

MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
SEPTEMBER 8, 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: Barnette, Barringer, Lindquist, Paramesh, Rich, Seelye, and Vergun

Members Absent: Masood and Stevens

Others Present: Attorney Morita and Zoning Division Supervisor Randt

SITE VISIT SEPTEMBER 6, 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 and, 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 Rich, support by Lindquist, to approve the agenda as published.

MOTION CARRIED 6-0 (Paramesh arrived at 7:32pm)

OLD BUSINESS

A. 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 Supervisor Randt discussed the location of the property and presented an aerial map of the property, photos of the proposed sign and a site plan of the proposed sign. He noted that the City's Traffic Engineer has met with the applicant to discuss the location of the proposed sign.

George Kallas, property owner, 22600 Haggerty Road, explained that he purchased this property about 5 months ago and the current location of the sign is causing issues for people making a right turn going north on Haggerty Road. He has witnessed near accidents because traffic at the posted speed limit cannot

see the existing sign until they are on top of the driveway. Previously they were proposing to move the sign closer to the sidewalk and further north, however, the Traffic Engineer had an issue with that location. They have since met with him to discuss a better location and it was his idea to move the sign to the middle of the lot. They have revised the drawings and are now proposing to locate the sign in the new location. He feels it will be a good place for the sign and both north and southbound traffic will be able to see it in plenty of time to make the turn into the driveway.

Chair Seelye indicated that the Board has received a letter from the Traffic Engineer stating he has approved the placement of the sign and since this was their biggest concern with the previous submittal, he is comfortable with this new proposal.

Member Lindquist questioned the distance between the edge of the sidewalk and the edge of the sign. Mr. Kallas responded that it was 2 feet.

Member Lindquist asked if the sign will be an electric lighted sign with changeable letters. Mr. Kallas responded that was correct.

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

Member Vergun confirmed there was an affidavit of mailing on file with 6 returned mailers.

MOTION by Rich, support by Barringer, in the matter of ZBA Case 8-15-5564, to GRANT the petitioner's request for a 14 foot special exception to the required 15 foot setback requirement in order to build a free standing sign in an OS-4 Zoning District; because the petitioner did demonstrate that the requirements for a special exception existed in this case in that he set forth facts which show that:

1. There are circumstances or features that are exceptional or unique to the subject property and that are not self-created. The driveway is located at one end of the property and there is also a large set of trees that the applicant does not have control over, therefore, creating uniqueness to the property.
2. The failure to grant relief would result in substantially more than mere inconvenience or financial expenditures and the application of the regulations without a special exception unreasonably prevents or limits the use of the property and precludes the visibility of the building on the property. In driving Haggerty Road, a sign in a position where it would not need a special exception is very difficult to see until you pass the trees and at that point vehicles would need to slow down rapidly, eventually causing safety hazards.
3. The special exception will not result in a sign or condition incompatible with the adjacent properties and will result in substantial justice both to the applicant and the neighboring community.
4. When taken on its own, or in combination with other existing conditions, the special exception will not result in a sign that has an adverse effect on the essential character or aesthetics of the surrounding area; it will not be detrimental. In fact, the new location will be a benefit because vehicles will not have to slam on the brakes to access the property.

SUBJECT to the following conditions:

- The sign shall be placed as indicated in the new application presented by the petitioner
- All other applicable ordinances shall be complied with

MOTION CARRIED 7-0

NEW BUSINESS

A. ZBA CASE: 9-15-5565
LOCATION: 32905 Northwestern Highway
PARCEL I.D.: 23-02-102-013
REQUEST: Permission for a temporary outdoor sales event in a B-3, P-1, RA-1 zoning district, which is not accessory to the principal use and not conducted by the owner or operator of the principal use. (Previously granted on August 12, 2014 for one year)
CODE SECTION: 34-7.14.6.E.
APPLICANT: Jon Gebarowski for Oceanside Seafood, Inc.
OWNER: Michael Langan

Zoning Division Supervisor Randt discussed the location of the property and presented an aerial map of the property and a photo of the seafood truck. He noted that this request has been before the Board numerous times and the applicant is back again, as he wishes to continue to sell seafood from a truck at this location.

Jon Gebarowski, representing Oceanside Seafood, 1012 Oak Custer Drive, explained that they have been selling seafood from a truck at this location for 3-4 years now and requesting permission each time. They sell seafood from a custom designed truck one day a month from 1:00pm to 5:00pm on prescheduled dates. He is requesting to do this again exactly the same as he has done in the past.

Chair Seelye asked if the operation will be the same day of the week, once a month, for the same hours and in the same location as in the past. Mr. Gebarowski responded that was correct, nothing is changing.

Member Rich questioned the amount of customers that come to the site each day and will the construction at 14 Mile Road, Orchard Lake Road and Northwestern Highway impact his business. Mr. Gebarowski responded that the construction brings the average down quite a bit but overall they have 15-20 customers in a day, most customers have their orders preplanned so they just have to stop and pick them up.

