

**MINUTES
ZONING BOARD OF APPEALS
OCTOBER 12, 2021 – 7:30 PM
CITY OF FARMINGTON HILLS
31555 W ELEVEN MILE ROAD
FARMINGTON HILLS, MICHIGAN**

CALL MEETING TO ORDER

Chair Lindquist 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

Members Present: Irvin, King, Lindquist, Masood, O’Connell, Rich, Vergun

Members Absent: None

Others Present: City Attorney Morita, Zoning Representative Grenanco, Recording Secretary McGuire

APPROVAL OF AGENDA

MOTION by Irvin, support by Masood, to approve the agenda as published.

Motion carried unanimously.

OLD BUSINESS

- A. ZBA CASE: 9-21-5685
LOCATION: 32560 Eleven Mile
PARCEL I.D.: 23-15-376-026
REQUEST: In an RA-1A Zoning District, the following variances are requested in order to build a 1,584 square foot detached accessory structure. 1. A 1,185 square foot variance from the maximum allowed 1,250 square feet for all accessory uses. 2. A 3 foot variance from the maximum allowed 14 foot height for detached accessory structures.
CODE SECTION: 34-5.1.2. D.
APPLICANT/OWNER: Dumitru Daftnescu

Member O’Connell called the case.

Utilizing a PowerPoint presentation, Zoning Representative Grenanco reviewed the facts of the case. The 5-acre parcel was located on the north side of 11 Mile Road between Power and Farmington Roads. The applicant had submitted plans to build a 1,584 square foot detached garage. In order to build this garage the applicant was seeking a 1,185 square foot variance from the maximum allowed 1,250 square feet for all accessory structures, and a 3-foot variance from the maximum allowed 14-foot height for detached accessory structures.

Dumitru Daftnescu, 32560 Eleven Mile Road, explained that they had 5 drivers in the home who have cars, which automatically fills up the existing 3-car garage. The family also had jet skis, snowmobiles, bikes, soccer balls and basketballs, along with associated equipment, which needed to be stored indoors.

Also, their 5-acre property required considerable equipment to maintain, such as lawn mowers, tractor, bobcat, chainsaws and other smaller tools, as well as outdoor furniture that needed to be stored inside during the winter.

Chair Lindquist asked Mr. Daftnescu why the structure could not comply with ordinance requirements.

Mr. Daftnescu explained that the 3-car attached garage was not enough to store all the equipment and cars they had.

Chair Lindquist asked for Board discussion.

Member King asked the distance from the home to the proposed garage, and the distance from the proposed garage to the closest neighbor's home, at 35362 Eleven Mile Road. Mr. Daftnescu said the building would be approximately 150 feet from his house, and 50-60 feet from the neighbor's home.

Member King pointed out that the next door neighbor's home would be closer to the new garage than Mr. Daftnescu's home. Mr. Daftnescu said that he and the neighbor were friends and when he spoke with him his neighbor had no objection to the proposed garage location, although Mr. Daftnescu had nothing written to that effect. There were many trees providing privacy between the two properties.

In response to a further question from Member King, Zoning Representative Grenanco said the 2nd floor was included in the square footage for the structure.

Member Rich asked if Mr. Daftnescu was planning on extending the driveway back to the new garage structure. Mr. Daftnescu said he was thinking about this. However, he was not planning on putting any cars in the new garage.

Member Rich acknowledged a letter from a resident who was concerned about tree removal on the site, and asked what trees would need to be removed in order to place the proposed garage in the location as shown. Mr. Daftnescu said he would be removing 5-6 trees. The concerned neighbor had thought that the garage was going to be placed at the rear of the property, and when they discovered this was not the case, they withdrew their objection.

Member Rich asked about the plan for the trailer that was currently on the driveway. Mr. Daftnescu said that trailer was rarely used except to transport snowmobiles, lawn tractor, etc. Member Rich asked if Mr. Daftnescu would agree to remove the trailer as a condition of approval.

Mr. Daftnescu said the trailer was used to transport snowmobiles. He did not think it a problem to keep the trailer on the property. Currently the trailer houses snowmobiles and a 60" lawn tractor.

Member Rich noted that the narrative included in the submission documents referenced other properties owned by Mr. Daftnescu, and also referenced that Mr. Daftnescu stored equipment used for maintenance of those properties at this property. The narrative read:

"For example, I own three properties in Farmington Hills and therefore own and need many tools and equipment, ranging from drills and air compressors to lawn mowers and blowers. Therefore building this detached garage would give me sufficient space to store all of these necessities."

Mr. Daftnescu said he would not be storing the tools mentioned on his property, except the lawn tractor, which he used for his property also. He had a shed at another location and would use that to store his tools, as he had in the past.

In response to a question from Chair Lindquist, Mr. Daftnescu said there would be no heat or electricity in the garage. The upper area would be used for storage only, not any type of residential use.

Chair Lindquist opened the public hearing. Seeing that no public indicated they wished to speak, Chair Lindquist closed the public hearing and brought the matter back to the Board for discussion and a motion.

Member O'Connell reported that there was an affidavit of mailing, with 6 returns.

