

BOARD OF ZONING APPEALS MINUTES

A regular meeting of the Farmington Board of Zoning Appeals was held on Wednesday, June 1, 2016 in Council Chambers, 23600 Liberty Farmington, Michigan. Notice of the meeting was posted in compliance with Public Act 1976.

Chairperson Bertin called the meeting to order at 7:02 p.m.

ROLL CALL

PRESENT: Aren, Bertin, Crutcher, Gallagher

ABSENT: Craft

A quorum of Commissioners were present.

CITY OFFICIALS PRESENT: Director Christiansen

APPROVAL OF AGENDA

MOTION by Crutcher, supported by Gallagher, to approve the agenda as presented Motion carried, all ayes.

MINUTES OF PREVIOUS MEETING OF MAY 4, 2016

MOTION by Crutcher, supported by Gallagher, to approve the minutes of May 4, 2016.
Motion carried, all ayes.

MINUTES OF PREVIOUS PLANNING COMMISSION MEETINGS

The minutes of the May 9, 2016 Planning Commission Meeting were received and filed.

APPEAL OF: **Anthony and Ann Echols**
23828 Wilmarth
Farmington, MI 48335

1. Request for variance to Sec. 35-73(b), Front Yard Setback Averaging, to convert an existing attached garage into living space and construct a new 41'4" long by 27' wide three (3) car attached garage in the front toward Wilmarth, which would reduce the front yard setback to 19'6". An 11.07' variance is requested (30.57 – 19.5' = 11.07').

Petitioner Ann Echols, 23828 Wilmarth, came to the podium.

Chairperson Bertin asked the Petitioner to tell the Board about the request she is making for a variance.

Echols stated the goal of the project is to expand the size of the home, which is currently approximately 1,500 square feet, two bedrooms on a slab. She stated she has two boys, ages 4 and 6, and that they are rapidly outgrowing their home but

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they love the city, they love the location, and that she has lived in Farmington for 33 of her 35 years. She indicated her parents live on the next block over so she actually grew up in the neighborhood and wants to stay in it but her family is needing more living space. She stated they explored a number of possibilities to expand, going up was one of them but expense of it was too high as there were no load bearing walls so the second floor would require a specially engineered second floor as well as possible support columns, testing of the foundation, and a much greater project than they wished to take on.

Another option was extending out to the back, but they would like to remain unaltered in the back for drainage purposes and also because the Warner Mansion does back up to their property and they do not want to alter that look.

Bertin inquired if she knew how much the property dropped off at the back and she stated she knows it slopes significantly because of the variation in her fence sections and they currently have some drainage and flooding problems which they don't want to make worse.

She also indicated they were informed the normal front yard setback is 25 feet and because there are only two houses on their side of the street and the corner houses that face are part of the average, they are asking for the 11-foot variance instead of the six because they are actually further back 5 feet than the rest of the neighborhood.

Christiansen stated that is a great point and that he would like to shed some light on what that ordinance requirement is. He indicated this is an R-1 Zoning District, where the typical front yard setback is 25 feet and when you have that consistently on a block then that is the standard that is used. However, when there is differentiation where the construction in place is different than that 25 feet, there's a footnote, Sub b, in that section of the Zoning Ordinance, that requires it to look at lot averaging so adjacent properties in proximity on the block are looked at. He went over a schematic for the Commissioners showing which three properties were utilized in the averaging of the existing setback which made it 33.97, and 90 percent of that by ordinance making the required front yard setback 30.57 feet, therefore the Petitioner is requesting a variance of 11.07 feet from that provision. He stated the Board should be aware that the Petitioner is requesting to convert the existing garage to living space and constructing a new garage so that it can provide that element to the property. He indicated the alternatives are very, very limited due to the existing home and where it's at in footprint and there's really no way to go back into the backyard for the garage.

Also, the load bearing issue of existing construction, to add an additional area up above, was discussed and they don't have that opportunity either so the alternative is to go to the front yard area. He stated they wanted to make sure there was something that met their needs but also was in character with the existing neighborhood.

The Petitioner indicated they had talked to nine of their neighbors who were shown the plans and they are thrilled that they are going to stay in the neighborhood and build and improve the home values there. She stated there is a parking lot to the

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north for the church which will provide a little more blocking. She then stated the house on the corner of Grand River and Wilmarth does have a garage which is an out building and it sits approximately 6-feet from the road, and the one that they're proposing does not come out as close to the street as that one does.

Bertin indicated he had studied the Petitioner's plans and looked at their lot situation which is unique and Christiansen expounded on the history of the area.

Bertin then stated that is one of the things that he looks at in terms of how would this impact the appearance of the neighborhood in terms of its encroachment versus what's on the other side of the street and he did not think it would impact in a negative fashion.

Aren stated that she noticed it will back up to evergreens and bushes that are already established and won't be an intrusion in the neighborhood.

Bertin stated they had received one letter of approval from a neighbor. He then asked if there was discussion within the Board.

Gallagher stated he felt the plans seemed very well thought out.

