

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
FARMINGTON HILLS CITY HALL – COUNCIL CHAMBERS
31555 W. ELEVEN MILE ROAD
FARMINGTON HILLS, MI
March 14, 2023 – 7:30 PM**

1. CALL MEETING TO ORDER

Chair Lindquist called the meeting to order at 7:31pm and made standard introductory remarks explaining the role of the ZBA and the formal procedures of the meeting.

Board Members held a site visit on March 12, 2023, and may also have visited the sites independently. No action was taken at the site visit.

2. ROLL CALL

Members Present: Irwin, Khan (alternate) Lindquist, Masood, O’Connell, Rich, Vergun

Members Absent: King

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

3. APPROVAL OF AGENDA

Zoning Supervisor Randt said that Item B had been withdrawn.

MOTION by Masood, support by Irwin, to amend and approve the agenda as follows:

- **Delete Item B.**

Motion carried by voice vote.

4. NEW BUSINESS:

A. ZBA CASE: 3-23-5723

LOCATION: 21811 Rockwell

PARCEL I.D.: 23-36-176-011

REQUEST: In a RA-4 Zoning District, the following variances are requested in order for a 402.61 square foot detached accessory structure to remain in its current location: (1) A 2.4-foot variance to permit a 3.6-foot rear yard setback where a 6-foot setback is required. (2) A 3.9-foot variance to permit a 1.1 side yard setback where a 5-foot setback is required.

CODE SECTION: 34-5.1.2. B, 34-3.1.7. E

APPLICANT/OWNER: Bruce Anderson

Using a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. The property in question is located south of Shiawassee and west of Inkster.

Bruce Anderson, 21811 Rockwell, was present on behalf of this application for (1) a 2.4-foot variance to permit a 3.6-foot rear yard setback where a 6-foot setback is required, and (2) a 3.9-foot variance to permit a 1.1 side yard setback where a 5-foot setback is required, in order for a 402.61 square foot detached accessory structure to remain in its current location.

Mr. Anderson explained that he had built the garage during the COVID pandemic and had appeared before the Board in May 2022. He was asked to obtain a site survey to verify that the garage was on

his property. When Mr. Anderson did this, some of the numbers on the site survey didn't match up, and he was then asked to return to the ZBA to make sure everything was correctly on the record.

Board questions and discussion

In response to questions from Member Rich, Mr. Anderson explained that:

- He obtained a site survey in September 2022, following which he received approved permits, finished the electrical work, and was preparing for an inspection when the project was put on hold.
- During this time branches from trees on his property had gone through his house roof, and under the advice of a professional he had two of the trees removed and would have another tree removed when he could afford it.

Member Rich noted that the ZBA approving motion made in May 2022 required that if a site survey showed different dimensions than what were on the plans, the applicant would need to return to the ZBA for further discussion before permits were granted. This did not appear to have happened.

Zoning Supervisor Randt explained that building permits were originally approved, but were later put into inactive status pending review by the ZBA.

Member Irvin confirmed that the applicant had received approved permits before continuing to work on the garage. Later, the permits were flagged and the work stopped.

In response to a question from Member O'Connell, the applicant said that the size of the garage had not changed since the May 2022 ZBA approval. The cement pad is 16' x 24'.

Member Masood summarized that a variance was granted at the May 10, 2022 ZBA meeting. A permit was issued on September 29, 2022, with an expiration date of March 28, 2023.

City Attorney Morita explained that the original variance was conditioned upon the applicant getting a survey, and if the survey showed that the applicant needed additional variances the applicant was required to return to the Board and ask for them. The applicant's survey now showed that additional variances were required. Staff had made a mistake by issuing permits to the applicant prior to the applicant returning to the Board.

In response to comments relative to the location of other garages in the area, Zoning Supervisor Randt said that prior to 1991, there was a 2' side yard setback requirement for accessory buildings. City Attorney Morita added that it was not possible to determine if other garages in the area were non-conforming structures without researching each property individually.

