

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
FARMINGTON HILLS CITY HALL
31555 W. ELEVEN MILE ROAD
FARMINGTON HILLS MI
JULY 9, 2024 – 7:30 PM**

1. CALL MEETING TO ORDER

Chair O’Connell called the meeting to order at 7:30 P.M.

2. ROLL CALL

Members Present: Banks, Jamil, Khan, Lindquist, O’Connell, Rich, Vergun

Members Absent: Irvin

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

3. APPROVAL OF AGENDA

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

Motion carried unanimously by voice vote.

4. NEW BUSINESS:

A. ZBA CASE: 7-24-5740

LOCATION: 21308 Waldron

PARCEL I.D.: 23-36-329-030

REQUEST: In an RA-4 Zoning District, in order to split a lot into two parcels, each measuring 8,362.5 square feet, the following variances are requested: 1. Parcel A: a 137.5 square foot variance to allow for an 8,362.50 square foot lot where a minimum lot size is 8,500 square feet. 2. Parcel B: a 137.50 square foot variance to allow for an 8,362.5 square foot lot where a minimum lot size is 8,500 square feet.

CODE SECTION: 34-3.1.7.E

APPLICANT/OWNER: Mansoor Habib

Zoning Supervisor Randt gave the facts of the case. The parcel is located south of Independence Street, north of Victory Avenue, west of Inkster and east of Middlebelt. The RA-4 zoned parcel is now vacant. Aerial map views showed the surrounding neighborhood, and materials in the packet showed basement foundation plans, interior house plans, and exterior elevations of the proposed homes, both of which met required setbacks.

Mansoor Habib, West Bloomfield, was present on behalf of this request for variances as listed in order to allow the subject parcel to be divided into two parcels. Both resulting parcels would require a 137.5 sf variance from the requirement for a minimum lot size of 8,500 sf. The parcels would be 8,362.5 sf each.

Mr. Habib explained that the subject parcel had originally been 3 lots. Tonight's request was to split the parcel into 2 lots, in order to construct 2 homes. The variance request of 173.5 sf each is about 1.6% of the total area. All of the neighboring lots are smaller than the two parcels that would result from this lot split. Most of the neighboring homes have 50' of frontage. The 2 parcels would have 75' feet of frontage, after the split.

In response to questions, Mr. Habib said he had purchased the lot about 2 years ago. He had plans and drawings of the proposed homes, and was waiting on obtaining a permit from the City in order to start construction.

The previous home on the property had fire damage, and had been demolished. The proposed home will meet all setback requirements.

Chair O'Connell opened the meeting to public comment regarding this case.

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

Member Vergun reported that there was an affidavit of mailing, with no returns. No correspondence regarding this case had been received.

Noting that most of the neighboring lots were smaller than the lots that would result from this lot split, Member Rich asked when the requirement for minimum 8500 sf lots was adopted. Zoning Supervisor Randt said he did not know the exact date, but the 8500 sf requirement had existed for many years. City Attorney Morita added that the Board had been provided with statistics that showed the size of the parcels in the neighborhood, so that the Board can determine whether or not the size of the parcel that is being requested is unique to the neighborhood, in order to determine whether the requested variance will provide substantial justice to the applicant and the surrounding property owners. The Board was provided with statistics going out 100', 300', and 500' feet from this parcel.

In response to a question as to why the previous owner would combine 3 lots into one, City Attorney Morita explained that it was not unusual for someone to purchase 3 narrow lots and combine them into one in preparation for building a larger home. Also, it was apparent by the ages of the neighboring homes that some homes had been built, when there probably weren't the same size requirements that the City now had.

Member Lindquist asked the depth of the lot. The applicant suggested that the variance reflected 1.6% of the total area of the lot, which Member Lindquist found nominal and unimportant. Dividing the lot does more substantial justice to the adjacent property owners, because the two smaller lots are closer in size to most of the lots in the area. The triple-sized lot could have a triple-sized house that would not be within the character of the neighborhood. This is an example of where conformity with the ordinance is making the situation unnecessarily burdensome. This is an opportunity for two new homes in Farmington Hills, except for the fact that the lots resulting from the requested lot split should be only one or two feet wider to meet ordinance

requirements. This is not a difference that makes sense in terms of preventing the owner from utilizing his property in the way he intends.