Crutcher asked if they had considered a courtyard type entrance with the garage on the side and the Petitioner stated they had considered it but wished to have a three-car garage for storage purposes and multiple vehicles and that the garage has to house a race truck that has to be parked inside but mainly they need it for storage.

Crutcher then stated if they did a two-car garage and not a three-car garage it would not need a variance and the Petitioner responded that is correct and further discussion was held.

Bertin stated that the petition said that you own three vehicles and one of them is a drag racing car and because it does not have a license plate it must be stored in the garage and the Petitioner responded that is correct.

MOTION by Crutcher, supported by Aren, to approve the request for variance for Anthony and Ann Echols, 23823 Wilmarth, to allow for a front yard setback of 11.07' for the following reasons and findings of fact:

1. That granting of the variance won't have an adverse effect on the neighborhood as the existing house on the west side of Wilmarth has a shallower setback than the Petitioner has requested; and that it will not interfere with the public safety and welfare of the neighborhood;
2. That the Petitioner has demonstrated a practical difficulty in that their home is one of very few in the city that is on a slab and expansion of the home was not feasible any other way.
3. That the Petitioner has the full support of neighboring properties.

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AYES: Aren, Bertin, Crutcher, Gallagher

NAYS: None

Motion carried, all ayes.

Christiansen described paperwork that was included in the Board packets that would help serve as a guideline in motion making and further discussion was held.

APPEAL OF: **Jamie Owens**
21054 Laurelwood
Farmington, MI 48336

- 1. Request for Use Variance to Sec. 35-36 (A)(3)(4)(7), Commercial Vehicle Parking and Storage, to allow parking of a commercial work “box type” truck (currently with A.J. Danboise lettering) in a residential driveway located at the above address..**

Chairperson Bertin introduced the appeal and called the Petitioner to the podium.

Jamie Owens, 21054 Laurelwood, came to the podium.

Bertin asked him to provide details on his petition.

The Petitioner stated he had recently acquired a new truck from his employer, indicating that A.J. Danboise are currently updating their whole fleet.

Gallagher asked if it was smaller and the Petitioner responded yes. Gallagher asked if it was below 7-feet and the Petitioner responded no. Inquiry was made if there was a ladder on the new truck and the Petitioner responded no, and handed the Board a picture of the new truck and indicated that it does have advertising on it.

Bertin asked if the Petitioner owned a vehicle and he indicated yes. Bertin then asked how far Danboise is from his house and the Petitioner responded three or four miles. Bertin inquired if there was a reason he couldn't drive to Danboise and pick up the truck there and the Petitioner stated he couldn't guarantee he would be staying at this company for the rest of his career and does not want to hinder future chances of employment by not being able to take a truck home to be on call.

Bertin explained to the Petitioner that if the Board were to grant his request for the variance that they would be providing him with a privilege no one else has, and a lot of residents in the City would want that privilege also. He told the Petitioner he should seek an alternative to the problem.

The Petitioner stated he has seen other commercial vehicles parked in driveways and neighborhoods in other parts of Farmington. Bertin requested the addresses of those locations so they can be looked at.

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The Petitioner indicated he had that same vehicle parked in the driveway for three years and it's tough to see other people get away with it and him singled out.

Bertin stated it's their responsibility to make sure the uniform beauty of the City is maintained and they can't set a precedent and create visual problems and hardships for people living close by it.

Crutcher asked for clarification of the request for variance from the Petitioner and he responded he would like to park the vehicle in the driveway, the A.J. Danboise vehicle.

Crutcher then asked Christiansen to indicate which criteria apply to this request and Christiansen detailed them indicating the main component was Number 7, where it states the vehicle shall not display markings or advertising, identify a company or corporation or other kind of business.

Discussion was held about covering the vehicle at night which Christiansen indicated was not allowable except for in the rear yard.

Crutcher asked to be in compliance would something have to be put on the vehicle such as magnets to cover the verbiage and Christiansen responded he would have to see what it is.

Christiansen also indicated that commercial vehicles change the character of the neighborhoods and the ordinance is pretty specific that it wants to maintain its residential character in its neighborhoods and in no way is trying to look negatively at residents in doing their work.

MOTION by Aren, supported by Crutcher, to deny the variance as requested by Jamie Owens, to allow parking of a commercial truck in the residential driveway located at 21054 Laurelwood for the following reasons and findings of fact:

1. That the Petitioner has not established a unique circumstance to allow for the granting of the variance and that the denying of the variance would create a practical difficulty.
2. That the vehicle being taller than 7-feet with advertising on it is not in accordance with the ordinance.

AYES: Aren, Bertin, Crutcher

NAYS: Gallagher

Motion carried, three to one.

APPEAL OF: Michele Hoffner
23057 Mayfield
Farmington, MI 48336

1. Request for variance to Sec. 35-49(B)(4), Fences, to allow more than one (1) fence along property line on a seasonal basis – May 1st to September 30th.

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Bertin asked the Petitioner to come to the podium.

Michele Hoffner, 23057 Mayfield, came to the podium.