Member Rich noted that in the past the applicant has identified specific dates in which they will be doing business and asked if the applicant has a preference of dates. Mr. Gebarowski responded that he has submitted the exact dates to the Police Department and he will provide that information to the appropriate staff.

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

Member Vergun confirmed there was an affidavit of mailing on file with 10 returned mailers.

Chair Seelye commented that he spoke to the Director of Planning, Ed Gardiner, regarding this case and what they would like to do, if the Board approves, is give this applicant a 5 year annual approval from the City's Planning Department automatically if there are no changes or complaints.

Attorney Morita noted that the ordinance limits the approval to 12 months.

Chair Seelye asked how they can change that so this case does not have to keep coming back to the Board for approval if nothing has changed. Attorney Morita responded that City Council would have to amend the ordinance and Mr. Gardiner would have to be the one to take this issue before City Council.

Chair Seelye informed the applicant that they will work on the amending the ordinance so he does not have to keep coming back.

Mr. Gebarowski commented that he would really appreciate that.

MOTION by Rich, support by Vergun, in the matter of ZBA Case 9-15-5565, to GRANT the petitioner's request for a permission to allow a temporary outdoor sales event, which is not accessory to the principal use and not conducted by the owner or operator of the principal use; because the proponent has met the requirements necessary for a permission in this case as set forth in Section 34-7.14.6.E. of the Farmington Hills Zoning Ordinance.

SUBJECT to the following conditions:

- Applicant must reapply in 12 months for the following year
- The truck shall be parked within the B-3 district in the exact location as in previous years
- The days of operation are limited to: September 23, October 21, November 18, December 16, 2015 and January 13, February 10, March 9, April 6, May 4, June 1, June 29 and July 27, 2016 ; as submitted to appropriate City Offices and approved by staff
- The hours of sale are limited to 1:00PM to 5:00PM, as presented by applicant
- The sales vehicle be as represented in the material provided to the Board

MOTION CARRIED 7-0

- B. ZBA CASE: 9-15-5566
LOCATION: 32316 W. Eleven Mile
PARCEL I.D.: 23-15-401-016
REQUEST: In order to expand a non-conforming building, the following variance is requested. A 37.4 foot variance to the required 40 foot setback requirement that an uncovered, unenclosed patio may project into a required front yard not exceeding 10 feet in order to construct a deck that projects 12 feet 4 inches from the front of the home in an RA-1A Zoning District. This deck will be 2 foot 8 inches from the lot line.
CODE SECTION: 34-3.26.6A
APPLICANT/OWNER: David Watts

Zoning Division Supervisor Randt discussed the location of the property and presented an aerial map of the property and an outline of the proposed porch.

David Watts, applicant, 32316 W. 11 Mile Road, explained that he is requesting permission to continue to build his deck.

Chair Seelye stated that it is his understanding that the applicant read the City's Building Code and interpreted it incorrectly and the Planning Department agrees with this. He indicated that this is a unique

property with a large hill going up to the front of the house and the City will never remove that land to expand the road.

Member Lindquist clarified that there was an old deck that was tore down and the footprint of the new deck extends no closer to 11 Mile Road than the old deck, it will only be wider. Mr. Watts responded that it was not a deck originally; it was a concrete structure that was crumbling and was not safe.

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

Member Vergun confirmed there was an affidavit of mailing on file with 0 returned mailers.

MOTION by Rich, support by Lindquist, in the matter of ZBA Case 9-15-5566, to GRANT the petitioner's request for a 37.4 foot variance to the required 40 foot setback requirement that an uncovered, unenclosed patio may project into a required front yard not exceeding 10 feet in order to construct a deck that projects 12 feet 4 inches from the front of the home in an RA-1A Zoning District; 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 renders 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 property itself will be more attractive and safer and there does not seem to be a significant impact on 11 Mile Road, which is the main issue in terms of why the variance is needed.
3. That the petitioner's plight is due to the unique circumstances of the property. The extremely large setback requirements from 11 Mile Road are somewhat unique to this property, there is shielding vegetation on both sides and the property itself is located high on a hill.
4. That the problem is not self-created.

SUBJECT to the following conditions:

- The petitioner shall work with the City to meet all applicable Building Codes
- The deck shall be constructed in accordance with the plans as submitted by the petitioner

MOTION CARRIED 7-0

- C. ZBA CASE: 9-15-5568
LOCATION: 27815 Kendallwood
PARCEL I.D.: 23-10-376-016
REQUEST: In order to install a 6 foot high vinyl privacy fence in the exterior side yard setback, a 3 foot height variance is requested. The requirement is that fences not to exceed 3 feet in height may be permitted in the front yard or exterior side yard setback in an RA-1 Zoning District.
CODE SECTION: 34-5.1.2
APPLICANT/OWNER: Justyn Nixon

Zoning Division Supervisor Randt discussed the location of the property and presented aerial maps of the property and a sketch indicating the location of the proposed fence. He noted that fences are allowed in exterior side yards but they cannot be higher than 3 feet, the applicant is proposing a 6 foot fence which is why they are requesting a variance.

