

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
DECEMBER 8, 2015**

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: Barringer, Lindquist, Rich, Seelye, Stevens, and Vergun

Members Absent: Masood

Others Present: Attorney Morita and Zoning Supervisor Randt

Chair Seelye noted that only 6 members were present. Four affirmative votes were needed in order to grant a variance.

SITE VISIT NOVEMBER 1, 2015

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

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

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

MOTION CARRIED 6-0.

OLD BUSINESS

- A. ZBA CASE: 11-15-5580
- LOCATION: 23440 Sans Souci
- PARCEL I. D.: 23-25-151-024
- REQUEST: A variance from the restriction of storage of recreational equipment or trailers exceeding six (6) feet in height may be stored only in the rear yard in an RA-1 zoning district.
- CODE SECTION: 34-5.7
- APPLICANT/OWNER: Michael Harmer

Utilizing overhead slides, Zoning Supervisor Randt reviewed the location of the approximately 2-acre property. He reviewed the orientation of the home, including the boundaries of the rear yard. He noted that there had been some conversation regarding where the rear yard was at the November 10, 2015 ZBA meeting. Zoning Supervisor Randt explained that the garage was about 25 feet from the north property line thereby compelling that part of the property to be the side yard. The only place the recreational vehicle could be legally stored was in the rear yard, in the crosshatched area shown on the aerial.

Member Lindquist confirmed that the applicant was currently storing the vehicle to the north of the home.

Michael Harmer, 23440 Sans Souci, was present on behalf of this application. He said that the rear yard as shown on the overhead was down a cliff and was all wetlands. There was no way to store the recreational vehicle in the rear yard. At the November meeting, there had been some confusion as to where the front yard was on his property.

In response to a question from Chair Seelye, Zoning Supervisor Randt showed the location of the front yard and side yards of this property.

Mr. Harmer said that the south side of his home was too wet to even pull the RV to that side. Water came down the road, across his driveway and across his yard to the south side. He had no option except to park the RV on the north side of the home. He noted that another home on his street had been granted a variance to park an RV on the side of the house.

In response to a question from Zoning Supervisor Randt, Mr. Harmer confirmed that the entire south side of his yard from his house to the property line was too soft to store his trailer.

Chair Seelye asked Mr. Harmer to explain how this issue was not self-created.

Mr. Harmer said that he had purchased a camper that he thought he could store on his property.

Member Lindquist asked if the ZBA granted alternative relief, for instance requiring the RV to be parked on the south side of the home, would Mr. Harmer be interested in that type of relief?

Mr. Harmer said that he could not pull the trailer to the south side as the ground was too soft.

Chair Seelye opened the public hearing.

William Dygert, 23445 Sans Souci, said that as the last house on the right, he was kitty corner from Mr. Harmer's property. He referred to a picture of a plat map showing the location of his home in relationship to the subject property. He could not see the south or east side of Mr. Harmer's home, but he did have a full view of the north side of the home, along with the front yard. The RV being requested was large and prominent. Laredo trailers were all 12'7" high; he had brought specifications with him that showed this. This large trailer would be the view right out of Mr. Dygert's front window and he considered this a huge negative. In his opinion granting the variance would be a detriment to property values and make it difficult for him to ever sell his home. The ordinance was there for a reason. Mr. Harmer's property was huge, and contained a lot of space.

Seeing that no one else wished to comment, Chair Seelye closed the public hearing.

Mr. Harmer agreed that laws were put in place for a reason, yet Mr. Dygert had been granted a variance to build his home on a small lot. Chair Seelye instructed that the ZBA was not considering Mr. Dygert's lot this evening.

In response to questions from Member Lindquist, Mr. Harmer said he had lived at this address since 2004. He had purchased the trailer in 2015.

Chair Seelye asked Secretary Stevens if there was an affidavit of mailing. Secretary Stevens said there was an affidavit and there were two returns.

Chair Seelye brought the matter back to the Board.

In response to a question from Member Rich, Mr. Harmer said the trailer was exactly 11 feet to the highest point. After reviewing the specifications provided by Mr. Dygert, Mr. Harmer said the specs looked like the same trailer although it was a different model year. He was unsure as to whether this would change the height. Mr. Harmer's vehicle was a 2010 32-foot trailer. The specs provided showed a 33'10" trailer.

