

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
FARMINGTON HILLS CITY HALL – COMMUNITY ROOM
31555 W. ELEVEN MILE ROAD
FARMINGTON HILLS, MI
September 19, 2023 – 7:30 PM**

1. CALL MEETING TO ORDER

Chair Lindquist called the meeting to order at 7:30pm and made standard introductory remarks explaining the role of the ZBA and the formal procedures of the meeting.

Board Members scheduled a site visit on September 17, 2023, and may also have visited the sites independently. No action was taken at the site visit.

2. ROLL CALL

Members Present: Collins (alternate), Irwin, King, Lindquist, O’Connell, Vergun

Members Absent: Rich

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

3. APPROVAL OF AGENDA

MOTION by Vergun, support by King, to approve the agenda as submitted.

Motion carried unanimously by voice vote.

4. NEW BUSINESS:

A. ZBA CASE: 9-23-5728

LOCATION: 24281 Orchard Lake Road

PARCEL I.D.: 23-22-476-043

ZONE: B-3

REQUEST: A variance from the requirement of a six (6) ft. berm or masonry obscuring wall to permit a six (6) ft. tall, fabric-wrapped, chain link fence, so that a B-3 parcel can be developed next to an RA-1 parcel

CODE SECTION: 34-5.15 B.E and 34-5.15.9

APPLICANT: Raphael Orah

OWNER: Orah Group LLC, 24233 Orchard Lake Road. Farmington Hills, MI 48336

Member O’Connell called the case, and Zoning Supervisor Randt reviewed the facts of the case. The property is located on the west side of Orchard Lake Road north of 10 Mile Road. An aerial view showed the outline of the property. A photograph had been provided by the applicant of the fence as it currently exists.

Steven Hamade, Global Equities and Development, 5252 Oakland Boulevard, Dearborn MI, was present on behalf of this request for a variance from the requirement of a 6’ tall berm or masonry obscuring wall to permit a 6’ tall fabric wrapped chain link fence, in order to permit the development of a B-3 parcel next to an RA-1 parcel.

Mr. Hamade made the following points:

- At the original hearing before the Planning Commission in 2018, the Planning Commission approved the synthetic fence, because the masonry wall would damage the roots of the existing trees and kill them. The sound recording of that meeting was no longer available.
- Their architect at the time would not send the revised plans showing the synthetic fence. Mr. Hamade had talked with then City Planner Stec, who said he would make the note on the plans.
- The fabric wrap attached to the chain link fence is not affected by sunlight, and is soundproof and weatherproof, as well as being fire retardant. The color can be black, green, or lime.
- MDARD (Michigan Department of Agricultural & Rural Development) would fine the applicants if they killed the trees, which would happen if they had to put in posts for the masonry wall. Mr. Hamade did not want to be responsible for killing the trees.
- The fence that had been installed was very firmly in place, as the posts had been put down deeper than the tree roots. The chain link pulls everything together and is very effective and safe and will not kill the trees. The fence had been up for almost a year.
- The applicant will be adding more shrubs and about five trees in the area of the fence.
- There is also sewer and a catch basin in the area of the fence, along with a bioswale. If a masonry fence is required, all the stormwater will drain into the catch basin, with no water being absorbed on site.
- Installing a masonry fence would be an enormous cost.

Chair Lindquist asked Mr. Hamade if he would like to add any information that would more directly address the criteria for granting a variance.

Mr. Hamade said he had a letter from a resident who was behind the subject site, who was a neighbor of the resident who was present this evening.

In response to questions, Mr. Hamade provided the following further information:

- The current fence posts were set in concrete, away from the tree roots, and deeper than the tree roots.
- The decorative leaves attached to the chain link fence had been cut, probably by kids playing in the area, so that they were scattered on the ground. The applicants can revitalize that situation, and can use different colors, either in green or lime.

Member King said that the Planning Commission meeting minutes showed that the requirement for a masonry wall was revised to accept a masonry panel wall, with fence posts every 6' or 8'. The record did not show any approval of a chain link fence of this nature. At what point in time had the applicant erected the chain link fence, even though it had not been formally approved?

Mr. Hamade said he was relying on what was said at the Planning Commission meeting, when the Board said it was okay to go with the synthetic fence. Mr. Hamade had also relied on the meeting's recording being available, but it had disappeared.

In response to questions, City Attorney Morita said that the Planning Commission minutes showed the chain link fence was never approved. The fence was always intended to be a concrete panel, and the site plan calls for the concrete panel. The Giffels Webster report also specifically states concrete must be used. Even if the Planning Commission had granted the relief claimed by

the applicant, it would have been conditioned on the applicant receiving a variance from the ZBA, which never happened.

