seelye opened the public hearing.

Jim Campbell, 38336 Lana Court, introduced himself as vice-president of the homeowners association. He stated that the homeowners association had signed off on this proposal a year ago. They had talked to all of the neighbors and nobody had a problem with the proposal.

Jim Donohue, 38335 Lana Court, introduced himself as president of the homeowners association. He approved of the request noting the applicant's meticulous nature. He stated that the garage would not detract from the subdivision and that the lot had the ability to handle a structure of that size. He felt sure that the landscaping would be as beautiful as it was currently. He noted that he did not have the endorsement of all twenty-three residents, but that from the standpoint of two board members, they endorsed this request.

Member Lindquist asked for clarification on the endorsement of the homeowners association.

Mr. Donohue noted that they were speaking on behalf of the board, but that they did not survey the subdivision, which consisted of twenty-three homes on Lana Drive and Lana Court, to find out whether or not they were all on board with the request. However, they were speaking on behalf of the board of the homeowners association in support of the applicant.

Chair Seelye closed the public hearing, noting that there was nothing for the applicant to rebut.

Member Rich inquired about the half bathroom shown in the plans and whether somebody would be living in the garage. He also asked if the garage would be heated.

Mr. Ciolfi said that nobody would be living in the garage, but that the half bathroom would be there so that he would not have to go back and forth. He stated that if the city didn't allow the room, that it didn't have to be there. The garage would be finished with heat and lights.

Member Lindquist confirmed that there was an affidavit of mailing on file with one returned.

Member King noted that the request seemed to be something the homeowner wanted to do simply because he wanted it and that it would exceed the square footage allowed by the ordinance that every other homeowner could build relative to an accessory building by some 600 square feet. The configuration was not an issue, except that he had to have a breezeway and he couldn't have garage doors on the front due to the narrow lot shape. Member King discussed some possible dimensions and was personally inclined to allow the applicant to extend over to where the corner hit the property line. He felt that while it would likely still exceed the requirement of the ordinance, it wouldn't be grossly over.

MOTION by King, support by Rich in the matter of ZBA Case 4-18-5632, located at 38276 Lana Court, to **DENY** the petitioner's request for a 605 square foot variance to the maximum 1,250 square foot requirement for all accessory structures, in order to build a 1,217 square foot garage and breezeway in an RA-2 zoning district, but also to indicate that it would be acceptable to eliminate the dogleg on the proposed garage structure so that the structure was essentially a rectangle that would stop when the corner hit the property line setback.

Member Rich indicated he supported the motion, and that while this particular construction would be lovely and well kept, the Board must find practical difficulty, and two of the conditions were that the petitioner's plight was due to unique circumstances of the property and the problem not be self-created. Regarding unique circumstances, the shape of the property had nothing to do with the request for the additional square footage of accessory structure. The orientation and the way it might be constructed didn't have anything to do with the request or the need for additional size. Regarding being self-created, the legal requirement was that the problem not be self-created, and in this case the reason for the applicant's request was that he wanted to be able to work on his hobby at home as opposed to some other place, and he didn't see how they could get around that being a self-created hardship.

MOTION CARRIED 7-0.

Member Lindquist was recused from and Alternate O'Connell joined the Board for the following case.

C. ZBA CASE: 4-18-5633
LOCATION: 32402 W. Eight Mile
PARCEL I.D.: 23-34-377-016
REQUEST: In an LI-1 Zoning District, two special exceptions are requested to permit:
1. Signage on the drip edge of an awning which exceeds the 8 inch permitted height in order to allow graphics and lettering which is 2 feet 8 inches in height. A two foot in height special exception.
2. Signage exceeds 80% of the awning width as permitted to allow for signage which is 26 feet, 8 inches wide, 96% of the width. This request requires a 16% special exception for the awning width.
CODE SECTION: 34-5.5.3.D.iv.; 34-5.5.3.D.v.
APPLICANT: Terry L. Deichert, Roof Management Co., Inc./Marygrove Awning
OWNER: R.M.C.I., L.L.C./Thomas A. Deichert, Sr.

Terry and Tom Deichert, applicants, 32402 W. Eight Mile, were present to represent the request.

Zoning Division Representative Grenanco introduced the case and shared pictures of the proposed sign and also pictures of other signs in the neighborhood. She noted that the sign ordinance had changed on December 4, 2017 and due to those changes, the applicant was requesting the two special exceptions.

Chair Seelye disclosed that both he and Ms. Deichert were members of the Xemplar Club. He felt that he could handle this case without a problem. Ms. Deichert stated that she was fine with Chair Seelye sitting on the case.

