



Andy Schor
Mayor

**LANSING BOARD OF ZONING APPEALS
REGULAR MEETING
DEPARTMENT OF ECONOMIC DEVELOPMENT AND PLANNING
THURSDAY, June 10, 2021, 6:30 PM**

Due to public safety concerns resulting from the COVID-19 pandemic, this meeting will be conducted remotely via Zoom Conferencing. To access the meeting, click on the following link <https://us02web.zoom.us/j/84524869167> or dial (312) 626-6799 and enter Meeting ID #: 845 2486 9167.

AGENDA

- I. **ROLL CALL**
- II. **APPROVAL OF AGENDA**
- III. **PUBLIC COMMENT**
- IV. **PUBLIC HEARING/ACTION**
 - A. BZA-4097.21, 409 W. Sheridan Road - Variance to the allowable width of a driveway in a residential front yard
 - B. BZA-4070.21 – 815 Jessop Avenue - Variances to the side and rear yard setbacks to permit the construction of a single family residential house
- V. **OLD BUSINESS**
- VII. **NEW BUSINESS**
 - A. Return to in-person meetings
- VI. **APPROVAL OF MINUTES**
 - A. Regular Meeting, February 11, 2021
- VIII. **PUBLIC COMMENT**
- IX. **ADJOURNMENT**

FOR SPECIAL ACCOMMODATIONS, PLEASE GIVE 24 HOURS NOTICE PRIOR TO THE MEETING BY CALLING SUSAN STACHOWIAK IN THE PLANNING OFFICE AT 517-483-4085 OR BY DIALING (TTY 711).

GENERAL INFORMATION

APPLICANT/OWNER: John Walker
409 W. Sheridan S Road
Lansing, MI 48906

REQUESTED ACTION: Variances to the width restriction for a residential driveway within a front yard

EXISTING LAND USE: Single Family Residential

EXISTING ZONING: "R-3" Suburban Detached Residential

PROPERTY SIZE & SHAPE: Rectangular Shaped Lot - (.113 acres)

SURROUNDING LAND USE: N: Single Family Residential
S: Single Family Residential
E: Single Family Residential
W: Single Family Residential

SURROUNDING ZONING: N: Dewitt Township
S: "R-3" Suburban Detached Residential
E: "R-3" Suburban Detached Residential
W: "R-3" Suburban Detached Residential

MASTER PLAN DESIGNATION: The Design Lansing Master Plan designates the subject property for low density residential use. Sheridan Road is designated as a collector road.

ANALYSIS

This is a request by John Walker for a variance to permit a parking space in the front yard at 409 W. Sheridan Road that would result in the driveway at this location being approximately 28 feet wide within the front yard. Section 1254.01.17(b) of the City of Lansing Zoning Ordinance restricts the width of residential driveways in front yards to 12 feet, or to the width of a garage (there is no garage on the subject property). A variance of 16 feet to the allowable width for a driveway within a front yard is therefore, being requested.

Permitted	Proposed	Variance
12 foot wide driveway within the front yard	28 foot wide driveway within the front yard	16 feet

ANALYSIS

Section 1274.06 (e)(1-4) of the Zoning Code sets forth the criteria and standards which must be used to evaluate a variance request. They are: (1) Does a practical difficulty or unnecessary hardship exist; (2) Is the Location, Size and Character in harmony with surrounding uses; and (3) Will the request impact vehicular and pedestrian traffic?

Practical Difficulty or Hardship

The basis for the applicant's request to permit the expanded driveway within the front yard at 409 W. Sheridan Road is that his disabled mother resides with him and the parking space in the front yard provides closer and easier access to the house. Since there are no unique physical features of the lot that would create a practical difficulty for the owner in complying with the ordinance restriction of 12 feet in width for a driveway within a front yard, the determination to be made in this case is whether denial of the variance would create an unnecessary hardship on the owner. In order to make that determination, there must be a finding that the variance would not create a situation that is contrary to the intent of the ordinance. Such a finding would allow the variance to be approved while still preserving the ordinance standard and not setting a negative precedent for future request of a similar nature.

Several criteria are described in Section 1274.06(c)(1-4) for the Board to consider in determining the adequacy of a practical difficulty or unnecessary hardship:

1. The hardship results from the application of this Zoning Code to his or her lot, rather than from some other factor.
2. The hardship is not the result of his or her own actions.
3. The hardship is peculiar to the lot of the applicant.
4. If the owner of the lot complies with this Zoning Code, he or she can secure no reasonable return from, or make no reasonable use of, his or her property.

The request complies with the first criterion as the variance is directly related to the ordinance requirement restricting the width of driveways within residential front yards to 12 feet where there is no garage on the property. With respect to the second criterion, the issue of accommodating a disabled person who resides on the premises would not necessarily be considered a self-created hardship.