Chair O'Connell agreed, emphasizing that the requested lot split is going to create two lots that are substantially larger than the existing lots up and down the street.

MOTION by Rich, support by Lindquist, in the matter of ZBA Case 7-24-5740, to grant the request for a variance to the total square footage required where the minimum lot size is supposed to be 8,500 square feet and the proposed square footage is 8,362.5 square feet. The petitioner put forth facts that showed that:

- 1. Compliance with the strict letter of the ordinance renders conformity unnecessarily burdensome.**
- 2. Granting the variance requested will do substantial justice to the petitioner as well as to other property owners. Specifically, while farther spaced homes might be significantly larger, on the block bordered by Independence, Waldron, Victory, and Averhill, 19 of the 22 properties will actually be smaller than the new parcels created by subdividing the existing parcel. One of the reasons most likely for requiring larger lots is to have larger open spaces in the neighborhood. However, in this case, there's actually a park right across the street, and so there is no detriment to any of the neighboring homeowners.**
- 3. The petitioner's plight is due to the unique circumstances of the property, which was originally three parcels combined into one. On this particular block, the larger lot is actually out of character with the neighborhood, something that the petitioner did not cause.**
- 4. The problem is not self-created.**

Member Rich pointed out that there was an existing fence on the now-vacant property; the applicant should work with staff as to whether or not the fence can remain.

Motion passed unanimously by voice vote, 7-0.

B. ZBA CASE: 7-24-5741

LOCATION: 37050 White Tail Ct.

PARCEL I.D.: 23-32-302-016

REQUEST: In a RA-1 Zoning District, in order to build a new house, the following variance is requested: A 17.42-foot variance to the required 35-foot rear yard setback to allow a residence to have a 17.58 rear yard setback.

CODE SECTION: 34-3.1.4.E

APPLICANT/OWNER: Larry Naser

Zoning Supervisor Randt gave the facts of the case. The parcel is located on Whitetail Court, which is east of Halsted, north of 8 Mile, and west of Metroview. The subject property is almost

in the middle of the subdivision. Materials provided showed the construction plans, including exterior elevations. Photographs of other homes in the vicinity were provided.

Larry Naser, Livonia MI, was present on behalf of this request for a variance in order to build a new house. Scott Wright, architect, 44456 Clare Boulevard, Plymouth MI, was also present.

Mr. Wright provided the following information:

- The proposed home is designed to meet the special needs of Mr. Naser's adult son, in terms of oversized rooms, doors, easy access in and out of the house, etc. A year-round swim pool is included in the plans, as the pool meets the therapeutic needs of Mr. Naser's son.
- The pool was originally planned to be housed in a detached pool house, but after a discrepancy in measurement was found relative to the easement at the rear of the property, the pool had to be moved closer to the house, at which time the decision was made to attach the pool house to the main house. This modification changed the setback requirements. The original detached pool house would have met setback requirements for detached structures, but attaching the pool structure to the main house meant the 35' setback requirement for the main structure from the rear lot line had to be met by the pool addition.
- The attached structure is still basically a pool house. The pool house is a single-story structure that matches the roofline of the back of the house, which is also single-story.

In response to questions, the applicants said the plans should show the sidewalk as "new" and not "existing." The sidewalk will be installed if required by the Building Department.

Member Vergun pointed out that the distance of the house front to back is similar to the distance of the legal building envelope front to back without needing a variance. Could the house and garage be shifted so that a variance is not necessary? Was there an HOA requirement that the house be sited in a specific way? What is the applicant's plan if a variance is not granted?

Mr. Wright explained that there was no HOA requirement. They had discussed various options such as shortening the garage, shortening the home, and not enclosing the pool. The son's doctor recommends he have access to the pool 365 days of the year, so not enclosing the pool was the least favored option. The pool itself was not large: 15' wide x 26' long. If the variance was not granted, this was one of those times of "We'll cross that bridge when we come to it." This was a unique situation with unique circumstances.