Justyn Nixon, 27815 Kendallwood, explained that he is requesting a 3 foot height variance to allow him to continue an existing 6 foot white vinyl fence. He recently received a permit to install a fence around the back of his yard and up the side connecting it to the house and he would now like to continue that fence around the rest of the property. He noted the following reasons for the fence:

- Privacy in their backyard: They have had multiple strangers come onto their property. There used to be a bus stop at the back corner of his lot so there were a lot of people loitering while his kids were playing the yard.
- Prevent Litter: A lot of litter blows into the yard off 12 Mile Road and people throw stuff over the fence all the time.
- Road Noise: The road noise from 12 Mile Road gets louder every year; this fence would be a buffer.

Mr. Nixon stated that he feels the variance should be granted because when the house was built in 1957 the property owner could reasonably enjoy the use of the side yard but now with how loud and busy 12 Mile Road has become, that is no longer the case. They would like to use their yard for its permitted purpose which is simply enjoyable use. He stated that the ordinance was put in place to assist an abutting neighbor from having the fence create an obstructed view for them, however, in his unique circumstance he has no house abutting his property, only a school. Since the reason for the ordinance does not exist, he is asking for the variance to be granted.

Chair Seelye asked how long the applicant has lived in the home and when was the 6 foot fence along the side and most of the rear installed. Mr. Nixon responded that he has lived there for 9 years and the fence was installed last month. He noted that they upgraded to a white vinyl fence and it will look much nicer than the rusty chain link that is currently there and you see as you enter the subdivision.

Member Lindquist commented that the applicant indicated that he has problems with people loitering outside the fence and also throwing objects into the yard and asked how a 6 foot fence will change those circumstances. Mr. Nixon responded that the current 3 foot fence is not solid so a lot of stuff goes through the chain link, a 3 foot solid fence would stop stuff from blowing through but it will not stop the road noise. He believes it would be less likely to throw something into the air over a 6 foot fence than it would be to drop something over the current fence while walking by.

Member Lindquist questioned, in regards to the diagonal path that goes to the corner of the school property, if the fence will create a blind spot for pedestrian traffic going around that diagonal corner. Mr. Nixon responded that the school has trees that block the view already, along with bushes filled with poisonous berries which he has to cut down constantly as they grow through the chain link and with the vinyl fence being solid, it would prevent the berries from growing through. In regard to line of sight, the trees already block visibility along with the weeds that cover the fence, so this would not create any less visibility and would look a lot nicer.

Member Lindquist confirmed that the bus stop was now gone and asked if it had been relocated or just removed. Mr. Nixon responded that he is not sure if they moved it but it is not there anymore.

Member Lindquist stated that on the diagram provided the blue line represents the area where the variance is needed and asked if the applicant intended to bring the fence all the way to the edge of his home along 12 Mile Road. Mr. Nixon responded yes.

Member Lindquist asked if a lesser relief would be satisfactory, that if the Board did not grant the variance for the fence to go all the way along the property as proposed, but did allow for it to go in line with the fence that comes from the house south toward 12 Mile Road at the end of the drive. Mr. Nixon responded that he prefers to have the fence as proposed as it gives them privacy in the driveway, the garage and to the backdoor that they use all the time, however if he could not get that variance then he would like to turn the fence in toward the house.

Member Lindquist stated that while the Board could grant lesser relief, they cannot grant the alternative relief as suggested, which would be to extend the fence back toward the house because that has not been advertised.

Attorney Morita clarified that the advertisement does not state specifically where the fence is going to be located so if the Board wanted to grant a lesser relief and have the fence turn northward in toward the house that would be well within what has been advertised.

Chair Seelye opened the public portion of the meeting.

Sandra Groves, President of Kendallwood Farms Homeowners Association, 28212 Kendallwood Drive, explained that she represents the Kendallwood Farms Homeowners Association and is here to present their opposition to this case and to also note that the owner of this property appears to operate a construction business out of his home and this concern has resulted in past complaints of violations to the zoning regulations. She stated that the property is located in a high traffic area which includes motor vehicle traffic, pedestrian and bicycle traffic and the heavy traffic existed when the owner purchased the property. Children using the sidewalk along 12 Mile Road do not always obey the traffic signal and having a fence which blocks the view of a motorist on Kendallwood Drive could result in a preventable tragedy. The fence poses further danger to people walking or riding bicycles as it would create a vision obstruction to those on 12 Mile Road, as well as those exiting the subdivision from Kendallwood Drive. The lack of nighttime illumination and the physical characteristics of this fence, the height and extension past the home, could provide the perfect setting for a criminal to ambush a passerby. She also noted that the proposed fence will not aesthetically enhance the subdivision and with that along with the issue of pedestrian and motor traffic safety, they oppose the request for the fence.

Leslie Washington, Vice President of Kendallwood Farms Homeowners Association, 32407 Bonnet Hill, explained that the homeowner never contacted the Association about the fence and the subdivision has fence regulations.