The third criterion relates to whether there is something unique about the request that would allow the variance to be approved while still upholding the intent of the ordinance. The intent of restricting the width of driveways in front yards is primarily for aesthetic reasons so that the front yards are primarily green space and most vehicles are parked in the side and rear yards. There is nothing physically unique about the subject property. It is perfectly rectangular, is not uncommonly small and there is no uneven topography or any other feature that makes it unique. While it is acknowledged that parking closer to the front door makes access to the house easier, the requested variance would be completely contrary to the intent and purpose of the ordinance as it would allow almost the entire front yard at 409 W. Sheridan Road to be covered in concrete and used for parking. The concrete/ parking area within the front yard has already been installed (see attached photograph)

and will need to be removed and returned to a lawn if the variance is not approved. The applicant has a driveway on the property that exceeds the allowable width of 12 feet but appears to have been grandfathered-in under an old zoning ordinance. The area that is the subject of this request is the newly installed concrete that is directly in front of the house. A photograph of the property taken by the Assessor's Office (see attached) shows a handicap ramp leading from the front door to the sidewalk and a gravel landscape area in front of the house. In a recent photograph of the property, the handicap ramp has been removed and the area where it was as well as the gravel area have been paved with concrete. The distance from the paved driveway along the west side of the house to the front porch is approximately 15 feet and there is a concrete walkway between the 2 points. Given these circumstances, there does not appear to be any basis for granting the variance without compromising the ordinance and thus, setting a negative precedent for approval of future request to allow parking in a residential front yard.

The other consideration relates to whether there is a viable use of the property without the variance. This standard is typically applied to use variances, however, which require a much higher threshold than a 'dimensional' variance such as this one.

IMPACT STANDARDS

The Ordinance also establishes four standards under Section 1274.06 (e) that must be satisfied relating to the impact of the variance on the surrounding properties and general public. These standards and the manner in which they relate to the request are as follows:

1. **The use will be in harmony with the appropriate and orderly development of the surrounding neighborhood.**

As described in the above paragraph, the parking area in the front yard at 409 W. Sheridan Road is contrary to the intent and purpose of the ordinance and thus, approval of the variance would set a negative precedent for future requests of a similar nature. This would be contrary to the appropriate and orderly development of the area in which the subject property is located and in other residential neighborhoods in the City as well.

2. **The use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved.**

Approval of the variances will have no impacts on vehicular or pedestrian traffic.

3. **The use will be designed to eliminate a possible nuisance emanating there from.**

The proposed variance will not generate any nuisances.

4. **The use will not interfere with or discourage the appropriate development and use of adjacent land and structures or unreasonably affect their value.**

See response to item 1 above.

FINDINGS

This is a request by John Walker for a variance to permit a parking space in the front yard at 409 W. Sheridan Road that would result in the driveway at this location being approximately 28 feet wide within the front yard. Section 1254.01.17(b) of the City of Lansing Zoning Ordinance restricts the width of residential driveways in front yards to 12 feet, or to the width of a garage (there is no garage on the subject property). A variance of 16 feet to the allowable width for a driveway within a front yard is therefore, being requested.

The available information supports a finding that the requested variance is not consistent with the practical difficulty criteria of Section 1247.06 (c) or the impact criteria of Section 1274.06 (e).