Ms. Deichert stated that during the last two years, they had put a lot of money into their property: repaving the lot and redoing the face of the building in brick. Whenever a customer called in, they would ask the customer where they had heard about the company. Their current signage was over a year old and not one customer had told them that they had seen the sign. The sign needed to be larger because of the speed limit on the street. They were continuing to make improvements on the property through a three-year plan. The buildings around them had very nice awnings. Currently the front of their building was very blank. The proposed awning would enhance the building and help people to locate the property as well as increase the value of the property. They were investing in their community and this was a part of the economic development.

Mr. Deichert noted that his wife was passionate about making the building look good and that they were often thanked when she decorated the building for holidays. The awning would enhance the looks of the building and it went along with the other buildings on their street.

Member Masood inquired about the factors that went into the dimensions of 2 feet 8 inches.

Ms. Deichert stated that they had sent the design back to Marygrove Awning several times and that if the sign met the city guidelines, it would not look right and would not be seen by drivers going 45 miles per hour. It would be another wasted sign. The new guidelines had only been put in place December 4th – only a half a month from when they applied for their sign. They needed a sign that would have a wow factor and one that enhanced the front of the building. The 2 feet 8 inches came from the outline of the skyline on their logo and the information they needed to fit on the sign.

Mr. Deichert noted that the lettering wasn't two feet tall. The biggest lettering might be twelve inches, but the two feet referenced up to the peak of the logo.

Member Masood wondered if the area above the wording "Family Owned & Operated" was a part of the awning or an angle that was being seen. Was the measurement taken all the way from the top to the bottom of the sign?

Attorney Morita stated that the dimensions referred to the graphics on the sign and not the size of the awning.

Member Rich inquired as to the change in the ordinance.

Attorney Morita stated that they did not have the old ordinance present.

Alternate O'Connell noticed that a neighbor's sign was at least four feet tall and 100% covered in graphics.

Attorney Morita stated that they did not know when the other sign was installed and that it could have preexisted even the prior ordinance. She also noted that some of the signs pictured might not be in the City of Farmington Hills.

Zoning Division Representative Grenanco stated that several pictures were taken in the area to show what was characteristic of the neighborhood, but that one of them was in the City of Farmington.

Alternate O'Connell wondered if any of the other businesses had to apply for a variance to put up their awnings.

Zoning Division Representative Grenanco stated that this had not been looked into as they were looking at the ordinance as changed on December 4th.

Ms. Deichert stated that she had spoken to Tire One and they had applied for a variance that was granted.

Attorney Morita reminded the Board that each property had to be considered on its own regardless of variance requests by other properties. Each property had to be looked at individually to determine whether they met the practical difficulty standard.

Member Vergun noted that the signs currently in the area could have been in the area for a number of years and would have fallen under the regulation in effect at that time. Today there were different regulations and they could change again in the future. His concern was that the property was not in a small zone but went for several blocks with many similarly situated properties. He noted that the writers of the ordinance probably took the speed limit into account. He was unsure of whether this property was in a unique situation.

Chair Seelye noted that the ordinance was citywide and that Eight Mile Road had people driving fifty miles per hour.

Chair Seelye opened the public hearing.

John Anhut, chair of the Economic Development Corporation of Farmington Hills, supported the variance request noting the importance of economic retention and supporting small businesses. He noted that the EDC endorsed the request.

Tania Chahine, 1701 N. Linville, Westland, introduced herself as an employee of Roof Management. She hoped that the Board would take into account the fact the ordinance had only been changed within a few weeks of the application. Additionally, she pointed out that at least seven buildings near their address had similar types of awnings with signage. She noted that the largest part of their signage was the skyline on the logo, but that the rest of the font was around eight inches.

Thomas Brichford, 35553 Springvale, introduced himself as the owner of Whitlock Enterprises LLC at 20801 Whitlock. He supported the request for the variance, finding it very much in keeping with the neighborhood.

Chair Seelye closed the public hearing, noting that there was nothing for the applicant to rebut.

Member Vergun confirmed that there was an affidavit of mailing on file with two returned.

MOTION by King, support by Barnette in the matter of ZBA Case 4-18-5633 that the petitioner's request for two special exceptions be granted, because the petitioner demonstrated the requirements for special exceptions existed in this case and they set forth facts, which show the following:

i. That the request is based on circumstances or features that are exceptional or unique to the property and that are not self-created.

ii. That failure to grant relief would result in substantially more than mere inconvenience or financial expenditures;
iii. That the application of the regulations in this section without a special exception will unreasonably prevent or limit the use of the property or will unreasonably preclude the visibility or identification of a non-residential building on the property;
iv. That the special exception will not result in a sign or condition that is incompatible with or unreasonably interferes with adjacent or surrounding properties, will result in substantial justice being done to both the applicant and adjacent or surrounding properties, and is not inconsistent with the spirit and intent of this chapter; and
v. When taken on its own, or in combination with other existing conditions on the property or in the area, the special exception will not result in a sign or condition that has an adverse effect on the essential character or aesthetics of the establishment or surrounding area, is detrimental to or negatively affects the character of surrounding residential development, or compromises the public health, safety or welfare.