Mr. Nixon explained that he dropped off a letter to the Association and has spoken to them on the phone about the fence, so they have been notified. He feels that the fence creating a setting for an ambush is absurd. The fence is 61 feet away from the road so as far as obstructing anyone around the corner, that would not be a problem and he would not put it up if it was. He is not extending it the fence all the way to the property line so it will not cause any issues at that corner. He noted that aesthetically it would look much better than the current rusty chain link that has been there for years.

Member Lindquist clarified that the Board is not able to enforce the regulations of the association, therefore they will not treat, as relevant, any testimony about notifying the association or whether an approval would be required.

Member Lindquist asked if the applicant operated a business out of his home or ever has equipment or trucks at the home. Mr. Nixon responded that he runs a construction business but he does not operate out of his home, he does not have clients come to his home, he does not build stuff at his home, he does not have an office in his home, only a desk and laptop and he does not have equipment or trucks at the home. He added that he does work on his house all the time.

Member Lindquist commented that a 6 foot solid fence will impede visibility to the right for anybody walking westbound on 12 Mile Road and the same issue exists for traffic proceeding westbound on 12 Mile Road. There would not be the same level of visibility as with a 3 foot chain link fence and this is a concern that the Board must consider.

Mr. Nixon stated that he understands that the visibility will change and he does not want safety to be an issue but he feels that anyone driving or walking on 12 Mile Road will not have visibility issues.

Member Lindquist stated that traffic exiting onto 12 Mile Road would have visibility for less distance with the fence there than without the fence, right now vehicles at the end of Kendallwood Drive getting ready to turn right onto 12 Mile Road can see over the fence and through the chain link but if the fence is installed as shown on the drawing, that will cut off a certain level of visibility of the roadway.

Mr. Nixon stated he thought it would be reasonable to stop the fence at his house as originally he considered going to the end of his driveway but stopped at his house for visibility reasons and because lining the fence up with the house would look aesthetically pleasing.

Chair Seelye asked if the applicant would consider running the fence from the shed to the back of the house. Mr. Nixon responded no, as that would completely cut his yard in half.

Chair Seelye stated he is concerned with the fence causing visibility issues on the sidewalk that comes from Dunkel to the edge of the applicant's property, as it could potentially cause pedestrian and bicyclist collisions.

Mr. Nixon stated that there have always been trees in that corner but he understands it is easier to see through a tree than a fence.

Member Vergun stated that he agrees the fence would be an aesthetical upgrade from the current older rusty fence, however he would be more inclined to support a motion that would grant lesser relief, perhaps with the fence ending further to the west at the top of the driveway.

Member Barringer asked if there is anything specified in the ordinance regarding the types of materials used for fencing, for example chain link verses solid vinyl fence. Zoning Division Supervisor Randt responded that the applicant can put up a new 3 foot high chain link fence or a 3 foot solid white vinyl fence on the property. He noted that in the past the Board has suggested planting greenery or arborvitae instead of a installing a fence.

Chair Seelye asked if there have been any zoning violations on this property. Zoning Division Supervisor Randt responded that he is not aware of any.

Attorney Morita commented that there is no specific ordinance requirement as to the type of material used for fencing.

Zoning Division Supervisor Randt stated that the HOA may have requirements as far as materials, but the zoning ordinance does not have specifics as to types of materials allowed.

There being no further public comments, Chair Seelye closed the public portion of the meeting. Member Vergun confirmed there was an affidavit of mailing on file with 2 returned mailers.

Chair Seeley indicated he is having a problem with criteria items 3 and 4, as he does not see a unique circumstance to the property or that the problem is not self-created.

Member Vergun commented that if builders had known in 1957 that there would be as much traffic on 12 Mile Road then perhaps they would not have built houses this close to the road. He stated that he understands that the 12 Mile and Orchard Lake Road intersection is one of the busiest intersections in the county and he sympathizes with the homeowners.

Member Rich noted that the applicant listed the reasons for the ordinance which did not apply to this case, however, he believes the key reason for the ordinance, that does apply in this case, is the aesthetic issue with respect to having fences along streets, as it tends to make the City look less friendly and give the appearance of walls along exterior side yards. He explained that if the fence were pushed back away from the right-of-way then it would have less of an impact but he understands the applicants concern that if the fence was pushed back it would cut off a significant portion of the backyard. He also has concerns with the visibility of the pedestrians walking along the diagonal path from the school because if there is a solid fence it will be sort of a barrier. He added that this is one of the issues that should be taken into consideration when purchasing a property that has an exterior side yard.

MOTION by Vergun, support by Lindquist, in the matter of ZBA Case 9-15-5568, to GRANT the petitioner's request for a 3 foot height variance in order to install a 6 foot high vinyl privacy fence in the exterior side yard setback; 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, specifically the full use of the yard.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district, as the existing old metal fence would be removed and the replacement fence would be an upgrade.
3. That the petitioner's plight is due to the unique circumstances of the property, as this is a corner lot with a lot of traffic, vehicular and pedestrian, especially with the school nearby.
4. That the problem is not self-created.