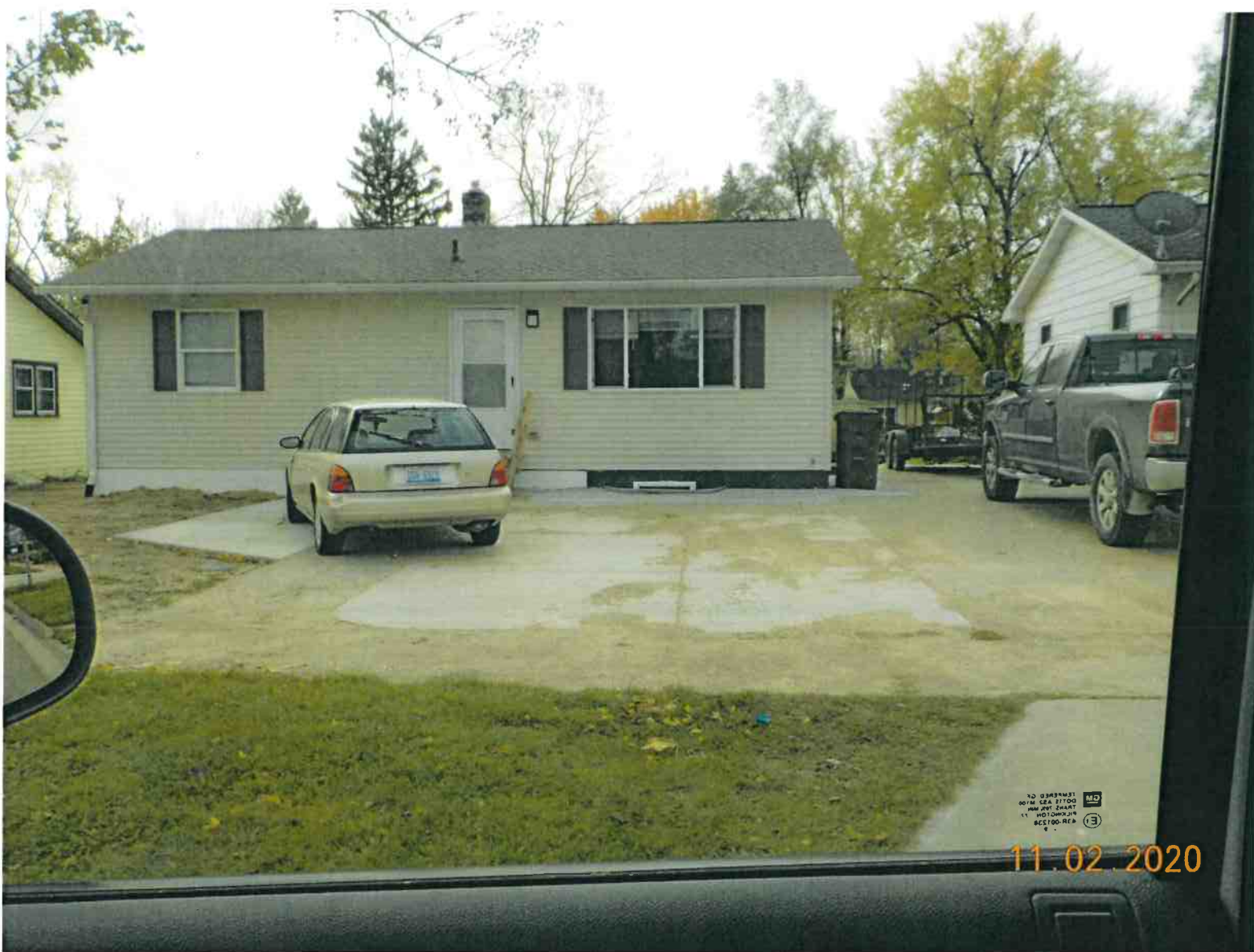
RECOMMENDATION

Based on the information and findings described above, the following motion is offered for the Board's consideration:

“I make a motion to deny BZA 4069.21 for a variance of 16 feet to the allowable width for a driveway in the front yard at 409 W. Sheridan Road, on a finding that the request does not comply with the variance evaluation criteria described in Sections 1274.06 (c) & (e) of the Zoning Ordinance.”

Respectfully Submitted,

Susan Stachowiak
Zoning Administrator



Current



Before



267" long

163" wide



GENERAL INFORMATION

APPLICANT/OWNER: Raymundo Garcia
6739 S. Washington Avenue
Lansing, MI 48911

REQUESTED ACTION: Variance to the side & rear yard setback requirements

EXISTING LAND USE: Vacant

EXISTING ZONING: "R-2" Urban Detached Residential

PROPERTY SIZE & SHAPE: Irregular Shaped Lot - (.113 acres)

SURROUNDING LAND USE: N: Single Family Residential
S: Single Family Residential
E: Single Family Residential
W: Single Family Residential

SURROUNDING ZONING: N: "R-2" Urban Detached Residential
S: "R-2" Urban Detached Residential
E: "R-2" Urban Detached Residential
W: "R-2" Urban Detached Residential

MASTER PLAN DESIGNATION: The Design Lansing Master Plan designates the subject property for low density residential use. Jessop Avenue is designated as a local road.

ANALYSIS

This is a request by Raymundo Garcia for variances to permit the construction of a new single family dwelling at 815 Jessop Avenue that would have a setback of 4.7 feet from the side/east property line and a setback of 22.6 feet at its nearest point to the rear lot line. Section 1244.08.03(b) of the City of Lansing Zoning Ordinance requires a rear yard setback of 30 feet and a side yard setback of 10 feet. Variances of 7.4 feet to the rear yard setback requirement and 5.3 feet to the side yard setback requirement are therefore, being requested.

Required	Proposed	Variance
30 foot rear yard setback	22.6 foot rear yard setback	7.4 feet
10 foot side yard setback	4.7 foot side yard setback	5.3 feet

ANALYSIS

Section 1274.06 (e)(1-4) of the Zoning Code sets forth the criteria and standards which must be used to evaluate a variance request. They are: (1) Does a practical difficulty or unnecessary hardship exist; (2) Is the Location, Size and Character in harmony with surrounding uses; and (3) Will the request impact vehicular and pedestrian traffic?

