

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS - COUNCIL CHAMBER
31555 W. ELEVEN MILE ROAD
FARMINGTON HILLS, MI
May 10, 2022 – 7:30 PM**

CALL MEETING TO ORDER

Chair Lindquist called the meeting to order at 7:36 P.M. and made standard introductory remarks explaining the formal procedure, courtesies and right of appeal.

Members Present: Khan (alternate), King, Lindquist, O’Connell, Rich, Vergun

Members Absent: Irvin, Masood

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

Board Members visited the sites independently.

APPROVAL OF AGENDA

MOTION by Rich, support by O’Connell, to approve the agenda as published.

Motion approved unanimously.

NEW BUSINESS

- A. ZBA CASE: 5-22-5698
LOCATION: 32204 Craftsbury
PARCEL I.D: 23-10-403-021
REQUEST: In an RA-2 Zoning District, in order to store a trailer that is eight (8) feet tall in the exterior side yard of a residence, the following variance is requested: 1) A variance from the restriction that the parking or storage of any recreational equipment or trailers exceeding six (6) feet in height may only occur in the rear yard.
CODE SECTION: 34-5.7.
APPLICANT/OWNER: Mark Shewbridge

Secretary O’Connell called the case.

Utilizing a PowerPoint presentation, Zoning Supervisor Randt showed overhead views and photographs of the property and reviewed the facts of the case. The property was located on 32204 Craftsbury, north of 12 Mile west of Orchard Lake Road.

Mark Shewbridge, 32204 Craftsbury, said he was requesting the variance for the following reasons:

- This was a continuation of a previous variance, granted about 12 years ago for the black trailer as shown in the submitted photographs. Tonight’s variance request was for a slightly larger red trailer, which was also parked at the property.
- There was a 10-foot easement between his property and property adjacent to him; he had virtually no rear yard.
- After the black trailer is moved to a different property, the red trailer will be placed in the exact same spot the black trailer is located.

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

- The new trailer was acquired in November 2021, and is essentially the same width as the old trailer from wheel to wheel, but the wheel wells are inside, which gives the new trailer more interior space. The new trailer is taller because it has a ramp door, vs. a barn door.
- Nothing is stored in the new trailer; it is used to transport vehicles.
- The old trailer was used to transport jewelry cases to shows, but Mr. Shewbridge no longer has that business, and is currently using that trailer to store yard implements.
- He would like to add access at the base of the apron for a third lane in his driveway to make backing in and out easier.
- The old trailer is a little over 6' tall. The new trailer is closer to 8'.
- The new trailer is 22' long with 20' of cargo space; this is 10' longer than the old trailer.
- The original variance was granted because there was no room to park the trailer in the back yard.
- He used the new trailer once or twice a month. He could store the trailer somewhere else, but this would be expensive - \$300/month, and it was more practical to store the trailer at his house.
- Mr. Shewbridge used the new trailer for a small part-time internet business that he operates, to transport classic cars from the point of purchase to a restoration company for his clients. No repair or restoration work was done at the house.
- He did not ask his neighbors what they thought about his trailers, but he has never received any complaints.

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

Secretary O'Connell noted there was an affidavit of mailing, with one return.

MOTION by Rich, support by O'Connell, in the matter of ZBA Case 5-22-5698, 32204 Craftsbury, that the petitioner's request for a variance from the restriction in Section 34-5.7 that the parking or storage of any recreational equipment or trailers exceeding six (6) feet in height may only occur in the rear yard, in order to store a trailer that is eight (8) feet tall in the exterior side yard of a residence, **be denied**, because the petitioner **did not** demonstrate practical difficulties exist in this case in that he **did not** 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 or would render conformity with the ordinance unnecessarily burdensome. The permitted purpose of the property is for a residence, and not a storage facility for operation of a business.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district. Even though there have been no complaints, this does not necessarily mean that others in the district specifically approve or would approve this use in the future.
3. That the petitioner's plight is due to the unique circumstances of the property. As identified by the petitioner, the circumstances of the property are, in fact, identical to the properties in the vicinity that have a limited rear yard area. The circumstance is not unique to this property.
4. The problem is not self-created. Instead, the problem is self-created, because the petitioner wants to have a trailer that can be used for a business and doesn't want to pay the cost for storing the trailer.

Member Rich also noted that this was an extremely large trailer that would be sitting in the exterior side yard every day except for approximately 4-8 days or less a month, without being accessory to the residential use of the property.