MOTION FAILED 1-6 (Barnette, Barringer, Lindquist, Paramesh, Rich, Seelye opposed)

Member Vergun stated that he would be open to granting lesser relief in a different location than what has been requested.

Member Barnette commented that his reason for voting against the motion was because he believes that the possibility of a bicycle/pedestrian accident in this area is high.

Member Rich commented that he is concerned with item 2 of the criteria in that he finds granting the variance would not do substantial justice to the other property owners in the area for the reasons he identified earlier, in addition to the safety risks. He explained that every property along a major road that has an exterior side yard would have some of the same issues with noise and privacy, however he does not see this as unique enough to grant the relief requested.

Member Lindquist stated that his difficulty is with item 3, as he does not consider this to be due to a unique circumstance of the property, in that it is a corner lot but it is the same as all other corner lots. He explained that he would be inclined to grant lesser relief, perhaps something along the lines of moving the fence away from the sidewalk toward the house possibly in line with the edge of the driveway, however he is not prepared to design or craft a solution and he did not perceive that the proponent was enthusiastic about the design of an alternate solution on the fly.

Member Paramesh indicated that her main reason for denying the motion was due to the safety risks that the fence poses to pedestrian and bicycle traffic along the sidewalk, as well as with vehicles turning into the subdivision. She stated that she sympathizes with the petitioner and would be open to other designs.

Member Barringer stated that he would also be open to a lesser relief and he understands the petitioner's reasons for the request but because this is a heavily traveled area he is concerned that there is more of a chance of a bicycle/pedestrian collision.

Chair Seelye suggested that the applicant contact the Building and Zoning departments to find out what his other options are and if he would like to submit another plan with lesser relief, the Board will consider it.

Member Rich indicated that in a previous case there was a memo from the City Traffic Engineer and the Building Department identifying their concerns about visibility and asked if City staff ever looks at these types of situations. Zoning Division Supervisor Randt responded that he can look into asking the Traffic Engineer to review these types of requests in the future, and if the applicant reapplies with a different plan, he will have the appropriate City staff look at it.

D. ZBA CASE: 9-15-5569
LOCATION: 30880 Pear Ridge
PARCEL I.D.: 23-03-102-008
REQUEST: In order to build a two story, 1,172 square foot detached garage in a RA-1 Zoning District, the following variances are requested. 1. A 2.68 foot variance to the permitted 14 foot height requirement. 2. A 586 square foot variance to the permitted maximum 1,250 square foot for all accessory uses and buildings.
CODE SECTION: 34-5.1.2.C.; 34-5.1.2.D
APPLICANT/OWNER: Steve Stilianos

Zoning Division Supervisor Randt discussed the location of the property and presented aerial maps of the property and a site plan of the proposed garage.

Steve Stilianos, 30880 Pear Ridge, homeowner, explained that he needs the proposed garage because his children are pushing him out of his existing 3 car garage. He collects classic cars and currently the classic cars are in one area of the garage with one hoisted up and another parked car underneath. His wife parks her car on the other side and the children's toys, motorcycles and sports equipment take up the rest of the

garage. He stated that they do not have room to keep the trash cans in the garage so they have to store them outside and it is an inconvenience. He added that when they built the home approximately 5 years ago he wishes he would have built a bigger garage at the time.

Evangelina Stilianos, 30880 Pear Ridge, homeowner, explained that her husband has to park his car outside year round because there is no room in the garage. A three car garage sounds big but with having three boys and all of their riding toys and bikes, there is nowhere else to store that stuff so they use one side of the garage. They want to build something that will match the house and look nice, instead of putting up a shed. She noted that they are also trying to clean up their property and keep it looking nice.

Mr. Stilianos stated that he currently uses his car trailer for additional storage.

Chair Seelye commented that the applicant is proposing a two story garage and asked if there will be cars parked on both levels. Mr. Stilianos responded that the part of the garage that will be facing the house will be where his cars go and where the garage door opens up from the driveway will be where the kid's toys are stored as well as lawn equipment.

Mrs. Stilianos stated that her husband will then be able to park in the attached garage.

Chair Seelye asked why the applicant needs a height variance of 2.68 feet. Matt Smith, 5188 Universe Ave, builder, explained that originally the homeowner wanted to build something with the exact same exterior façade and roof pitch so when the plans were done they had a 10/12 pitch roof, they have since reduced that to a 6/12 roof pitch to better comply with the ordinance, however anything lesser would make it a flat roof and not aesthetically pleasing. He noted that when he submitted the plans there was question as to how the height was calculated as he thought they were under 2 feet so there is still some variation in that.

Member Lindquist questioned if the garage will have full electrical and plumbing and asked for further explanation as to why they need a garage of this size. Mr. Stilianos responded that there will be no plumbing in the proposed garage and the design was basically due to the pitch of their driveway.

Mr. Smith indicated that the topography of the site is fairly conducive to this type of garage and they would have to bring in fill dirt if they were not going to use the lower level space.