In response to further questions, the applicants gave the following information:

- The building could not be pulled forward without encroaching on the 35' front yard setback.
- Regarding possibly redesigning the house to meet setback requirements, if the garage were moved into the house, the mudroom, laundry room, and half bath would all be lost. While the garage could be shortened somewhat, shortening it 18' would be difficult. Again, initially the pool house was designed as a detached structure, where the 35' setback did not apply.
- With the circumstances of finding out the issue with the easement, it became necessary to consider attaching the pool house to the main house, and requesting an easement. The house itself was 2571 sf. Reducing that size will result in a house that is much smaller

- compared to neighboring homes. The neighbor to the east is 5,400 sf, and the neighbor to the west is 3,900 sf.
- Even reduced, the house size would meet the HOA's subdivision minimum building size.
 - The proposed design covered just 19% of the lot, well under the total lot coverage allowed.
 - Mr. Nassar provided information regarding his 36-year-old autistic son. He elaborated on the therapeutic benefits of the pool, explaining how it helps alleviate his son's anxiety and depression. He also mentioned the social benefits, hoping that having a pool would encourage friends and family to visit, thereby reducing his son's isolation. Mr. Nasser highlighted the importance of this location in Farmington Hills, noting their long-term connection to the community and the practical reasons for wanting to build the home there.
 - The property behind this lot is not part of the subdivision. That neighbor had emailed a letter of support to the City, having no opposition to the variance request as long as the drainage was addressed in the back of the lot, and if possible, adding vegetation between the two lots. Member Vergun confirmed that the email had been received and was in the file.
 - The pool house accessory structure will be 41'-1/2"x21', or approximately 875 sf. The 3-car garage is approximately 872 sf.

It came out in discussion that whether attached or detached, the pool house was an accessory use, and combined with the 3-car garage shown on the plans, the total accessory use might exceed the maximum allowed 1250 sf or 50% of the floor area of the main house, requiring a separate variance.

After a discussion of process, Member Lindquist summarized that the Board's options were to table the request to a date certain to give the applicant time to discover whether a second variance request for accessory use area was needed, or to move on the request before the Board for a setback variance only. In any event, a new request relative to accessory use area – if needed – would have a separate case number.

Member Rich said that when he visited the site, the requested boundaries were not staked, as to where the setback would be and where the edge of the pool house would be. This was an issue because it was necessary to visualize the sight lines down the back end of the neighboring houses, in order to determine if it would be in character with the neighborhood to have a single story structure extend as far into the backyard as this request asked for.

Zoning Supervisor Randt pointed out that the variance application specifically states that the variance request must be staked. City Attorney Morita said that as the property was not staked, at this point the Board did not have enough information to make a decision, and should ask the applicant if they would like to adjourn the request so that they can stake the site.

Member Lindquist asked the applicant if their preference was for the Board to address the setback request this evening, which if granted had the potential of having the applicant come back for an additional variance in terms of square footage for accessory use, and with the acknowledgement that the Board does not have the level of information it usually has in such cases, in that the property was not staked, or would the applicant prefer to adjourn the meeting to a date certain, which would be the September meeting.

Member Lindquist explained that adjourning tonight's hearing would not cause the applicant any more fees or charges. However, if a second variance request is needed, that would incur all the charges of a separate request.

Mr. Naser said that he preferred to move forward with tonight's request. He and his family needed some direction in order to know whether they will continue to try to build on this lot or sell it.

Member Vergun thought city staff would have measured the square footage of the accessory uses, and he felt that the existence of only one variance request meant that the applicants likely do not need an accessory use variance. A postponement would also likely not change his mind whether to grant approval or denial.

Chair O'Connell noted that there was no public present to comment on this agenda item.

Member Vergun reported that there was an affidavit of mailing, with no returns. As already mentioned, one letter had been received in support of this request.