Motion discussion:

Member King said the new trailer had a larger height and length than the previous trailer, and for both physical and ordinance reasons, he would support the motion to deny.

Chair Lindquist said that he also would support the motion. He calculated the size difference between the new trailer and the original trailer to be the difference between 1760 cu.ft. vs. 672 cu.ft., or 2.5 X the size of the original trailer. Occasional business use was not a reasonable justification to store this trailer in a residential exterior side yard on a corner lot. Also, while the rear yard was small, there was space for storage behind the house.

Motion to deny approved unanimously 6-0.

B. ZBA CASE: 5-22-5701
LOCATION: 37801 Twelve Mile
PARCEL I.D.: 23-18-200-072
REQUEST: In an OS-1 Zoning District, in order to install lighting improvements the following variances are requested: 1. A variance of 2.7 footcandles to permit 3.0 footcandles of maximum illumination at the property line where 0.3 footcandles is the maximum illumination permitted. 2. A variance to permit a canopy-mounted fixture that is not recessed or flush and has a cut-off angle of 45 degrees where 85 degrees is required.
CODE SECTION: 34-5.16.3.C.; 34-5.16.B.ii.
APPLICANT: Kelvin Squires, CEO, Center Line Electric, Inc.
OWNER: Laura Fabrizio, Sr. Project Manager, Bank of America

Secretary O'Connell called the case.

Utilizing a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. The property was located on 37801 Twelve Mile, between Halstead and Haggerty. The applicant was asking for a variance to the lighting requirement.

Brian Lukasik, Centerline Electric, was present on behalf of the applicant. David Bruce, GMR Protection Resources, was also present, as was a representative who specialized in permitting process.

The applicants gave the following information:

- LED safety retrofits are being installed at all Bank of Americas in the US. Centerline Electric is completing the retrofits in Southeast Michigan.
- The lighting is designed to Bank of America's standard designs and specifications for lighting safety at night around ATMs.
- They have found the lighting typically exceeds standard specifications in most counties and jurisdictions. However, the lighting is designed for the safety of people going up to ATMs at night.

Mr. Lukasik noted that they have been in the permitting process since October 2021. They have applied for a building permit, provided engineer-stamped drawings, and applied for variances.

Chair Lindquist asked the applicants to address the criteria that needed to be met for a variance to be granted.

Mr. Lukasik said they were requesting the following two variances:

- 3.0 footcandles of maximum illumination at the property line where 0.3 footcandles of maximum illumination is permitted.
- The canopy fixtures have diffusers on them with a 45 degree cutoff angle where 85 degrees is required.

In response to questions from Member Rich, Mr. Bruce gave the following information:

- The 45 degree cutoff angle is designed to disburse and push light down.
- They use multiple canopy fixtures to get the needed coverage.
- The lights from the canopy mounted fixtures do not affect the property line; most of the light at the property line is coming from the pole fixtures.

Discussion focused on the cutoff angle measurement requirement under Section 34-5.16.3.B.ii and how that should be interpreted. In any event, the 2nd variance request relating to canopy fixtures had two parts: for canopy mounted fixtures that did not meet the 85 degree requirement, and that were not recessed or flush.

In response to Board questions, the applicants further described the canopy light fixtures they would be using at the ATMS, with the goal being to provide a brightly lit, narrow cone of light directly in front of the ATM that would not affect light at the property line.

The Applicants made the following additional points:

- The security updates would meet Bank of America standards for ATMs and after hours deposits, would provide uniformity across the brand, and upgrade all lights to LEDs.
- Bank of America created a compliance area of 50' around ATMs and night deposit boxes in states with no state statutes like Michigan.
- Their goal was one footcandle within 50' of all exposures.
- The applicants had not submitted their full plans to the ZBA. The full plans would show:
 - The Bank of America compliance area on this property abuts the property line.
 - Some of the pole lights on the property line had been upgraded within the last 5 years, were shown as "out of scope" on the plans, and were not as part of this project. Existing lights were already exceeding the .3 footcandles at the property line.
- The applicants didn't know what Bank of America might do if the variance wasn't granted. Putting pole lights at the property line created light trespass, but the number one goal was to improve customer safety.
- The cutoff angle issue is related to the current upgrade and the footcandle issue is included to bring the existing site into compliance via a variance.

City Attorney Morita advised that footcandle calculations along the property line were not included in the information received by the Board. The Board therefore did not know if footcandles exceed the maximum along the entire length of the property or just in spots, and could not make a decision on the 2nd variance request without this information.