Subject to: the design and construction of the awning be as indicated in the submittal and not illuminated.

MOTION CARRIED 6-1 (Vergun opposed).

Alternate O'Connell was excused and Member Lindquist rejoined the Board.

D. ZBA CASE: 4-18-5634
LOCATION: 29380 Thirteen Mile
PARCEL I.D.: 23-01-351-009
REQUEST: In an RA-1 zoning district, the following variance is requested:
A 3 foot variance to maximum 3 foot height for fences in the front yard setback to allow for a 6 foot high fence.
CODE SECTION: 34-5.12
APPLICANT: Consumers Energy, Joseph Lawson
OWNER: Consumers Energy

Joseph Lawson, 1 Energy Plaza, Jackson, MI 49201, was present to represent the request on behalf of Consumers Energy.

Zoning Division Representative Grenanco introduced the case and explained that the applicant was requesting a six-foot high fence around their substation. The property was considered a front yard and so a three-foot height variance was needed.

Mr. Lawson noted that the request was very similar to the request brought before the Board the previous month. In this location, they were rebuilding the gas city gate facility: tearing out the buildings and the above ground plumbing and replacing these as part of an overall rebuild in the area. He pointed out that the valves, which were very close to the sidewalk, were staying in place. The fence needed to enclose the entire area in order to protect those valves. The proposed fence would be six feet tall and would be a rod iron type decorative fence made of aluminum. It would be similar to what was already in place. This was a very visible corner and they wanted the fence to look good and also secure the site.

Chair Seelye asked if the fence would be raised to six feet on the east side, by the apartment complex, and if the complex had any objections.

Mr. Lawson noted that the entire fence would be six feet and that there was a representative from the apartment complex present in support of the fence.

Chair Seelye wondered about the southwest corner of the fence where it appeared to do a zigzag.

Mr. Lawson noted that there was a clear vision triangle at that corner that had to be maintained, explaining that clear vision triangles were put in place so that vehicles approaching the intersection could see around the corner.

Member King asked about the retaining wall along the north and a bit on the west lines.

Mr. Lawson stated that from the street view, the fence would be a consistent six feet. The north side had a swale or valley and the retaining wall was being put in place to level the site.

Chair Seelye opened the public hearing.

Sharon Cottingham, 29620 Middlebelt, Woodcreek Village, introduced herself as the president of the condo association. The association supported the variance request, stating that the association would like the six-foot fence, as it was safer to keep anyone from going over the fence and into the gas facility.

Chair Seelye closed the public hearing, noting that there was nothing for the applicant to rebut.

Member Lindquist confirmed that there was an affidavit of mailing on file with seventeen returned.

Member Rich asked if there were any setback issues with the location of the fence.

Mr. Lawson stated that none had been noted and that it was also before the Planning Commission.

MOTION by Rich, support by Lindquist, in the matter of ZBA Case 4-18-5634, that the petitioner's request for a variance be granted, because the petitioners did demonstrate practical difficulties, and have set forth facts that show that:

1. Compliance with the strict letter of the ordinance renders the use of the property for its permitted purpose unnecessarily burdensome; specifically the location of the valves exists. They were approved, they were placed there and if the fence is not permitted there would be all sorts of potential security issues.

2. That granting of the variance does substantial justice to the petitioner as well as to other property owners in the district. We've heard from the neighboring property owners and separate and apart from them my own analysis is that you would want to have a safer environment and a more secure environment for this type of equipment.

3. That the petitioner's plight is due to the unique circumstances of the property; the property right now is highly visible: many people drive and walk by there all the time. So the fact that the property is that accessible makes its appropriate that this sort of fence be constructed.

4. And lastly the problem is not self-created; we have a use as core equipment in order to regulate the pressure of gas that is being delivered. Without having these substations we would be without gas in Farmington Hills, so the problem is not self-created. The need for security simply exists.

Subject to: Fence be constructed as submitted, and be black as indicated.

MOTION CARRIED 7-0

PUBLIC QUESTIONS AND COMMENTS

None.

APPROVAL OF MARCH 13, 2018 MINUTES

MOTION by Rich, support by Barnette, to approve the Zoning Board of Appeals meeting minutes of March 13, 2018.

MOTION CARRIED 7-0.

Discussion was held regarding the Zoning Board of Appeals training taking place on April 16, 2018.

ADJOURNMENT

MOTION by Masood, support by Rich to adjourn the meeting at 9:52 P.M.

MOTION CARRIED 7-0.

Respectfully submitted,

Erik Lindquist, Secretary

/aem