

- I. Call the meeting to order.
Chairman Zuehlke called the meeting to order at 4:00pm.

- II. Roll Call.
Present: David Zuehlke, Chairman
Steve Reno, Board Member
Karen Joliat, Board Member
Colleen Murphy, Board Member
Todd Hoffman, Board Member
Stan Moore, Board Member
Todd Bonnivier, Alternate Board Member

Absent: Gary Crake, Vice Chairman

General Public: Approximately 6

Also Present: Stacy St. James, Environ. and Housing Rehab Coordinator
Amy Williams, Administrative Specialist

- III. Approve the Agenda of the October 16, 2018, regular meeting of the Zoning Board of Appeals as printed.

MOTION AND VOTE

Moved by Reno

*Supported by Hoffman; RESOLVED to **APPROVE** the Agenda of the October 16, 2018 regular meeting of the Zoning Board of Appeals.*

MOTION CARRIED UNANIMOUSLY

(7-0)

- IV. Approve the Minutes of the September 18, 2018, regular meeting of the Zoning Board of Appeals as printed.

MOTION AND VOTE

Moved by Moore

*Supported by Hoffman; RESOLVED to **APPROVE** the Minutes of the September 18, 2018 regular meeting of the Zoning Board of Appeals.*

MOTION CARRIED UNANIMOUSLY

(7-0)

- V. PUBLIC HEARINGS

OLD BUSINESS**NEW BUSINESS****Case No. 5522**

Sidwell No. 13-14-404-003, Section 14, Lot 34, "Orchard Bluffs", T3N, R9E, Waterford Township, Oakland County, Michigan

Requesting

1. A 7.0 ft. variance from Section 3-900 to allow the proposed second story addition to come to within 28.0 ft. of the west front property line. (35 ft. minimum required)
2. A 5.3 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to thin 26.7 ft. of the west front property line. (32 ft. minimum required)
3. A variance from Section 2-702.A to allow for the expansion of a nonconforming building. (No such building shall be allowed to expand and/or undergo substantial improvement)

Property Location: 1880 Orchid St
Property Zoned: R-1C, Single-Family Residential
Applicant: Arcadio Fraguada

Applicant or representative present: Arcadio Fraguada

Mr. Fraguada said that he purchased the home in the 90's and has made several updates to bring the home up to code, including adding a 2nd story. His current request involves expanding the 2nd story bedroom four feet over the existing porch. He felt the improvements would add more curb appeal.

During the public portion of the meeting no one spoke regarding this request.

Board Member Joliat questioned if he intended to enclose the existing porch.

Mr. Fraguada stated the porch would not be enclosed.

Board Member Moore quested the support for the proposed addition.

Chairman Zuehlke stated that would be reviewed with the building permit review.

MOTION AND VOTE

Moved by Reno

*Supported by Joliat; RESOLVED to **APPROVE** Case No. 5522.*

*MOTION CARRIED UNANIMOUSLY
(7-0)*

Case No. 5523

Sidwell No. 13-35-176-031, Section 35, Lot 195, "Lambert's Shore Acres", T3N, R9E, Waterford Township, Oakland County, Michigan

Requesting

1. A 5.0 ft. variance from Section 3-900 to allow the proposed attached garage to come to within 30.0 ft. of the east front property line. (35 ft. minimum required)
2. A 3.0 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to thin 29.0 ft. of the east front property line. (32 ft. minimum required)

Property Location: 964 Woodingham Ave
Property Zoned: R-1C, Single-Family Residential
Applicant: Austin Butcher

Applicant or representative present: Austin Butcher and Wally Baker (Contractor)

Mr. Butcher informed the Board that he had an electric vehicle and did not wish to leave a charger outside unprotected. He indicated that the house was built in the mid 1970's and that most houses in the area have garages with a similar setback as is being requested. He did not feel that it was feasible to build a garage in the rear yard because of the terrain and other issues. He further hopes that this will add to the curb appeal of the property.

During the public portion of the meeting no one spoke regarding this request.

Board Member Murphy expressed her concerns that the proposed garage location was not in character with the neighborhood. She questioned the ability to locate the garage in the rear yard and suggested some improvements to allow for this.

Mr. Butcher indicated receiving support for the request from a neighboring property owner. He felt locating the garage in the rear yard would obstruct access to the rear yard. He also identified obstacles, such as trees and power lines that would further restrict locating it in the rear yard.

Chairman Zuehlke asked for and received clarification on the zoning ordinance requirements.