Chair Lindquist suggested the applicants might benefit from adjourning the case until the Board could get more complete information, including a photometric plan with measurements at the property line, and showing fixtures that had been installed and that were not part of the plan. The Board would also benefit

from receiving a more complete explanation of ordinance intent and the ordinance requirement for the 85 degree cutoff.

City Attorney Morita said any plan presented to the Board should show the property as it will be after the lighting improvements are made.

Member Vergun agreed that the Board did not have enough information to support a variance tonight.

In the course of discussion, Member O'Connell noted that he owned the business next to the bank, and that he did not object to higher light levels on the property line. However, and in response to a question from City Attorney Morita, Member O'Connell said that he was able to make a decision in the best interest of the City, and he did not have a self-interest that would preclude him from consideration of the case.

In response to a question from Member Rich, Mr. Bruce stated that the lens of the canopy mounted fixture would be flush with the casing. Member Rich said that based on his reading of Section 34-5.16.3.B.ii, those fixtures might not need a variance, and suggested that the applicants review the fixture design with the Building Department.

The Applicants indicated that they were amenable to an adjournment.

MOTION by Rich, support by Vergun, that in the matter of ZBA Case 5-22-5701, 37801 Twelve Mile, that the request for variances as advertised be adjourned to a date certain, specifically June 14, 2022.

Motion discussion:

Chair Lindquist said that without sufficient information the Board is not able to grant a variance. He would benefit from more expansive, explanatory information from the proponent, including a photometric plan, so that the Board could have a better understanding of this request. The proponent should also examine the ordinance and the 4 criteria that must be met in order for the Board to grant a variance.

Chair Lindquist also noted that the Board would benefit from an understanding of the ordinance terminology and requirement regarding angle of cut-off.

City Attorney Morita advised that the proponents should work with Zoning Supervisor Randt.

Motion carried unanimously 6-0.

- C. ZBA CASE: 5-22-5702
LOCATION: 35410 Grand River Avenue
PARCEL I.D.: 23-20-476-005
REQUEST: In a B-2 Zoning District, in order to install lighting improvements, the following variances are requested: 1. A variance of 10.8 footcandles to permit 11.1 footcandles of maximum illumination at the property line where 0.3 footcandles is the maximum illumination permitted. 2. A variance to permit a canopy-mounted fixture that is not recessed or flush and has a cut-off angle of 45 degrees where 85 degrees is required.
CODE SECTION: 34-5.16.3.C.; 34-5.16.B.ii.
APPLICANT: Kelvin Squires, CEO, Center Line Electric, Inc.
OWNER: Laura Fabrizio, Sr. Project Manager, Bank of America

Secretary O'Connell called the case.

As this case was similar to the Case B, the Applicants indicated that they were amenable to an adjournment to date certain.

MOTION by Rich, support by O'Connell, that in the matter of ZBA Case 5-22-5702, 35410 Grand River Avenue, that the request for variances as advertised be adjourned to a date certain, specifically June 14, 2022.

Motion discussion:

Chair Lindquist said the Board would benefit from additional information in this case as well, with the information based on a lay person's understanding, and including photometric maps.

City Attorney Morita gave information regarding process. If the applicants were unable to attend the June 14 meeting, at that meeting another date could be set. The applicants should notify the City as soon as possible if the June 14 date needed to be rescheduled.

Motion carried unanimously 6-0.

D. ZBA CASE: 5-22-5703
LOCATION: 32200 W. Twelve Mile
PARCEL I.D.: 23-10-454-003
REQUEST: In an RA-2 Zoning District, the following variance is requested to construct a parking lot expansion. 1. A 5.25 foot variance to provide a 29.75 foot front yard setback where a 35-foot front-yard setback is required.
CODE SECTION: 34-3.1.5.E. and 34-5.2.1.
APPLICANT: Michael J. Hall, RCI Contracting Services/Monsignor Timothy Hogan, St. Fabian Catholic Church
OWNER: St. Fabian Catholic Church/Mooney Real Estate Holdings

Chair Lindquist had provided prior notice that he had a conflict of interest in this case, and therefore he recused himself, and left the dais.

MOTION by Rich, support by King, to appoint Secretary O'Connell as Acting Chair for case 5-22-5703.

Motion carried 5-0.

Acting Chair O'Connell called the case.

