

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
AUGUST 11, 2015**

CALL MEETING TO ORDER

Chair Seelye called the meeting to order at 7:30p.m. and made standard introductory remarks explaining the formal procedure, courtesies and right of appeal.

ROLL CALL

The Recording Secretary called the roll.

Members present: Barringer, Lindquist, Masood, Rich, Seelye, Stevens and Vergun

Members Absent: None

Others Present: Attorney Morita and Zoning Division Representative McGuire

SITE VISIT AUGUST 9, 2015

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

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

APPROVAL OF AGENDA

There were no changes to the agenda.

MOTION by Stevens, support by Vergun, to approve the agenda as published.

MOTION CARRIED 7-0

Zoning Division Representative McGuire introduced Zoning Board Alternate Member William Barnette who was present in the audience this evening.

OLD BUSINESS

A. ZBA CASE: 7-15-5560
LOCATION: 21680 Haggerty
PARCEL I.D.: 23-31-101-025
REQUEST: In order to build a 120 square foot sign in an OS-4 Zoning District, the following is requested: 1) An 88 square foot special exception to the maximum permitted 32 square foot sign area.
CODE SECTION: 34-5.5.3.B.; 34-2.0
APPLICANT: Dempster Designs, Inc.
OWNER: Westridge Haggerty, L.L.C.

MOTION by Lindquist, support by Stevens, in the matter of ZBA Case 7-15-5560, to ADJOURN the consideration of this case to a date certain, that being the Zoning Board of Appeals meeting of September 8, 2015, as requested by the applicant.

MOTION CARRIED 7-0

NEW BUSINESS

- A. ZBA CASE: 8-15-5562
LOCATION: 21645 Mayfield
PARCEL I.D.: 23-34-176-007
REQUEST: In order to build a 14 ft. x 28 ft. (392 square foot shed) in an RA-3 Zoning district, the following variance is requested: A 392 square foot variance to the permitted 750 square foot maximum permitted for accessory structure floor area for this site.
CODE SECTION: 34-5.1.2.D.
APPLICANT/OWNER: Guy Browning

Zoning Division Representative McGuire discussed the location of the property and presented aerial map of the site, photos of the front of the home, the existing 8x8 shed and the staked out location for the proposed shed, a sketch of the property showing the location of the proposed shed and general specifications of the proposed shed.

Member Lindquist stated that according to the memo received by the Board the total square feet of accessory buildings is 1,142 square feet and asked if that included the shed presented in the photo. Zoning Division Representative McGuire responded that she has the total square feet at 1,047 which does not include the shed and the applicant has indicated that the shed is 64 square feet which would bring the total to 1,111 square feet.

Member Lindquist commented that they will need to address the square footage numbers later in the discussion as he is not arriving at the same total.

Guy Browning, applicant, 21645 Mayfield, explained that he needs a larger shed in order to store the items he currently has in his basement, pool house, gazebo and in several locations on his property under tarps. He stated that he is planning on finishing his basement so he wants to clear it out.

Chair Seelye asked if the 8x8 shed will be removed. Mr. Browning responded that it will be demolished as soon as he gets approval to build the new shed.

Member Stevens asked if business equipment will be stored in the proposed shed. Mr. Browning responded no, only personal items.

Member Rich asked if all the structures onsite were non-conforming. Zoning Division Representative McGuire responded that anything over 50% of the area would be legally non-conforming and not all the structures on the property are non-confirming.

Mr. Browning commented that his yard is 66,000 square feet and the house, including the existing structures, comes out to be about 4.1% of the square footage of the property, the proposed shed would add about .3% for a total of about 4.5%, therefore, overall the structures are taking up less than 5% of the entire lot. He noted that he purchased the property so that he could build a shed and have a garden. He added that other properties in the area have much larger sheds.

Member Lindquist questioned the roof height of the proposed shed. Mr. Browning responded that it was 14 feet.

Member Lindquist asked if the Board were to grant a lesser relief for a smaller shed, would the applicant still build a shed. Mr. Browning responded that he came up with the proposed design and measurements so that he could fit all of the items he needs to store and he originally had planned to build something much larger but figured he could make this size work.