Member Lindquist said that if the ZBA did grant relief in this instance, they would grant it for an 11-foot trailer, the height specified by Mr. Harmer. If the trailer was higher than 11 feet, Mr. Harmer would still be out of compliance.

Member Lindquist noted for the record that the submission provided by Mr. Dygert indicated the height of the trailer was 12'5", his letter indicated 12'6", and in his comments tonight he indicated 12'7".

Chair Seelye said he was not in favor of supporting the variance on the north side of the home.

Member Lindquist said that he was also opposed to the variance as requested. Alternative relief that would be less offensive to the neighbors and to the aesthetics from the roadway was probably available to the applicant, but when asked the applicant had said he was not interested in alternative relief in that way.

MOTION by Lindquist, support by Stevens, in the matter of ZBA Case 11-15-5580, to DENY the petitioner's request for a variance from the restriction of storage of recreational equipment or trailers over 6 feet in height in an RA-1 Zoning District to be located in the rear yard, because the petitioner did not demonstrate practical difficulties exist in this case in that he did not show that:

- Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose.
- That granting the variance would do substantial justice to the petitioner and surrounding property owners.
- The petitioner did not demonstrate that the problem was not self-created.
- The petitioner's plight is due to unique circumstances but there are alternatives available to the petitioner that were not included in the current proposal.

MOTION CARRIED 6-0.

NEW BUSINESS:

A. ZBA CASE: 12-15-5582
LOCATION: 31106 Pine Cone
PARCEL I.D.: 23-06-102-005
REQUEST: In order to build an addition to an existing home in an RP-2 zoning district, the following variance is requested: **An 8 foot variance** to the required 35 foot rear yard setback.
CODE SECTION: 34-3.1.9.E & 34-3.1.5.E
APPLICANT/OWNER: Sabah Taila

Utilizing overhead slides, Zoning Supervisor Randt described the location of the property, showed the orientation and current state of the property, along with schematics provided by the applicant.

Sabah Taila, 31106 Pine Cone Drive, was present on behalf of this application. He explained that he wanted a sunroom in order to provide privacy and relief from insects, as his rear yard was open and exposed.

In response to a question from Chair Seelye, Mr. Taila said he had begun construction without pulling appropriate permits, because as he had just recently moved to the country he did not know he needed to get permission for this construction. The decking was already there.

Chair Seelye asked Mr. Taila to explain how this difficulty was not self-created.

Mr. Taila affirmed it was not self-created.

Member Rich asked Mr. Taila if he was building the summer room himself. Mr. Taila said he was. Member Rich pointed out that every other home in the area appeared to have an open deck. Wouldn't they also have the same issues with insects and privacy? Mr. Taila said this was probably the case, but perhaps it was not bothering them.

Member Rich said one of the criteria that had to be met when someone applied for a variance was that the applicant's plight was due to the unique circumstances of the property. What was unique about this property as compared to all the others that would justify the granting of a variance?

Mr. Taila said he could not speak for other people, but he could not use the area presently. It was impossible for he and his family to use this area, and he had thought it would be a good idea to have a sunroom.

Member Vergun asked about construction process. Did Mr. Taila add floors to the decking that was already there? Mr. Taila said he had added some supports, but before he put up the walls the area was just decking.

Member Lindquist asked if the room was going to be insulated and enclosed. Was it a 3-season room? Mr. Taila said he would keep the sliding door to exit the house into the sunroom and would add another sliding door. He would use the room only in the summer. There would be insulation, per regulations.

In response to a question from Chair Seelye, Mr. Taila said he had owned the home since 2010.

Chair Seelye opened the public hearing.

Daniel Robaciu, 38585 Lowell Drive, Farmington Hills MI, said that the Homeowners Association required that for any addition to a home the residents in the Country Ridge Subdivision were required to have HOA approval. Mr. Robaciu had checked with the property management company and discovered that for this situation, no request had been made to secure Association approval. Mr. Robaciu was directly south of the subject property. Looking north from the front of his home on Lowell Drive, he had a view of the entire line of the decking and the proposed addition, which was very noticeable and impaired the aesthetics from the front of his home. The addition was not architecturally or aesthetically pleasing. He was concerned about the visual impact and what the addition might do to the values of the homes in the area.

Seeing that there was no further comment, Chair Seelye closed the public hearing.

Mr. Taila said he respected Mr. Robaciu's view, though he did not know what harm would be caused by his addition.