Utilizing a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. The property was located on 32200 Twelve Mile, between Orchard Lake and Farmington Roads. The applicant was requesting a variance for a parking lot expansion at St. Fabian Church.

Michael Hall, RCI Contracting Services, 4999 McCarthy Drive, Milford MI, gave the following reasons for this variance request:

- St. Fabian wants to expand close proximity parking for the church and social hall.
- The parking lot would encroach approximately 5' into the setback.
- Per Planning Commission approval, additional landscaping would be provided to soften the parking.

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

- The parking lot would encroach into the front yard setback from the Twelve Mile right-of-way.
- Additional parking is needed for proximity for handicapped parking and accessibility. The congregation is getting older.
- The expansion would add 14 parking spaces.
- The sidewalk would not be disrupted.
- Referring to a photograph of the front of the church, Mr. Hall indicated that parishioners using the proposed parking lot would use existing doors on the front of the building as an entrance point. The doors will lead to a hallway providing access to the chapel, kitchen, and social hall.
- All entrances at St. Fabian are handicap accessible and have a buzzer system.

City Attorney Morita advised that the variance request is from the 35' requirement from the existing road right-of-way and not the proposed road right-of-way. She also advised that actions of the Planning Commission should not affect the decision of the Zoning Board.

Member King said accessibility requirements require handicapped entrances be at the normal entrances to buildings; a secondary entrance is not acceptable for renovations or new construction.

Member Vergun pointed out that the closest point to the right-of-way, and the 29.75' front setback that was being requested, was not to the parking area, but appeared to be to the beginning of the driveway on the east side of the property.

Mr. Hall noted that the Planning Commission didn't have an issue with the parking lot in part because there are businesses on Twelve Mile with parking lots that extend to the Twelve Mile sidewalk, because the businesses were zoned differently.

The Board commented about the possibility of reorganizing the location of the handicapped parking spaces (eliminate southern spaces, losing 1 handicapped space), in order to eliminate the need for a variance.

Mr. Hall stated that the parking area was designed for closer access, and not just for handicapped parking.

In response to questions from the Board, City Attorney Morita said that while generally a sidewalk was placed in the right-of-way, this did not offer a precise measurement, and the right-of-way was not shown on the plan.

It came out in discussion that there were at least two unknowns: 1) the exact location of the right-of-way, and 2) whether it was only the driveway that was in the right-of-way, and not the proposed parking lot. A driveway could be located in a right-of-way without a variance.

City Attorney Morita advised the Board that they could make a decision on the case if they felt like they had enough information, or they could adjourn the case.

Member King said that while he was generally supportive of the request, he did not think the Board had adequate information to make a decision this evening. The drawings did not show a right-of-way or the dimension from the right-of-way.

Member Rich asked what analysis had been done to determine the specific number (8 spaces) of new handicapped spaces to be provided by proposed parking lot. Mr. Hall said that the decision of which parking spaces would be handicapped was made based on what the church felt it needed.

Member Rich noted the benefit of closer proximity would be limited to a few parishioners, and raised the issue of whether the limited benefit justified granting a variance, especially when the majority of people using handicapped spaces would be using the existing spaces in the east parking lot, and when ordinance requirements may already be met by the existing parking lot.

Member King said that an explanation of the handicapped parking spaces as part of a big picture analysis of all of the handicapped parking at the church would be helpful in making a determination.

Member O'Connell stated if there was a need for more handicapped spaces it would weigh in their decision, but the Board needed to see a more specific drawing showing the right-of-way. Member Vergun agreed.

City Attorney Morita summarized that the Board needed additional analysis of: 1) Whether a variance is required for the driveway as opposed to the parking area, and whether the amount of variance is calculated from the driveway or the parking area. 2) A drawing that shows the distance between the proposed parking lot and the right-of-way should be provided.

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

Mr. Hall said they were amenable to having this case adjourned to a date certain.

MOTION by Rich, support by Khan, in the matter of ZBA Case 5-22-5703, 32200 W. Twelve Mile, that the request for a variance as advertised be adjourned to a date certain, specifically June 14, 2022.

Motion carried unanimously 5-0 (Lindquist recused).

Chair Lindquist re-joined the Board.

E. ZBA CASE: 5-22-5704
LOCATION: 21811 Rockwell
PARCEL I.D.: 23-36-176-011
REQUEST: In an RA-4 Zoning District, the following variance is requested in order for a 384 square foot detached accessory building to remain in its current location: 1. A 1 foot, nine-inch (1'9") variance to the required 6-foot rear yard setback requirement.
CODE SECTION: 34-5.1.2.B.
APPLICANT/OWNER: Bruce Anderson

Chair Lindquist called the case.