City Attorney Morita advised that the ordinance is what it is, and the approvals in the minutes are as they are. The ZBA is charged with making a regular determination as to whether or not the requirements for a variance have been met.

In response to further questions from the Board, Mr. Hamade said prior to installing the chain link fence, there had been no fence at the rear of the property, only trees. The posts for the chain link fence varied in distance from each other, from 6', to 10', to 12', to 8', to another 12', and then to 10'. The roots of the trees were 2' under the surface, and the posts went deeper than that.

In response to a question from Member O'Connell, the adjacent resident, Semir Gjokaj, said that the trees in question were on his property. The chain link fence was on the property line.

Mr. Oraha, owner, asked to speak. Chair Lindquist noted that the applicant was given a certain amount of time to make his presentation, and the owner's representative had done that. If Mr. Oraha had anything to add relative to the criteria for granting a variance, he could do so, or he could speak during the public comment portion of the meeting. Mr. Oraha declined.

Chair Lindquist opened the meeting to public comment.

Semir Gjokaj, 31680 Doheny Drive, said that he had built the house on his property. He was happy to have the new commercial development constructed on the property behind him. However, in other locations where commercial areas abutted residential properties, there was a solid barrier between the two properties. He had been told that was going to be what happened in this case also – that a masonry block wall would be built there. He did want to protect the trees that were at the back of his property, and he had come to the meeting tonight to see what his options were. He supported the concrete paneling that was originally approved by the Planning Commission, as that was more friendly toward the trees. The chain link fence was not acceptable to him. He wanted to have a noise and visual barrier more than was offered by the chain link fence. This would be important when the foliage changes and leaves drop. Mr. Gjokaj was opposed to granting the variance to allow the chain link fence to remain.

In response to a question from Member Vergun, Mr. Gjokaj said he could not currently see the chain link fence because the foliage was thick, but this would change with the seasons. The chain link fence was covered with a black material which was very thin, which he didn't think was soundproof.

As no other public indicated they wished to speak, Chair Lindquist closed the public hearing and invited the applicant to respond to public comment.

Mr. Hamade said the existing fence would absorb noise. As far as the decorations on the fence, the applicants could change the color to green or lime if that was what the neighbor wanted. Mr. Hamade said he had a letter from Thomas Cianciolo, a neighbor of Mr. Gjokaj's, in support of the fence. This letter had also been provided to the Planning Commission. However, the address on the letter was wrong and was not Mr. Cianciolo's address.

Mr. Hamade provided the letter from Mr. Cianciolo to the Board.

Chair Lindquist recognized Mr. Gjokaj. Mr. Gjokaj said that Mr. Cianciolo did not live next door to him, but rather lived across the street to the north and several lots away.

City Attorney Morita also directed the Board's attention to the letter in the file from Charmaine Kettler Schmult.

MOTION by Irvin, support by King, in the matter of ZBA Case 9-23-5728, 24281 Orchard Lake Road, Parcel I.D. #23-22-476-043, in a B-3 Zoning District, that the petitioner's request for a variance from the requirement of a six (6) ft. berm or masonry obscuring wall to permit a six (6) ft. tall, fabric-wrapped, chain link fence, so that a B-3 parcel can be developed next to an RA-1 parcel, **BE DENIED**, because the petitioner did not demonstrate practical difficulties exist in this case in that he set forth facts which **do not** show that compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted use and would render conformity with the ordinance unnecessarily burdensome.

The problem is self-created, due to the fact that the petitioner did not follow the guidance from the Planning Commission.

The petitioner's plight is not due to unique circumstances of the property, as noted in the packet as well.

Motion passed unanimously by voice vote, 6-0.

B. ZBA CASE: 9-23-5729

LOCATION: 30974 Glenmuer

PARCEL I.D.: 23-03-126-009

ZONE: RA-1A

REQUEST: In order to build a 336 square foot detached accessory structure (shed) in a RA-1A Zoning District located eleven (11) ft, eight (8) inches (11' 8") from the side property line, the following variances are requested: 1. A three (3) ft. four (4) inch (3' 4") variance from the required fifteen (15) ft. side yard setback requirement; and, 2. A one hundred fifty-three (153) square foot variance from the requirement that all accessory uses and buildings may not exceed seven hundred fifty (750) square feet

CODE SECTION: 34-3.1.1. & 34-5.1.2.D

APPLICANT/OWNER: Brian Moore

Member O'Connell called the case, and Zoning Supervisor Randt presented the facts of the case. The subject property was located south of 14 Mile Road and east of Farmington Road. The property was quite large. The applicant had provided photographs that showed the original shed location, which shed was now gone, along with representations of the proposed shed, including exterior schematic elevations, floor plan, and roof plan.

Brian Moore, 30974 Glenmuer, was present on behalf of the variance requests as advertised, in order to build a 336 square foot detached accessory structure (shed) on his property.