Member Lindquist confirmed with Mr. Robaciu the orientation of his home in relation to this proposed addition. Mr. Robaciu further explained that as his home faced north across Lowell Drive, the addition was in full view from his front yard.

Member Lindquist said that when he visited the site, he found it easiest to view the subject property from Lowell Drive and could therefore confirm Mr. Robaciu's observations. The view was completely unobstructed from the street. Member Barringer agreed, saying he had the same experience.

Chair Seelye asked Secretary Stevens if there was an affidavit of mailing. Secretary Stevens said there was an affidavit and there were no returns.

Secretary Stevens confirmed with Zoning Supervisor Randt that once a roof was added to a deck, setback requirements came into play, regardless of the purpose of the room.

In response to a question from Member Rich, Zoning Supervisor Randt explained that because this subdivision was built under a Subdivision Open Space Plan it originally would have had a 30-foot rear yard setback. However, all setbacks were now 35 feet.

MOTION by Rich, support by Barringer, in the matter of ZBA Case 12-15-5582, to DENY the petitioner's request for an 8 foot variance to the required 35 foot rear yard setback, because the petitioner did not demonstrate practical difficulties exist in this case, especially;

1. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district. He does not find that allowing this variance does justice to the neighboring properties.
2. That the petitioner's plight is not due to the unique circumstances of the property as when looking at the pictures presented regarding the overall layout of the area, it appears that almost every home is similarly situated, specifically the neighboring homes to this home.
3. That the problem is self-created; the house is located in an area where there may be insects, this does not seem to affect the other neighbors. The applicant purchased the house knowing the area and simply wanting to build this structure is a self-created condition.

Member Rich noted that the ZBA did not address subdivision deed restrictions, and that the motion did not take subdivision deed restrictions into account.

MOTION CARRIED 5-1 (Stevens opposed).

B. ZBA CASE: 12-15-5583
LOCATION: 30276 Southampton
PARCEL I.D.: 23-06-428-020
REQUEST: In order to build an addition to an existing home in an RP-2 zoning district, the following variance is requested: **An 18.7 foot variance** to the required 35 foot rear yard setback.

CODE SECTION: 34-3.1.9.E & 34-3.1.5.E
APPLICANT: Mr. Enclosure Sunrooms, Inc.
OWNER: Sandra K. Binder

Utilizing overhead slides, Zoning Supervisor Randt described the location of the property, showed the orientation and current state of the property, along with a mortgage survey and schematics provided by the applicant.

James McVeigh, Mr. Enclosure Sunrooms, 6685 Cobb, Sterling Heights, MI was present on behalf of this application. He explained that the homeowner was upgrading the rear yard and they wanted to remove the existing deck and replace it with a new four-season sunroom. The lot was irregularly shaped and was not as large as some of the other ones in the neighborhood. Mr. McVeigh noted that in 2009 he had been granted a variance for another client about two blocks from this address.

Chair Seelye said that one of the criteria that had to be met for a variance was how the plight of the homeowner was unique to the property and how it was not self-created.

Regarding being self-created, Mr. McVeigh said most of his customers had the option of building a sunroom, open patio, or deck. This particular lot had a very short rear setback, thus denying the owners the option of a sunroom. The setbacks did not leave much room for people to enhance their rear yards so that they could enjoy the outdoors. People purchased sunrooms as a shield against bugs and weather, and to try to get more extended living time through the seasons.

Member Rich asked Zoning Supervisor Randt about the subdivision generally. Zoning Supervisor Randt said the subdivision had been built under a Subdivision Open Space Plan. In response to a further question from Chair Seelye, Zoning Supervisor Randt said that there were common areas throughout the subdivision.

Secretary Stevens asked for further clarification regarding the rear setback requirements. Zoning Supervisor Randt said that many subdivisions provided open spaces in return for reducing the rear yard setbacks to 30 feet. That particular ordinance was changed some time ago, so that all rear yard setback requirements became 35 feet. This made many structures non-conforming, and many desired additions now had to come before the ZBA for a variance.

Member Lindquist confirmed that the existing home was just 30 feet from the rear lot line, making it an existing nonconforming structure.

Zoning Supervisor Randt explained that decks without roofs could be extended 20 feet into the rear yard setback.

Chair Seelye opened the public hearing.