Utilizing a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. The property was located on 21811 Rockwell, south of Eight Mile between Inkster and Middlebelt.

Bruce Anderson, 21811 Rockwell, said he was requesting the variance to allow a detached garage to remain for the following reasons:

- He had built a garage that matched his neighbor's garages. There were five other garages in the neighborhood that were the same size, including his neighbors.
- The lot was very wooded; many trees would have to be removed if the required setback was met.
- He had not been aware of the 6' setback.
- He measured his neighbors' garages, and his setbacks were better than some of the other garages near his house.
- The side setback is 5'5"; 5' was required.
- The neighbor's garage is 3'11" from the rear setback and 3'8" from Mr. Anderson's yard.
- If he complied with the 6' setback requirement, his garage would look out of place and he would have to remove a tree.

In response to questions from Member King, Mr. Anderson made the following statements:

- He had calculated the measurements on the provided drawing, and he was not certain they were completely accurate. For instance, he did not know for certain that the fence lines were actually located on the property lines.
- He did not want to construct the garage in the open area on his lot because there was a large canopy tree there, he liked the openness of the lot, and because he thought the garage would look out of place, especially because his house was so small.

Chair Lindquist said that even if the Board granted a variance, there was potential for error because a professional survey had not been provided.

City Attorney Morita advised that the Board could condition a variance on getting a survey; this had been done in the past. In this case, because the building was already built, the Board could condition granting a variance on the building remaining exactly where it is.

In response to further questions from the Board, Mr. Anderson provided the following information:

- He started building the garage in November 2021; he built it himself.
- He applied for a permit after the fact. At that time the garage was half done, with materials sitting in the snow. He was trying to rectify not pulling a permit first.
- He talked to his immediate neighbors and they like the garage.
- He has owned the home for over 20 years. The garage is part of a bigger plan to make improvements.
- The garage would be used to store his seven bicycles and would have an attic.
- The house was only 720 square feet.
- He kept working after receiving a StopWork order in November, because of the debris and building materials that were in his yard, and his concern that rats would use that debris for nesting.
- He could not get a building permit because his rear yard setback was not in compliance; if the variance was granted this evening he could obtain a building permit.

Supervisor Randt explained that Mr. Anderson was entitled to 750 square feet of accessory building regardless of the size of the house.

In response to comments regarding an electrical cord that was running along the ground to this structure, City Attorney Morita advised that the applicant would have to go through the permitting and inspection process if he received a variance, including a separate permit for electrical work.

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

Secretary O'Connell noted there was an affidavit of mailing, with two returns.

MOTION by Vergun, support by O'Connell, in the matter of ZBA Case 5-22-5704, 21811 Rockwell, that the request for a 1 foot, nine-inch (1'9") variance to the required 6-foot rear yard setback requirement in Section 34-5.1.2.B., in order for a 384 square foot detached accessory building to remain in its current location, 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 or would render conformity with the ordinance unnecessarily burdensome. The permitted purpose is to have an accessory structure, and the request for a 1'9" variance is a small request in one direction.
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 regarding the mature trees that would be difficult to remove if the garage were to be constructed in a different location.
4. The problem is not self-created.

And with the following conditions:

1. The mostly complete garage be fully reviewed and permitted through the usual process by the Building Department.
2. As part of the Building Department review, a certified survey be obtained to determine the exact location of the setback. If the difference between the requirement of 6' and what is found does not match the 1'9" variance that is being granted by this motion, a further appeal may be required to be made to the ZBA.
3. The building remain in the exact location as determined on the certified survey.
4. The structure, including any completion work, be compliant with the plans submitted to the ZBA as part of this application, consistent with the dimensions as shown, including same height and size, as well as design and materials, subject to any changes required by the Building Department.

Motion carried 5-1 (Rich opposed).

PUBLIC QUESTIONS AND COMMENTS:

None

APPROVAL OF MINUTES: April 12, 2022

MOTION by Rich, support by King, to approve the April 12, 2022 Zoning Board of Appeals meeting minutes as presented.

Motion carried unanimously.

ADJOURNMENT

MOTION by Vergun, support by Khan, to adjourn the meeting at 10:07 p.m.

Motion approved unanimously.

Respectfully submitted,
Michael O'Connell, Secretary

/cem