Member Lindquist noted that when he visited the site it was difficult to imagine how this proposed garage would work and asked for clarification; if toward the house there will be an entrance up above which will be a vehicular entrance and below will be a separate vehicular entrance set off 90 degrees from the upper entrance. Mr. Smith responded that was correct.

Member Lindquist asked if the car trailer was there year round and if it is used for storage of the kid's toys. Mr. Stilianos responded yes along with seasonal items.

Mrs. Stilianos commented that they asked for the larger garage since the pitch of the driveway allowed for it.

Member Lindquist asked if they are proposing any living space in the garage or if any business will be conducted out of the garage. Mrs. Stilianos responded absolutely not, there will be no plumbing or heating just electricity and it will be purely for storage.

Mr. Stilianos stated that once this garage is built he will get rid of the car trailer. He was asked to move the trailer because it is not behind the house but if he parks it there the bottom will rot out, as they get a lot of water behind their house and the bottom of the trailer is wood.

Chair Seelye opened the public portion of the meeting.

Wanda Staples, 30960 Pear Ridge, explained that she is the President of the neighborhood association and she has been remiss in supplying the neighbors with the deed restrictions that have been filed with the County. She has been told that the deed restrictions supersede City ordinance. She stated that the applicants are wonderful people and have a beautiful home which has improved the value of all the houses on the street; however, the association has to stay very firm with the deed restrictions because once a variance is granted it will open the door to multi-family developers.

Ron Cole, 30936 Pear Ridge, explained that he lives next door and this is the fourth or fifth time people have tried to break the deed restrictions and the City has always upheld the restrictions and this time is no different. The deed requires 18 feet from any structure to the property line and the applicant is asking for it to be reduced; he hopes that the City will uphold the association restrictions and turn down the request. He added that with the extended height requested the structure will look like a castle and the property will look like a used car lot with all the classic cars the applicant owns.

Mrs. Staples indicated that they have not seen the plans and ask that they just move it so that it complies with the deed restrictions.

Member Lindquist asked if Mr. Cole was the neighbor to the north as when looking at the enforcement letter regarding the trailer on the applicant's property, it indicates that the sump pump from the neighbor to the north empties onto the applicant's property. Mr. Cole responded that his sump pump goes through the swale to the back to another swale.

Member Lindquist asked staff if deed restrictions in fact supersede Farmington Hills ordinances.

Attorney Morita explained that the City does not enforce deed restrictions and the City can still grant a variance but the Homeowners Association would have the authority to enforce deed restrictions and regardless of whatever variance the City choose to grant if the association were successful in enforcing the deed restrictions then the variance would not matter.

Member Lindquist asked if Mrs. Staples was here in her capacity as the President of the association. Mrs. Staples responded that she is here as a neighboring property owner and her interest is to preserve the nature of her neighborhood.

Member Vergun commented that in looking at the plan, the garage appears to be 36 feet from the house.

Mrs. Staples stated that the restriction is between the property line and the start of the garage which needs to be 18 feet and the proposed garage may be far enough away but she has not seen any plans so she cannot be sure.

Member Barringer asked if the Board were to deny the request and the applicant built a garage that was within the ordinance requirements, would that meet the deed restriction. Mr. Cole responded that it would as long as it was located 18 feet from the property line. He noted that many people have tried to split these lots but the deeds were upheld and once they are broken people will try to split the lots. There being no further public comments, Chair Seelye closed the public portion of the meeting.

Chair Seelye asked if the applicant would be willing to move the garage over 3 feet. Mr. Smith responded that it should work as far as access into the garage, so it may be a possibility.

Mrs. Stilianos commented that they are not trying to split the lot or break any rules, they love their subdivision and they are just trying to make their house better and easier to live in.

Member Vergun asked if the trailer will be removed once the garage is built. Mr. Stilianos responded that he will get rid of the trailer as he uses it only for storage.

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

MOTION by Lindquist, support by Barnette, in the matter of ZBA Case 9-15-5569, to GRANT the petitioner's request for the following variances: 1) A 2.68 foot variance to the permitted 14 foot height requirement and 2) A 586 square foot variance to the permitted maximum 1,250 square foot for all accessory uses and buildings, in order to build a two story, 1,172 square foot detached garage in a RA-1 Zoning District; 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, in that the property owner would be permitted to put a garage in the rear yard or behind the house, except that the geographic circumstances do not allow for it without substantial redesign of the natural landscape.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district, with the proposed conditions.
3. That the petitioner's plight is due to the unique circumstances of the property; as this property is sloped in a unique way, folded in the middle and going down in both directions from the house which is in the center of a very large lot.
4. That the problem is not self-created. The specifics of this proposed 2-story garage are designed specifically to apply to the unique geography of the property.

SUBJECT to the following conditions:

- No trailers or RV's are permitted on the property unless fully enclosed inside a garage
- The proposed garage shall be 18 feet from all property lines
- The garage shall be consistent with the diagrams provided in the petitioners application

Member Rich asked if, since they are looking at a two story structure with flooring on both stories, both floors are considered in square footage permitted. Attorney Morita responded yes.