Mr. Moore made the following points:

- The size and location of the proposed shed was based on minimum needs for additional storage.
- The location is practical, in terms of flooding events within the yard and standing water on the property after rain events, due to the clay soil.
- The location relative to the property line is a consequence of the design, which utilized a slanted roof that brought the shed closer to the property line, but which also was less visually imposing to the neighboring property and therefore less impactful in terms of changes to sun and shade on that property.
- The shed will be used primarily for yard equipment, patio furniture, gardening equipment, etc.

In response to questions from the Board, Mr. Moore gave the following further information:

- He could not build the shed as proposed outside of the 15' setback, because of the flooding in his rear yard, and also because of the trees that were in the way.
- While it was true the shed would be 100' from his neighbor's house, Mr. Moore wanted to respect the neighbor's rear yard property. He did not want to pitch the roof too steep, which design would negatively impact the dynamic of his neighbor's yard, especially in terms of light and shade on that property.
- Moving the shed closer to his own home would result in the shed being more visually imposing.
- If the overhang were shortened the difference of the variance, so that the shed could be moved out of the setback, the front face of the shed would be 18" from the nearest tree.
- The shed would have doors as shown, including a roll-up door to be used to drive the mower in and out.
- In terms of area requirements, Mr. Moore did have a 2-car garage, which was really tight. Two modern cars cannot be stored in the garage. Additionally, Mr. Moore did not like storing anything with chemicals, or his mower, in the garage. The shed size as shown is the minimum needed in order to get everything in the yard into one central location. The size was the smallest he could make it without the shed becoming non-functional in the future.
- The shed will not have power running to it, or any interior water. Mr. Moore did plan on having an outdoor spigot close to the shed.
- The windows on the north wall were false windows to give visual interest, but would not actually overlook his neighbor's property.

Chair Lindquist opened the meeting to public comment.

Matthew Adams, 31024 Glenmuer, said he was Mr. Moore's next-door neighbor. Mr. Moore had discussed this project with him before he had drafted his plans, and Mr. Adams had no issues with the shed as presented and was happy to have the shed constructed in the proposed location. Mr. Adams appreciated the shed not impacting the light and shade on his property. He opposed moving the shed closer to the house. He was in favor of this variance request.

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

Member O'Connell noted there were 5 letters in support of this variance request. There was also an affidavit of mailing, with no returns.

In response to questions, Mr. Moore said the building materials would be 2' x 11" fiber cement siding with vertical striping, with a cedar-like appearance. The colors would not match the appearance of the house, but would be muted to match the trees and grass and what is seasonally going on in the back yard. During discussion, Mr. Moore emailed staff a color palette named "Yosemite National Park." All the colors of that palette would be used except for the yellow. The roof and trim will be green, the walls brown, and the windows black.

After discussion and amendment, the following motion was offered:

MOTION by Collins, support by O'Connell, in the matter of ZBA Case 9-23-5729, 30974 Glenmuer, Parcel I.D. #23-03-126-009, in a RA-1A Zoning District, that the petitioner's request for variances in order to build a 336 square foot detached accessory structure (shed) located 11'8" from the side property line, **BE GRANTED**, 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 and 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. The shed will be appealing to the eye for the neighbor's benefit, and functional for the petitioner's use.
3. That the petitioner's plight is due to the unique circumstances of the property, including flooding on the property and trees that must be worked around.
4. The problem is not self-created, due to the unique circumstances of the property.

And with the following conditions:

1. The appearance and location of the shed be as submitted to the ZBA.
2. The colors will be as presented visually to the ZBA tonight and submitted to staff emails during tonight's meeting, being the color scheme labeled Yosemite National Park, except the yellow will not be used.
3. There will be no electricity run to the shed, and no water run to the interior of the shed.

Motion passed unanimously by voice vote, 6-0.

5. PUBLIC QUESTIONS AND COMMENTS:

None.

6. NOMINATION OF OFFICERS

Per the bylaws, alternates cannot vote on the election of officers.

Motion by Irvin, support by King, to elect the following slate of officers:

Chair: O'Connell
Vice-Chair: Irvin
Secretary: Vergun

Roll call vote:

King	yes
O'Connell	yes
Vergun	yes
Irvin	yes
Lindquist	yes

Motion carried 5-0.

7. APPROVAL OF MINUTES July 11, 2023

MOTION by Vergun, support by Collins, to approve the July 11, 2023 meeting minutes as submitted.

Motion carried by voice vote.

8. ADJOURNMENT

MOTION by Irvin, support by Vergun, to adjourn the meeting at 9:00 p.m.

Motion approved unanimously.

Respectfully submitted,
Michael O'Connell, Secretary
/cem