Member Rich asked if any of the items in the pool house would end up being stored in the shed. Mr. Browning responded that most of the items would be moved into the shed as they are mostly tools and lumber material.

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

Member Stevens confirmed there was an affidavit of mailing on file with no returned mailers.

Attorney Morita clarified that the structures currently on the property are legally non-conforming, and the applicant is not looking at expanding any of those structures so the variance that the Board should be looking at is the 392 square feet, with that being said, the City's ordinance, as it pertains to non-conforming uses and structures, basically states that they do not want to encourage those to continue when possible and the Board should keep that in mind when making their deliberations.

Member Lindquist commented for clarification purposes that each of the structures are legally non-confirming, which includes the pool house, the existing 8x8 shed and attached garage. He explained that he is still confused as to how the square footage number was reached as a simple reading of the request indicates that the applicant has exactly 750 feet of accessory structures currently and therefore, needs a 392 foot variance for the proposed shed.

Attorney Morita explained that the 392 square feet is the size of the new shed and because the permissible accessory structure square footage is already maxed out, he needs a variance.

Member Stevens questioned if the pool house ever had to be rehabilitated or rebuilt, would the applicant have to come before the Board to do so. Attorney Morita responded that there are certain thresholds built into the ordinance about whether or not it can be rebuilt or whether or not they would need to come back before the board.

MOTION by Lindquist, support by Barringer, in the matter of ZBA Case 8-15-5562, to GRANT the petitioner's request for a 392 square foot variance to the permitted 750 square foot maximum permitted for accessory structure floor area for this site 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. When applying this standard, the removal of the 8x8 shed and the proposed shed, is considered a swap. Since the 8x8 shed is grandfathered in it would be unfair to the proponent to lose space and not be able to gain some replacement space.
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; as this is a very large property in the district with a relatively small percentage as the house, in terms of percentage of the overall size of the lot.
4. That the problem is not self-created; as a smaller size house is not a self-created hardship.

SUBJECT to the following conditions:

- The shed shall be constructed with similar materials as presented in the plans submitted by the petitioner
- Construction shall comply with all City Codes and Ordinances
- There shall be no ingress/egress from the open space adjacent to the property
- The existing 8x8 shed shall be removed upon completion of construction of the new shed

MOTION CARRIED 7-0

B. ZBA CASE: 8-15-5564
LOCATION: 22600 Haggerty
PARCEL I.D.: 23-30-300-035
REQUEST: In order to build a free standing sign in an OS-4 Zoning District, the following is requested: A 14 foot special exception to the required 15 foot setback requirement.
CODE SECTION: 34-5.5.3.B.J.
APPLICANT: 22600 Haggerty L.L.C. (George Kallas)
OWNER: 22600 Haggerty L.L.C.

Zoning Division Representative McGuire discussed the location of the property, noting that there is a dedicated right-of-way, she presented an aerial map of the site, photos of the current sign, area with flags indicating the location of the proposed sign, a schematic of the viewpoint of the proposed sign, a site plan and a rendering of the proposed sign. She added that the Traffic Engineer, just this morning, sent an email to staff which has been provided to the Board and the applicant regarding sight distance issues with the proposed sign.

George Kallas, property owner, 22600 Haggerty Road, explained that he has moved his firm out of downtown Detroit into Farmington Hills and has bought this building which was unoccupied and in disrepair for about three years, he is investing several hundred thousand dollars into repairing it and making it presentable, including the landscaping. He stated that since he has been onsite working, he has noticed several times cars squealing their breaks to make the turn onto the property from both north and south bound Haggerty Road, however, it is more prevalent with northbound traffic. He feels this is due to the mature trees on the lot adjacent to his that block the vision of the sign and building. He is proposing to move the exact same sized sign, closer to the sidewalk and further north at a more central location on the lot. He believes that cars will then be able to see the property before they get to the driveway.

Mr. Kallas noted that he just received the Traffic Engineer's assessment stating that it will restrict people coming out of the property, however, his concern is with people coming into the property but believes that they could come to some sort of compromise. He stated that he could move the sign further north to alleviate the Traffic Engineer's concerns and still be able to have his needs accomplished. He added that he would be glad to speak and work with the Traffic Engineer on a better location for the sign.