Member Rich commented that he can empathize with the petitioner and in terms of impact, as there is more than two acres of property, he does not see any undue impact but he is not sure of the uniqueness of the property being the cause of the petitioner's plight. He does not believe that there is anything about the property that causes the need for the extra square footage

MOTION CARRIED 6-1 (Rich opposed)

- E. ZBA CASE: 9-15-5570
LOCATION: 34918 W. Eight Mile
PARCEL I.D.: 23-33-376-024
REQUEST: In order to build a 92-bed convalescent home/assisted living facility in an RC-2 Zoning District, the following variances are requested: 1. A **59.7 foot variance** to the required minimum side yard setback (east) of 95.7 feet is resulting in a 36 foot setback. 2. A **26.3 foot variance** to the required minimum side yard setback (west) of 55.3 foot resulting in a 29 foot setback. 3. A **13,846 square foot variance** to the required 92,000 square foot open space resulting in a 78,154 square foot open space.
CODE SECTION: 34-3.5.G., 34-4.17
APPLICANT: Property Management Services of Michigan
OWNER: Property Management Services of Michigan/Sterling Ventures, L.L.C.

Zoning Division Supervisor Randt discussed the location of the property and presented aerial maps of the property, elevations and a site plan of the proposed building.

Tim Ponton, Stonefield Engineering and Design, 2350 Franklin, explained that this site is approximately 4.5 acres in a RC-2 multi-family residential zone and they are proposing a 92 bed, 70 units overall with the ability for 22 of the units to have a live-in family member, convalescent home. The proposal has a unique architectural footprint and building elevations, the footprint goes in and out all the way around the site so it is not a typical block or rectangular building. The building will be single story with gabled roofs, cultured stone, pillars and dormers. The long footprint will allow for each one of the units to be a window unit and there will be outdoor community areas and pedestrian pathways that go around the entire site. This design is also part of the Emergency Management Plan for senior living facilities because as different opportunities come up it allows residents to get outside much faster as opposed to long hallways, elevator or stairs. In addition, there is a significant amount of landscaping being proposed, over 130 trees, 177 shrubs including approximately 40 trees between the proposed building and 8 Mile Road.

Mr. Ponton explained that they are seeking two side yard setback variances; the one to the west they are proposing 36 feet where 98.3 feet are required and to the east they are proposing 29 feet where 58 are required. As indicated on the plan, the locations of the variances are not for the longest portions of the building they are for the small legs that stick out.

Mr. Ponton noted that the lot is unique as it is 4.5 acres. There is approximately 273 feet of frontage and over 710 feet of depth so by the time you take away the requirement to have full access around the building for fire safety they are down to 190 feet of building frontage allowed. The zoning requirement for setbacks is a formula and is favorable to some units and permitted purposes, however it does hurt other potential uses. There are apartments located to the east and west and the buildings are essential built closer to the property line than what they are proposing. Depending on how the formula is manipulated for a side yard setback, when the buildings are broken up, it changes the side yard setback requirement. When looking at the depth of the lot as compared to frontage, they have a unique situation

Mr. Ponton noted that that in the advertisement there was a request for relief for lot coverage, however, they are not requesting any relief for lot coverage, only the two side yard setback variances.

Mr. Ponton explained that the safest overall operation for this development is having one long combined hallway for all residents, as opposed to breaking up the building in different clusters to change or manipulate the setback requirement and there is a unique building envelope as it is small within the lot.

For these reasons it is his opinion that the benefits associated with this development significantly outweighs any detriment.

Chair Seelye asked, because this is such a unique building, if the applicant had built this design before. Mr. Ponton responded yes.

Chair Seelye confirmed with the applicant that they do not need item 3 of the request, which is a variance for open space.

Mr. Ponton responded that was correct, they have been working with the Planning Commission and the Fire Department and in order to allow fire access they are proposing for the area on the west side to be grass pavers.

Attorney Morita stated for clarification, that the applicant did not need the 13,000 square foot variance. Mr. Ponton responded that was correct.

Member Vergun commented that he is not understanding how the applicant will not need that variance.

Mr. Ponton explained that they went back and forth with the Planning Commission and the Fire Marshal and to allow for full emergency egress around the building they were asked to shift the development slightly to the west.

Zoning Division Supervisor Randt asked if the applicant is sure he wants to take the variance regarding the open space off the table as there are specific requirements. Mr. Ponton responded that they are very familiar with the requirements and they meet the requirements of 92,000 square feet and Clearzoning has approved that. The only difference was whether the west area was going to be considered asphalt, if the Planning Commission and Fire Department wanted them to pave it, or if they wanted them to use grass pavers which is considered green space, nothing has changed. He added that when they put in their request to the Zoning Department, which was before the Planning Commission approval, they went conservative.

Member Rich asked if the variances that are being requested are only for phase I. Mr. Ponton responded no, the entire site has been designed assuming a full build out.