Member Rich said that while the applicant had a large house on a very large property, with respect to the standards for practical difficulty he did not find that 1) there was anything unique about this property as compared to other large properties in the City and 2) the issue was self-created regarding storing tools and other things for other properties on the site, as mentioned in the narrative. And while having multiple drivers in a home can be challenging, that was not a unique circumstance related to the property, and would not justify granting a variance.

Member Rich said he did have a difficult time with the case because the garage was not going to be seen from the street, and the height would probably not be noticeable. However, the standard was not whether someone would see the structure, and the standard of substantial justice appeared not be met in terms of the neighbor, whose home would be closer to this garage than the applicant's. It was also unknown as to which trees would be removed, and if the neighbor would suffer harm as a result. Mr. Rich was not inclined to grant the variance.

Member King had the same issues as those brought forward by Member Rich. He felt the issue was totally self-created, and was not due to the unique circumstances of the property. He was also concerned about the garage's location being closer to the neighbor's home than the applicant's. And while he was sympathetic to the desire to store things inside a building, that was not a standard upon which a variance could be approved.

Chair Lindquist indicated he was ready to entertain a motion.

MOTION by Rich, support by King, that in the matter of ZBA Case 9-21-5685, the Board of Zoning Appeals **DENY** the petitioner's request for the following variances in order to build a 1,584 square foot detached accessory structure: 1. A 1,185 square foot variance from the maximum allowed 1,250 square feet for all accessory uses. 2. A 3 foot variance from the maximum allowed 14 foot height for detached accessory structures. This denial is based on the finding that the petitioner DID NOT demonstrate practical difficulties exist in this case in that:

- The condition for which the variance is requested is not due to unique characteristics of the property.
- The condition requiring a variance is self-created.

Member Rich noted that there was a trailer in the back yard where a lot of equipment could be stored. Member Rich thought that the applicant was allowed to store other trailers in the back yard to contain the property, but not a permanent structure that did not meet ordinance requirements.

Roll call vote:

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

MOTION to DENY carried 7-0.

Chair Lindquist advised Mr. Daftnescu to work with the City to find out if there was a solution within ordinance requirements.

- B. ZBA CASE: 9-21-5686
 LOCATION: 36290 Congress
 PARCEL I.D.: 23-20-202-001
 REQUEST: In an RA-1A Zoning District, a 3-foot variance to the 3-foot height limit is requested in order to permit a fence in the exterior side yard setback.
 CODE SECTION: 34-5.12
 APPLICANT/OWNER: Leonard and Mona Azziem

Member O'Connell called the case.

Utilizing a PowerPoint presentation, Zoning Representative Grenanco reviewed the facts of the case. The property was located at the corner of Congress and Old Homestead. The applicants had installed a fence along Old Homestead, which was an exterior side yard, and which was treated for zoning purposes as a second front yard. The City received a complaint from the Homeowners Association, and upon inspection discovered the fence had been placed in an illegal location, with no fence permit application submitted. The applicant subsequently did pull a fence permit, but was before the ZBA to request that the fence as constructed be allowed to remain.

Leonard and Mona Azziem, 36290 Congress, were present on behalf of this request. Mr. Azziem explained that he was a long-time employee for Consumers Energy, and drove his company vehicle home at night. During the pandemic the company vehicle was at the location more often. Mr. Azziem was a first responder for Consumers Energy, and had to get to emergency outage sites as quickly as possible.

The Homeowners Association had brought complaints to him regarding the company vehicle, although per the City's ordinance, it was not a commercial vehicle. Mr. Azziem had covered the signage on the vehicle with plain metallic placards, but these deteriorated and did not last. He was hoping to put the vehicle behind the fence so it would not be visible. Additionally, large deer were constantly running through their rear yard, and they would like to have a tall enough fence to keep them out.

Mr. Azziem said when they had moved to this location 10 years ago, there had been landscaping including trees around the perimeter of the property. In spite of their best efforts, those trees had mostly died. They were planning on installing more landscaping on the outside of the fence so that eventually the fence would not be seen. He noted that he had with him photographs of several other properties in the subdivision that had fences. He also said that placing the tall privacy fence in its permitted location in line with the house would prohibit them from using the entire yard.

Mr. Azziem felt that his situation was unique because he had a corner lot, the permitted placement of the fence would divide the outdoor space as to render part of it unusable, and he had a company vehicle he had to use in order to meet the requirements of his job.

In response to questions from the Board, the Azziem's explained that if the variance was granted, they would continue the fence around their rear lot line so as to enclose their entire rear yard. The fence was taller than 6' at present; they would modify the fence so it was no more than 6' high.

Zoning Representative Grenanco advised that a corner house with 2 front yards was allowed a 3' high fence in the front yards. The applicant had 3 options: 1) Remove the 6' high fence and install a 3' fence in the front yard location. 2) Remove the fence entirely. 3) Construct the fence in its allowed location: flush with the house and parallel to the street.

Member Masood asked Mr. Azziem if the alternatives listed by Zoning Representative Grenanco had been considered.