Discussion continued between Board Member Murphy and applicant regarding location alternatives.

Board Member Hoffman felt the request was minimal and not out of character.

MOTION AND VOTE

Moved by Bonnivier

*Supported by Hoffman; RESOLVED to **APPROVE** Case No. 5523.*

MOTION CARRIED UNANIMOUSLY

(7-0)

Case No. 3250-B

Sidwell No. 13-21-456-034, Section 21, Part of Lots 15 & 16, "Crescent Lake Country Club Sub", T3N, R9E, Waterford Township, Oakland County, Michigan

Requesting

1. A 10.0 ft. variance from Section 3-900 to allow the proposed addition to come to within 25.0 ft. of the southeast rear property line. (35 ft. minimum required)
2. An 8.0 ft. variance from Section 3-104.2 to allow the proposed roof eave and gutter to come to within 24.0 ft. of the southeast rear property line. (32 ft. minimum required)

Property Location: 126 Hershey Blvd
Property Zoned: R-1C, Single-Family Residential
Applicant: Ronald Plant

Chairman Zuehlke stepped down as Chairman and from the Board stating that there may be a possible conflict of interest for the next case.

MOTION AND VOTE

Moved by Joliat

*Supported by Reno; RESOLVED to appoint **Stan Moore** as acting Chairman.*

MOTION CARRIED UNANIMOUSLY

(7-0)

Case No. 2277-C

Sidwell No. 13-34-176-033, Section 34, Lot 5 and Lot 6 with exclusions, "Elizabeth-Cass Heights", T3N, R9E, Waterford Township, Oakland County, Michigan

Requesting

1. A 2.0 ft. variance from Section 3-900 to allow the proposed house to come to within 33.0 ft. of the southwest lake rear property line. (35 ft. minimum required)

2. A 6.5 ft. variance from Section 3-901 Footnote 4 to allow the propose house to come to within 35.5 ft. of the northeast lakefront shoreline. (42 ft. minimum required for subject property)
3. A 4.0 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to within 35.0 ft. of the northeast lakefront shoreline. (39 ft. minimum required for subject property)
4. An 11.3 ft. variance from Section 2-104.3 to allow the proposed uncovered deck to come to within 20.7 ft. of the northeast lakefront shoreline. (32 ft. minimum required for subject property)

Property Location: 4690 Sherbourne Ave
Property Zoned: R-1C, Single-Family Residential
Applicant: Gregory & Gina Mutrynowski

Applicant or representative present: Gregory & Gina Mutrynowski

Mr. Zuehlke gave a brief history regarding his involvement with the applicant. He stated that he build the house next door several years ago. He indicated the applicants are requesting a variance that was previously approved. However, the house was designed prior to a change in the Township ordinances regarding the lakefront setback requirements and now additional variance are required.

Mr. Mutrynowski concurred with what Mr. Zuehlke already stated. When the lot was purchased the setbacks were different and they designed the house based on those setbacks. They were not aware of the zoning change, but still wished to build the house as it was originally designed in the original location as previously planned.

During the public portion of the meeting no one spoke regarding this request.

Board Member Murphy questioned the location of the proposed house as it related to the neighboring houses.

Mr. Mutrynowski stated it was in line with the neighboring houses.

MOTION AND VOTE

Moved by Hoffman

*Supported by Joliat; RESOLVED to **APPROVE** Case No. 2277-C.*

MOTION CARRIED UNANIMOUSLY

(6-0)

Board Member Zuehlke stepped back into the meeting and resumed his position as Chairman of the Board.

VI. Approve the 2019 Meeting Schedule

MOTION AND VOTE

Moved by Joliat

Supported by Reno; RESOLVED to approve the 2019 meeting schedule.

MOTION CARRIED UNANIMOUSLY

(7-0)

VII. Adjourn the meeting.

Chairman Zuehlke adjourned the meeting at 4:20pm

Case No. 5522

Property: 1880 Orchid St
Applicant: Arcadio Fraguada
Zoning: R-1C, Single-Family Residential
Site Use: Single Family Residential
Proposal: 2nd story addition

Analysis

The applicant is proposing to construct a 2nd story addition on the existing house. The addition is show to project 4 ft. over the existing porch. The house is nonconforming in that it is shown to be located 32 ft. from the front property line, where a minimum setback of 35 ft. is required. The 2nd story addition is proposed to be located 28 ft. from the front property line. The additional variance request if for the overhang on the 2nd story addition. The applicant is also proposing to cover the remaining porch. However, a variance is not required for covering the porch.