Chair Seelye commented that he has two concerns; one is that the sign is 2 feet off the sidewalk and someone could be hidden behind the sign waiting for something to happen, and the other is when cars are coming out of the driveway and going northbound, people do not look to the right as they come out, they only look to the left for traffic coming north and do not pay attention to pedestrians on the sidewalk. He noted that he believes this is the Traffic Engineer's concern as well.

Mr. Kallas stated that he cannot address the first concern but in regards to the other concern; every vehicle that comes out of the drive has to go beyond the evergreen tree to make a right or left turn onto Haggerty Road, they cannot make the turn from the sidewalk or behind it because they cannot see the traffic, therefore, they will already be past the sidewalk before they look for traffic and turn.

Mr. Kallas noted that currently there is 33 feet from the proposed sign to the drive and he could make it 40 feet if that will alleviate the concerns with site distance.

Zoning Division Representative McGuire pointed out that the Traffic Engineer, Mark Saksewski, was not available until today and asked if the applicant wants to work with the Traffic Engineer and perhaps change locations, can the Board give him another month to do so or would it have to be a different request if it is in a different location. Attorney Morita responded that the request is for a 14 foot special exception to the required 15 foot setback, there is no delineation in the request as to exactly where on the property the sign is located, therefore, if the Board and the applicant wanted to adjourn to a date certain so that he can work with the Traffic Engineer to find a good place for the sign that would be ok under the way it is currently advertised without the applicant occurring additional fees for re-advertisement.

Chair Seelye asked if the applicant was ok with adjourning the case to next month's meeting so that he can work with the Traffic Engineer on a location for the sign. Mr. Kallas responded that if it is the best way to get this sign approved, then yes.

Member Lindquist questioned if the Board would be advised to approve the special exception today knowing that it is just an adjustment to the front setback, and that the sign could appear anywhere in the space subject to the approval of the Traffic Engineer, or would they need a precise location. Attorney Morita responded that they do not know if the Traffic Engineer would approve the sign in another location and she expects that if the Board were to approve the special exception, they would approve it in the location as indicated on the plans presented, therefore, the Board should know exactly where the sign would be located.

Member Stevens commented that it appears that some of the obstruction of vision is due to the trees on the property as well as a couple parking spots and asked if the applicant, as an alternate to a special exception, has looked at modifications to the site itself with tree removals and getting rid of some parking spaces adjacent to the existing sign location to provide better visibility for the current sign. Mr. Kallas responded that taking away parking spaces would be cost prohibited but they have been taking steps in that direction; they have received City approval for removal of the trees, which they are removing due to the root systems affecting the sidewalk and sewer system, but he still believes even after that there will still be an issue with visibility for incoming traffic.

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

Member Stevens confirmed there was an affidavit of mailing on file with no returned mailers.

Member Rich noted that in the rendering showing the view of the current sign looking southbound, without the trees it appears that the sign is in clear view, therefore, that may be one of the issues the applicant should discuss with the Traffic Engineer in trying to figure out what makes the most sense so that the sign is both visible as well as not blocking views of cars exiting the property.

Member Stevens stated that he questions whether site distance is impacted because of how far the sign is setback from the road and how far it is from the drive and depending on what the Traffic Engineer determines, he would appreciate a little more dialogue in terms of the specifics as to why he feels that sight distance is impacted.

MOTION by Lindquist, support by Vergun, in the matter of ZBA Case 8-15-5564, to ADJOURN the matter to a date certain, that being the Zoning Board of Appeals meeting of September 8, 2015, to allow for the proponent to consult with the City's Traffic Engineer to determine if an endorsable location for the proposed sign can found.

MOTION CARRIED 7-0

APPROVAL OF JULY 14, 2015 MINUTES

MOTION by Vergun, support by Lindquist, to approve the Zoning Board of Appeals meeting minutes of July 14, 2015, as amended for grammatical changes.

MOTION CARRIED 7-0

PUBLIC QUESTIONS AND COMMENTS

There were no public comments.

ADJOURNMENT

MOTION by Rich, support by Stevens, to adjourn the meeting at 8:14p.m.

MOTION CARRIED 7-0

Respectfully submitted,

James Stevens, Secretary
Zoning Board of Appeals

/ceh