Gordon McKenna, 37601 Lancaster, said that he was on the Homeowners' Association Board. There were 4 different cluster option subdivisions within their square mile. There were open areas throughout the neighborhoods but as these related to the property being discussed this evening, the back lot lines of every home on this part of Southampton bordered the back lot lines of homes on Lancaster. This type of configuration was consistent with most of the neighborhoods in this area. While Mr. McKenna's property did not offer a direct view to the subject property, he was present on behalf of the Homeowners' Association because of their deed restrictions. The requested variance was quite extensive and he wanted

to make sure that appropriate process was protected. New decks, sunrooms, etc., needed to go through the Homeowners' Association Board before any further process took place.

Member Lindquist confirmed with Mr. McKenna that he was authorized to speak on behalf of the homeowners' association. In response to a further question from Member Lindquist, Mr. McKenna said he was on the corner of Lancaster and Worcester. Again, he was not personally visually impacted by this request.

Member Lindquist explained that the ZBA did not take into account the bylaws or deed restrictions of homeowners' associations. Any enforcement regarding these would need to be assumed by the association, as the City was not authorized or required to take these things into consideration.

Seeing that there was no further comment, Chair Seelye closed the public hearing.

Mr. McVeigh emphasized that at this point Mr. McKenna's comments had no bearing on the case, as explained by Member Lindquist. In response to a comment from Chair Seelye, Mr. McVeigh said that if they were granted a variance, their next step would be to approach the Homeowners' Association.

City Attorney Morita said the record should be clear that the City was not taking a position as to whether or not the HOA has or will or will not grant approval under their bylaws or deed restrictions. That was not the City's purview.

Chair Seelye asked Secretary Stevens if there was an affidavit of mailing. Secretary Stevens said there was an affidavit and there were no returns.

MOTION by Stevens, support by Vergun, in the matter of ZBA Case 12-15-5583, to DENY the petitioner's request for an 18.7 foot variance to the required 35 foot rear yard setback, because the petitioner did not demonstrate practical difficulties exist.

- The problem is self-created in that the property can be used for its permitted purpose as a residential development. The cluster development is such that the homes are built to the minimal setback of 30 feet that currently exists to the home and such a drastic variance could be burdensome to the adjacent properties.

Member Vergun said that there were many properties in the area that shared the same setback with this property. It was difficult to find this as something unique to the property.

MOTION CARRIED 6-0

APPROVAL OF NOVEMBER 10, 2015 MINUTES

MOTION by Rich, support by Vergun, to approve the Zoning Board of Appeals meeting minutes of November 10, 2015 as submitted.

MOTION CARRIED 6-0

PUBLIC QUESTIONS AND COMMENTS

There were no public comments.

PROPOSED 2016 ZONING BOARD OF APPEALS MEETING SCHEDULE

Meeting dates for 2016 were set as follows:

January 12
February 9
March 15
April 12
May 10
June 14
July 12
August 9
September 13
October 4
November 15
December 13

E-MAIL PACKETS

City Attorney Morita said there had been discussion regarding changing the paper packets to electronic packets.

Deputy City Clerk Hotchkiss explained that City Council downloaded their packets from the intranet.

Member Barringer asked about blueprints. City Attorney Morita said these documents could be reduced. These could be enlarged on electronic screens.

Member Lindquist said he would prefer an accessible intranet type of secured access, so that documents did not have to be loaded onto Members' own devices, and therefore become subject to the Freedom of Information Act (FOIA).

Regarding FOIA, City Attorney Morita said the City would have a record of what was sent via email, and would be the body responding to a FOIA request.

Member Lindquist said he still supported controlled access via an intranet access. This would prevent any Board member either inadvertently or otherwise from redistributing the packet information. City Attorney Morita said the Board never received anything that was not part of the public record.

Member Stevens also supported having access to a single openable file, rather than receiving multiple emails with attachments.

City Attorney Morita suggested that for a trial period an emailed drop box link be sent to all the Board Members.

Member Stevens said that going to site visits without paper copies might be problematic.

By consensus the Board decided to try electronic packets for a month before making a final decision. Paper packets would also be provided during this trial period.

OTHER DISCUSSION

Member Stevens asked if there had been any discussion regarding changing the ordinance regarding decks and sunrooms. Zoning Supervisor Randt said he would follow up on this.

ADJOURNMENT

MOTION by Rich, support by Stevens, to adjourn the meeting at 8:36p.m.

MOTION CARRIED 6-0

Respectfully submitted,

James Stevens, Secretary
Zoning Board of Appeals

/ceh/cem