Bertin asked her to describe her request for variance.

The Petitioner stated that she had rescued a dog and a week after she got him he jumped over a 3-foot fence. She stated she puts him on a short leash in the winter but in the summertime she is outside all of the time and wants to be able to work with the dog to train him unleashed. She indicated a 6-foot privacy fence is out of her budget and went on the City's website to see if she could apply for a variance to somehow help keep him in her yard. She stated Mr. Koncsol explained to her that when there are two fences on the same lot, the area between the two fences cannot be maintained. She indicated she would like to put up bamboo screening which is put up by zip ties and rerolled and stored for the winter time.

Bertin asked if the acquiring of the dog has been the impetus for her request and the Petitioner responded in the affirmative.

Bertin informed the Petitioner that setting a precedence for double fences is not something the Board wants to do and that her difficulty is self-imposed.

He then indicated there were two letters of objection and one letter of approval from neighboring properties.

The Petitioner stated dog barking has decreased since putting up her bamboo screen and wild animals have been kept out of her yard. She stated her variance would just be for summer.

Gallagher asked if she had inquired of neighbors about splitting cost of fence and the Petitioner indicated no, that would require four neighbors to go in on it.

Crutcher asked if she had thought about putting an extension on her chain link fence at the top and the Petitioner stated that is a possibility but doesn't believe it would be any more attractive to her neighbors than the bamboo one she has up.

Bertin stated that would be a single fence if she did that and falls within the height of the ordinance.

The Petitioner stated she didn't think the bamboo screen would be categorized as a fence because it wasn't a permanent structure.

Christiansen indicated the ordinance is pretty specific but there are interpretations as to what a fence is and he stated included in the Board's packets was some information regarding fences and the responsibilities of the Zoning Board of Appeals. It included the definition of fence in the Zoning Ordinance and the standards for fences, Sec. 35-49, and how fences are located and what is required. He stated in this case there is an existing chain link fence that is 4-feet high and that fence consists of support posts that are anchored into the ground, so those are permanent and it is a chain link matting that is then allowing those posts to run the perimeter of the property

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and that is an accepted type of fencing, it is one that is weatherable, tested, that meets construction code requirements and is an acceptable type of fence. He stated the Petitioner wants to try to provide a screening for her dog and the adjacent dogs. He stated what has been placed as part of this fence or adhered to it is this bamboo screening which isn't an accepted construction material and really creates a double fence situation because it doesn't have its own support or is not really part of the other fence so it's just kind of attached to it and it doesn't have foundation, it doesn't have a support and is also not weatherable so it doesn't meet construction requirements.

He stated with the definition of fence, with the standards of fences and then with the section of the ordinance dealing with fences and the Board of Zoning Appeals, there are certain things that have to be substantiated. The Zoning Board of Appeals can look to deviate from the ordinance if it makes certain findings, with regard to privacy and design, practical difficulty, impact on neighborhood.

Another thing to consider is to look to see if there are other alternatives available, and fences are also not to be temporary, they're to be permanent. So if it's a decorative type of element, there's standards in the ordinance that deals with that. But this just does not meet the requirements. The Petitioner talked about costs, but the Board of Zoning Appeals does not get engaged in costs as a basis and that's part of the way the Board and its responsibilities work. You could look to do something with a 6-foot fence that had interwoven materials, accepted screening within that fence. This unfortunately does not meet that requirement.

Gallagher expressed the same sentiments as Christiansen.

Christiansen reiterated the definition of fences.

Crutcher asked if she had the dog on a tether at times and she indicated yes, when he was unsupervised outside.

The Petitioner stated she just wants time to train the dog.

Bertin asked if it wasn't possible to train the dog on at tether and the Petitioner indicated yes, but it made it hard to play ball with him when the leash gets tangled up.

Bertin asked if she felt there was a risk when she was outdoors playing with the dog and the Petitioner stated no.

Bertin clarified that he was talking about with the 4-foot fence and the Petitioner indicated she is not confident with that, she has had him a very short time and he got out once. She stated she wants to be a responsible dog owner.

Bertin stated that she could leave him on the tether when he was outside alone and release him from it when she was outside playing with him and the Petitioner stated she was outside with him when he jumped the fence.

MOTION by Crutcher, supported by Gallagher, to deny the variance requested by Michele Hoffner, 23057 Mayfield, for the following reasons and findings of fact:

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1. The Petitioner has not established a practical difficulty and is not in compliance with the strict letter of the ordinance with regard to the fence material and in keeping with the character of the neighborhood.
2. The Petitioner has not established a need for the variance and it is self-created as there are other options available to her to achieve the same result.

AYES: Aren, Bertin, Crutcher, Gallagher

NAYS: None

Motion to deny carries, all ayes.

PUBLIC COMMENT

None heard.

ADJOURNMENT

MOTION by Crutcher, seconded by Gallagher, to adjourn the meeting.
Motion carried, all ayes.

The meeting adjourned at 8:20 p.m.

John D. Koncsol, Building Inspector