City Attorney Morita clarified that the original variance request was for a variance from the rear yard setback, and the new variance request was for two requests: a variance from the rear yard setback plus a variance from the side yard setback.

Public Comment:

Chair Lindquist opened the meeting to public comment. As no public indicated they wished to speak, Chair Lindquist closed public comment.

Member O'Connell said there was an affidavit of mailing with no returns.

Board discussion and/or a motion

Member Rich said that he had voted against the original motion. The new survey showed the location of the setbacks and the property lines. The character of the neighborhood and the fact that a permit had been issued before construction completion supported granting the revised variance. However, Member Rich continued to be concerned about setting a precedent for work completed prior to application for a variance, and he was still undecided as to how he would vote.

City Attorney Morita pointed out that the applicant had appeared before the ZBA twice, as well as paying application and publication fees twice.

Chair Lindquist said he was concerned that the applicant had relied on the original grant of a variance and subsequent granting of permits before spending additional money and time improving the building. He did not think that the conditions of the original variance were meant to be a checklist to be completed in order, and he thought that staff should have noted that a certified survey was required as part of the building department review.

City Morita agreed, and apologized on behalf of staff that permits had been issued prematurely.

Member O'Connell said that the applicant had done everything that the Board had asked at the May 2022 meeting, and that completing the work prior to obtaining a permit had been addressed at the previous meeting. In the present instance, the applicant had permits in hand before continuing work.

MOTION by Masood, support by O'Connell, in the matter of ZBA Case 3-23-5723, 21811 Rockwell, Parcel I.D. #23-36-176-011, in a RA-4 Zoning District, that the following variances **be granted** in order for a 402.61 square foot detached accessory structure to remain in its current location: (1) A 2.4-foot variance to permit a 3.6-foot rear yard setback where a 6-foot setback is required, and (2) A 3.9-foot variance to permit a 1.1 side yard setback where a 5-foot setback is required, 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 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.
3. That the petitioner's plight is due to the unique circumstances of the property.
4. The problem is not self-created.

And with the following conditions:

1. All necessary certificates from the Building Department be obtained within the next 6 months, including a certificate of occupancy.
2. The building remain in the exact location as determined on the certified survey, and this variance is applicable to the existing building and not future buildings.
3. The structure, including any completion work, be compliant with the plans submitted to the ZBA as part of this application, consistent with the dimensions as shown, including same height and size, as well as design and materials, subject to any changes required by the Building Department.
4. All necessary building permits be closed and finalized within 6 months.

Member Masood said that while this was not the same request, it was a similar request to that granted by the ZBA at its May 10, 2022 meeting. There were similar garages in the area, the petitioner followed the process laid out, and the City subsequently issued permits.

Motion passed unanimously by voice vote.

B. ZBA CASE: 3-23-5724

LOCATION: 34700 Grand River

PARCEL I.D.: 23-21-376-020

23-21-376-021

REQUEST: A variance to permit rooftop equipment **not** to be screened from view by a penthouse or structure equal in height to the height of the equipment being screened and constructed of a building material compatible with the material used in the principal building is requested.

CODE SECTION: 34-5.17

APPLICANT: Maurice Foster

OWNER: Michael Geng, representing Jing-Jin Electric North America LLC

This case was withdrawn.

5. PUBLIC QUESTIONS AND COMMENTS:

None.

6. APPROVAL OF MINUTES January 10, 2023

MOTION by Vergun, support by Khan, to amend and approve the January 10, 2023 meeting minutes as follows:

- Page 2, par. 2, line 2, correct to read: . . . ~~south~~ north of Grand River, west ~~of Inkster and east~~ of Middlebelt.

Motion carried by voice vote.

Other Discussion:

- The Board discussed meeting materials normally included in Board packets.
- ZBA training is scheduled for 6:00pm, May 2, 2023.

7. ADJOURNMENT

MOTION by O'Connell, support by Khan, to adjourn the meeting at 8:24 p.m.

Motion approved unanimously.

Respectfully submitted,
Michael O'Connell, Secretary
/cem