The applicant has provided information addressing the standards listed below on the attached “Supplemental Information” sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

ZBA Review Standards

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant’s predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done.”*

Draft Motion for Denial

If the Zoning Board of Appeals chooses to deny the applicant’s request, the following is a draft motion that will reflect such a decision:

RESOLVE to DENY the variance requested in ZBA Case No. 5522 based on the following findings:

- 1) No practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.

- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- 5) The need for the variances requested is self created.

Draft Motion for Approval

If the Zoning Board of Appeals chooses to approve the applicant's request, the following is a draft motion that will reflect such a decision:

RESOLVE to APPROVE the variance requested in ZBA Case No. 5522 based on the following findings:

- 1) Practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would unreasonably prevent the use of the property for a permitted purpose and would render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has provided proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has demonstrated that the property is unique, warranting the requested variances.
- 5) The need for the variances requested is not self created.

Case No. 5523

Property: 964 Woodingham Ave
Applicant: Austin Butcher
Zoning: R-1C, Single-Family Residential
Site Use: Single Family Residential
Proposal: Attached garage

Analysis

The applicant is proposing to construct an attached garage on the existing house. The garage is show to be 20 ft. by 20 ft. for a total of 400 sq. ft. The garage is shown to come to within 30 ft. from the front property line where a minimum setback of 35 ft. is required. In addition, a variance for the overhang would also be required. All other requirements are shown to be met.

The applicant has provided information addressing the standards listed below on the attached "Supplemental Information" sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

ZBA Review Standards

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

Draft Motion for Denial

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

RESOLVE to DENY the variance requested in ZBA Case No. 5523 based on the following findings:

- 1) No practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- 5) The need for the variances requested is self created.

Draft Motion for Approval

If the Zoning Board of Appeals chooses to approve the applicant's request, the following is a draft motion that will reflect such a decision:

RESOLVE to APPROVE the variance requested in ZBA Case No. 5523 based on the following findings:

- 6) Practical difficulty exists in the case.
- 7) Compliance with the strict letter of the ordinance would unreasonably prevent the use of the property for a permitted purpose and would render conformity with the ordinance unnecessarily burdensome.
- 8) The applicant has provided proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 9) The applicant has demonstrated that the property is unique, warranting the requested variances.
- 10) The need for the variances requested is not self created.

Case No. 2277-C

Property: 4690 Sherbourne Ave

Applicant: Gregory & Gina Mutrynowski
Zoning: R-1C, Single-Family Residential
Site Use: Single Family Residential
Proposal: New House

Analysis

The applicants are proposing to construct a new house at the subject property. The proposed house will require variances from both the lakefront and lake rear property lines. On the lake rear (road) a variance is required to allow the proposed house to come to within 33 ft. of the property line, where a minimum setback of 35 ft. is required. On the lakefront side, the proposed house is shown to come to within 35 ft. of the lake front shore. Based upon the average setback of the houses within 200 ft. of the subject property, the minimum lakefront setback is 39 ft. An additional variance is required to allow the proposed uncovered deck to come to within 20.7 ft. of the lakefront shoreline.

In 2001, a variance was granted to allow a proposed house to be constructed in the same location as the proposed house. With regards to the lake rear (road) setback requirements, the approved variance allowed the house to come to within 31.3 ft. of the road side property line. However, at that time, the minimum setback from the shoreline was a standard 25 ft. and therefore a variance was not required. In 2010, the ordinance was revised to establish a lakefront setback based upon how the shoreline was developed within 200 ft. of the subject property. Due to this revision, a lakefront setback variance is required for the same footprint that was approved in 2001.

The applicant has provided information addressing the standards listed below on the attached "Supplemental Information" sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

ZBA Review Standards

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

Draft Motion for Denial

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

RESOLVE to DENY the variance requested in ZBA Case No. 2277-C based on the following findings:

- 1) No practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- 5) The need for the variances requested is self created.

Draft Motion for Approval

If the Zoning Board of Appeals chooses to approve the applicant's request, the following is a draft motion that will reflect such a decision:

RESOLVE to APPROVE the variance requested in ZBA Case No. 2277-C based on the following findings:

- 1) Practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would unreasonably prevent the use of the property for a permitted purpose and would render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has provided proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has demonstrated that the property is unique, warranting the requested variances.
- 5) The need for the variances requested is not self created.