MOTION by Khan, support by Banks, in the matter of ZBA Case 7-24-5741, 37050 White Tail Ct., Parcel I.D. 23-32-302-016, that the petitioner's request for a 16.42-foot variance to the required 35-foot rear yard setback to allow a resident to have a 17.58 rear yard setback be granted, because the petitioner did demonstrate practical difficulties exist in this case, in that he has set forth facts and has shown that:

- 1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using a property, and that granting the variance request would be substantial justice to the petitioner.**
- 2. The petitioner's plight is due to the unique circumstances of the property.**
- 3. The problem is not self-created.**

And that the variance is granted based on the plans submitted and everything that is in the packet, and further is based on compliance with all other ordinances affecting the property, and that the plan is adhered to as it's been proposed without exception or change, so that

The variance is conditioned on the construction being in accordance with the plans as provided.

Member Vergun said he would be voting against the motion. While he understood the applicant's family's plight, he believed there were ways to place the pool either attached or detached that would not require a variance at all, or would require a much smaller variance. He did not think the options were given due thought. The request does not meet the 4 criteria for granting a variance, in that the problem is self-created, and there are ways to build the pool with little or no need for a variance.

Member Rich empathized with the applicant's situation. However, he was having the same issues as outlined by Member Vergun. Without the information as to the exact placement of the

structure relative to the neighboring properties, and with the fact that the lot immediately to the west is still unbuilt, he was concerned about granting the variance, especially because this property is not unique, being the same size property as the neighboring properties. The issue is what the applicants want to build on the site. While Member Rich understood the reasons for asking for the variance, those reasons do not fall under the 4 criteria. There is also the question of whether a lesser relaxation of the standard might still allow for the applicant to build what he wants to build.

Member Lindquist said his main issue with the variance request is that this is still a hypothetical house that can be designed around the stated needs. Member Lindquist had confidence the architect could build a house that will be appropriate and adequate for Mr. Naser's son that will include the pool and include perhaps a smaller garage, and could meet zoning standards. Member Lindquist therefore intended to vote against the motion. Also there is the issue of the potential additional variance being needed, so that the applicant might have to go through this entire process again. It was not appropriate for the Zoning Board to grant a variance for a brand new structure that is potentially going to need two variances. The property was not staked out and the garage was labeled a two-car garage on the diagram, but it will be a 3-car garage, causing the accessory use area to be well in excess of 1,250 sf. Without the calculation of the size of the house, Member Lindquist was not prepared to gamble on granting the variance and leading the applicant into a wall that will cause other problems in the future. It would behoove the applicant to try to redesign the house to fit the envelope and space.

In response to comments, City Attorney Morita said that if this request is denied, the applicant could return with a different request, along with a second request for accessory use area if needed.

Member Lindquist reiterated that he believed the applicant could design a similarly sized house with adequate garage space and pool space and not need a variance at all.

Mr. Naser explained they had downsized the house as much as possible to accommodate 3 generations living in the home, including his father and his son, and also including room for an overnight caregiver. The garage was a 3-car garage.

Chair O'Connell said the issue was not whether there was a 3-car garage, but that the garage was labeled 2-car on the drawing. It came out in discussion that this was a typo, and the garage was shown as 3-car on the on the building plans.

Member Lindquist said the mislabeling combined with the fact the property wasn't staked made it difficult to understand the placement of the accessory pool use on the lot and how that placement impacted neighboring lots. That information is an important part of the Board's determination as to whether or not to grant the variance.

After a discussion of process, Chair O'Connell asked for a roll call vote on the motion on the floor.

Roll call vote:

Banks	yes
Jamil	yes
Khan	yes
Lindquist	no
O'Connell	yes
Rich	no
Vergun	no

Motion carried 4-3.

5. PUBLIC QUESTIONS AND COMMENTS:

None.

6. APPROVAL OF MINUTES May 14, 2024

MOTION by Rich, support by Vergun, to correct and approve the June 11, 2024 meeting minutes as follows:

- **Correct the spelling of Member Irvin's name where the misspelling occurs.**

Motion passed unanimously by voice vote 7-0 .

8. ADJOURNMENT

MOTION by Rich, support by Jamil, to adjourn the meeting.

Motion approved unanimously.

The meeting adjourned at 9:00pm.

Respectfully submitted,
Daniel Vergun, Secretary

/cem