Mr. Azziem said he did not feel that placing magnetic placards over the company truck was a workable solution; the placards did not last. He needed to park the truck at his home, as already described.

During discussion, City Attorney Morita clarified that the City does not enforce HOA rules or deed restrictions. The decision tonight needed to be based on City requirements and ordinance standards.

Member Masood said that as the applicant had given the company vehicle as a reason to need the fence, but as Mr. Azziem could also cover the company signage with blank magnetic placards, and eliminate the issue with the HOA, that could not be considered as a reason to grant the variance. Member Masood noted that the HOA rules also limited a fence in a front yard (or exterior side yard) to 3' in height, as did the City.

In response to further comments, Zoning Representative Grenanco reiterated that the City did not consider the company vehicle to be a commercial vehicle, and would not participate in any enforcement against its location at Mr. Azziem's home.

Member King noted that the company vehicle was parked in the driveway, and was not being shielded by the fence.

Chair Lindquist suggested the applicant consider a landscape barrier, such as arbor vitae, along Old Homestead, instead of a 6' fence.

Mr. Azziem said they were planting trees along the fence so that eventually the fence would be hidden by the trees. However, trees took time to grow. He noted that they had made several significant efforts to save the trees that had been there previously, but had been unsuccessful.

Chair Lindquist opened the meeting to public comment.

T.R. Carr, President of Independence Commons HOA, 25800 Glover Court, said that the HOA was asking the City to enforce its ordinance regarding tall fences in exterior side yard. He agreed with the Azziems that in some ways the situation was specific to them, and the HOA appreciated that the Azziems maintained a lovely home in the neighborhood. However, there were ways for Mr. Azziem to resolve his

issues. A landscaped border would provide privacy, and the blank magnetic placards would resolve the issue the HOA had with the company vehicle.

Mr. Carr pointed out the even if the variance were granted, the HOA would sue to have the fence removed per the HOA deed restrictions. Should Mr. Azziem place the vehicle in his back yard, this would also be problematic for the HOA.

Seeing that no one else came forward to speak, Chair Lindquist closed the public hearing and brought the matter back to the Board for discussion and a motion.

Member O'Connell said there was an affidavit of mailing, with one return.

City Attorney Morita reiterated that the City would not involve itself with a civil dispute brought forward by a homeowners' association. However, often deed restrictions did carry more weight than a City's zoning ordinance.

Noting that deer were a known problem in the 11 Mile/Drake area, Member Rich pointed out that a 6' fence could be jumped by deer. Regarding the desire to keep wildlife out of the yard, Mr. Rich said that this was not a reason to grant a variance, and even if it were, such a decision would be close to precedent-setting, and should be avoided.

Regarding the need for privacy on this corner lot, and the goal stated in the narrative of screening wood piles in the rear yard, Member Rich said that attractive plantings along old Homestead would resolve both those issues.

Member Rich said he was leaning toward not granting the variance.

Chair Lindquist indicated he was ready to entertain a motion.

MOTION by Masood, support by King, that in the matter of ZBA Case 9-21-5686, the Board of Zoning Appeals **DENY** the petitioner's request for a 3-foot variance to the 3-foot height limit in order to permit a 6-foot fence in the exterior side yard setback, because the petitioners **DID NOT** demonstrate practical difficulties exist in this case in that they **DID NOT** set forth facts which show:

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, or that a lesser relaxation than that relief applied for would give substantial relief to the owner of the property involved, and the denial is more consistent to substantial 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. Instead, the problem is entirely self-created.

Member Masood noted that the Board had discussed the situation regarding the deer; the 6-foot fence would not prohibit the deer from entering the yard. The Board had also discussed the issue of the van with

the Homeowners' Association President, Mr. Carr, and that issue was resolved. Also, the Homeowners Association by-laws have the 3-foot high fence rule.

Roll call vote:

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

MOTION to DENY carried 7-0.

Chair Lindquist encouraged the applicants to work with City staff and the HOA representatives to find an alternative solution for their fence installation

PUBLIC QUESTIONS AND COMMENTS:

A representative from the Salvation Army commented that he had attended the meeting to familiarize himself with the Board's process of deliberation, in preparation for a case coming before the Board in the near future.

APPROVAL OF MINUTES: September 14, 2021

MOTION by King, support by Vergun, to approve the September 14, 2021 Zoning Board of Appeals meeting minutes as presented.

Motion approved unanimously.

REVIEW AND APPROVAL OF 2022 FUTURE ZBA MEETING DATES

MOTION by Masood, support by Irvin, to approve the 2022 ZBA meeting dates as presented.

Motion approved unanimously.

Therefore the 2022 meetings will be as follows:

January 11, 2022
February 8, 2022
March 8, 2022
April 12, 2022
May 10, 2022
June 14, 2022
July 12, 2022
August 9, 2022
September 13, 2022
October 11, 2022
November 15, 2022
December 13, 2022

ADJOURNMENT

MOTION by Irvin, support by Vergun, to adjourn the meeting at 8:47 p.m.

Motion approved unanimously.

Respectfully submitted,
Michael O'Connell, Secretary

/cem