Chair Seelye asked staff if the Planning Commission has approved this site. Zoning Division Supervisor Randt responded yes, subject to the variances.

Due to a conflict of interest, as he is a member of the Finnish Center Association which owns the Tapiola Village that is located directly adjacent to the proposal, Member Lindquist removed himself from this case.

Member Barringer asked if other building designs were considered. Mr. Ponton responded that they have gone through a significant amount of different designs, with the setback calculation that is required it is very challenging and hard to quantify what else they could build as it keeps changing based on the building footprint. He noted that they applied to the Planning Commission a couple times and met with them numerous times.

Member Barringer noted that when looking at the site plan he sees a waste of land space as there are several open areas and asked what the purpose was. Mr. Ponton responded that in the way that it was viewed by Clearzoning was; on the western side of the building the open areas helps reduce the variance

needed, whereas if they were going with a straight building they would have to increase the amount of setback. Since they are breaking up the building it causes each side to have a different setback even though the building is the same width and length.

Member Vergun asked if, on the west side, only the portions of the building that are sticking out are counted. Mr. Ponton responded that was correct.

Member Rich asked how many parking spaces will be provided and where will they be located. Mr. Ponton responded that they are proposing 45 parking spaces and they are all located on the east side, the site operates at about 35-40 parking spaces as most residents do not drive. The parking area will include a canopy with clearance for an ambulance.

Chair Seelye asked how many employees will work at this site. Mr. Ponton responded that the site will have a 1 to 1 ratio with about 10-12 employees per shift.

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

Member Vergun confirmed there was an affidavit of mailing on file with 1 returned mailers.

MOTION by Rich, support by Vergun, in the matter of ZBA Case 9-15-5570, to GRANT the petitioner's request for the following variances: 1) A 59.7 foot variance to the required minimum side yard setback (east) of 95.7 feet is resulting in a 36 foot setback and 2) A 26.3 foot variance to the required minimum side yard setback (west) of 55.3 foot resulting in a 29 foot setback; 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 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. Specifically that this is a relatively narrow property but also relatively long, therefore it is a unique circumstance and would not be an issue if the property were more square.
4. That the problem is not self-created, in that the property dimensions are what they are.

SUBJECT to the condition that the design and materials be as set forth in the application submitted.

Applicant withdrew request for item 3; a 13,846 square foot variance to the required 92,000 square foot open space resulting in a 78,154 square foot open space.

MOTION CARRIED 5-1 (Barringer opposed, Lindquist removed himself due to conflict of interest)

APPROVAL OF AUGUST 11, 2015 MINUTES

MOTION by Vergun, support by Barringer, to approve the Zoning Board of Appeals meeting minutes of August 11, 2015, as submitted.

Attorney Morita informed the Board that if a member was absent from the meeting in which the minutes were taken, the member can still vote to approve those minutes as the official record of the Board.

MOTION CARRIED 7-0

PUBLIC QUESTIONS AND COMMENTS

There were no public comments.

Attorney Morita discussed dates for the upcoming training seminar and asked the Board for any potential topics they would like to discuss or issues they are struggling with. The members brought up the following topics:

- Attorney Morita - Motion Making
- Member Rich - Situations where the Board is allowed to use discretion; the ordinance states one thing and discusses giving permission but it then gives very specific criteria for when the Board can give a permission and when they cannot. In certain circumstances the Board is free to use discretion but how much leeway does the Board really have.
- Member Lindquist - Understanding what the requirements are on the Boards action when they have an approval from the Planning Commission subject to the granting of variances, where the proponent would then blame the Board if their preapproved plan were denied a variance. How independent is the ZBA in relation to Planning Commission decisions and whether or not if there is anything required of the ZBA because of the Planning Commission decision.

She indicated that all members of the Board will be given a set of updated material which will include information related to quorum issues, non-conforming uses, etc.

Member Paramesh indicated that she was only able to visit two of the site and therefore did not feel comfortable making any motions. She asked if she does not visit a site is she still able to make a motion.

Attorney Morita stated that these site visits that the Board goes on are highly unusual, other communities do not offer group site visits. There is no requirement for the members to go out and see the sites. The reason the areas are staked off is so if the members do visit, they have a better understanding.

Chair Seelye asked if the Board should consider having a joint meeting with the Planning Commission. Attorney Morita responded that they can, however those types of meetings are more productive when there is discord between the two Boards in terms of what the Boards are considering. If the Boards are getting along, which it seems lately there has not been an issue, it may not be necessary. If after the training seminar it is found that the Board is getting things out of the Planning Commission that the Board does not like, then she will coordinate a meeting.

ADJOURNMENT

MOTION by Paramesh, support by Vergun, to adjourn the meeting at 10:02p.m.

MOTION CARRIED 7-0

Respectfully submitted,

James Stevens, Secretary
Zoning Board of Appeals

The City of Farmington Hills
Zoning Board of Appeals
September 8, 2015

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APPROVED

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