Practical Difficulty or Hardship

The applicant bases a practical difficulty on the small size and irregular shape of the lot. As shown on the attachments, the lot is only 55.1 feet wide at the front property line and then tapers off to 40 feet wide at the rear property line. In addition, the rear lot line runs at an angle which reduces the depth of the lot from 110.4 feet its east property line to 85.3 feet at its west property line. The uncommonly small size of the lot, coupled with its irregular shape presents a clear practical difficulty for the applicant in constructing a reasonably sized single family home on the site.

Several criteria are described in Section 1274.06(c)(1-4) for the Board to consider in determining the adequacy of a practical difficulty:

1. The hardship results from the application of this Zoning Code to his or her lot, rather than from some other factor.
2. The hardship is not the result of his or her own actions.
3. The hardship is peculiar to the lot of the applicant.
4. If the owner of the lot complies with this Zoning Code, he or she can secure no reasonable return from, or make no reasonable use of, his or her property.

The request complies with the first criterion as the practical difficulty associated with the variances is directly related to the setback requirements. The request also complies with the second criterion. The basis for the variances is the application of current setback requirements on a small lot that is irregularly shaped. Since the applicant purchased the subject property in May of 2021, he had no control over the size or shape of the lot and thus, the practical difficulty that warrants approval of the requested variances cannot be considered self-created. The lots along Jessop Avenue were platted in the 1920's when setback requirements and minimum lot sizes were much less restrictive. Under the current City ordinances, a new single family residential lot must be at least 60 feet wide at the 20 foot front yard setback line and the entire lot must be at least 100 feet in depth. If the subject property complied with current lot size requirements, no variances would be necessary in this case.

The third criterion relates to whether the practical difficulty is sufficiently unique. By assuring that the practical difficulty is adequate to differentiate it from a claim that could be made by most other property owners, the intent of the ordinance standard is preserved. Correspondingly, the practical difficulty must be more than a matter of mere preference. The uniqueness in this case involves the uncommonly small size and irregular shape of the lot which prevents it from being reasonably developed for the intended single family residential use without variances to the setback requirements. The proposed house is 28 feet wide by 38 feet deep (1,064 square feet) which is a very reasonable size. As evidenced by the attached parcel map, there are a few other lots in the area that

are smaller and have an irregular shape. The majority of the lots, however, are rectangular and have a depth of 105 feet. If the subject property had the same shape and dimensions/size, no variances would be necessary in this case.

The other consideration relates to whether there is a viable use of the property without the variance. This standard is typically applied to use variances, however, which require a much higher threshold than a 'dimensional' variance such as this one.

IMPACT STANDARDS

The Ordinance also establishes four standards under Section 1274.06 (e) that must be satisfied relating to the impact of the variance on the surrounding properties and general public. These standards and the manner in which they relate to the request are as follows:

1. **The use will be in harmony with the appropriate and orderly development of the surrounding neighborhood.**

The intent of the side and rear yard setback regulation is to permit adequate space between structures for privacy and to accommodate outdoor space to provide a quality living environment. The setbacks are measured from the nearest point of the house to the nearest point on the lot line(s). As depicted on the attached site layout, the majority of the proposed house will comply with the required setbacks. It is only the areas highlighted in red that encroach into the setbacks and that is a direct result of the irregular shape of the lot. The encroachments are minimal, will still allow for adequate open space on the lot and will not infringe on the privacy of the adjoining properties. Since the reduced setbacks will not be disruptive to the appropriate and orderly development of the area, approval of the variances will not create a situation that is contrary to the intent of the ordinance.

2. **The use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved.**

Approval of the variances will have no impacts on vehicular or pedestrian traffic.

3. **The use will be designed to eliminate a possible nuisance emanating there from.**

The proposed variance will not generate any nuisances.

4. **The use will not interfere with or discourage the appropriate development and use of adjacent land and structures or unreasonably affect their value.**

See response to item 1 above. Additionally, given the unique size and shape of the site as described in this report, approval of the variances will not set a negative precedent for future requests to vary the side and rear yard setback requirements.

FINDINGS

This is a request by Raymundo Garcia for variances to permit the construction of a new single family dwelling at 815 Jessop Avenue that would have a setback of 4.7 feet from the side/east property line and a setback of 22.6 feet at its nearest point to the rear lot line. Section 1244.08.03(b) of the City of Lansing Zoning Ordinance requires a rear yard setback of 30 feet and a side yard setback of 10 feet. Variances of 7.4 feet to the rear yard setback requirement and 5.3 feet to the side yard setback requirement are therefore, being requested.

The available information supports a finding that the requested variances are consistent with the practical difficulty criteria of Section 1247.06 (c) and the impact criteria of Section 1274.06 (e).

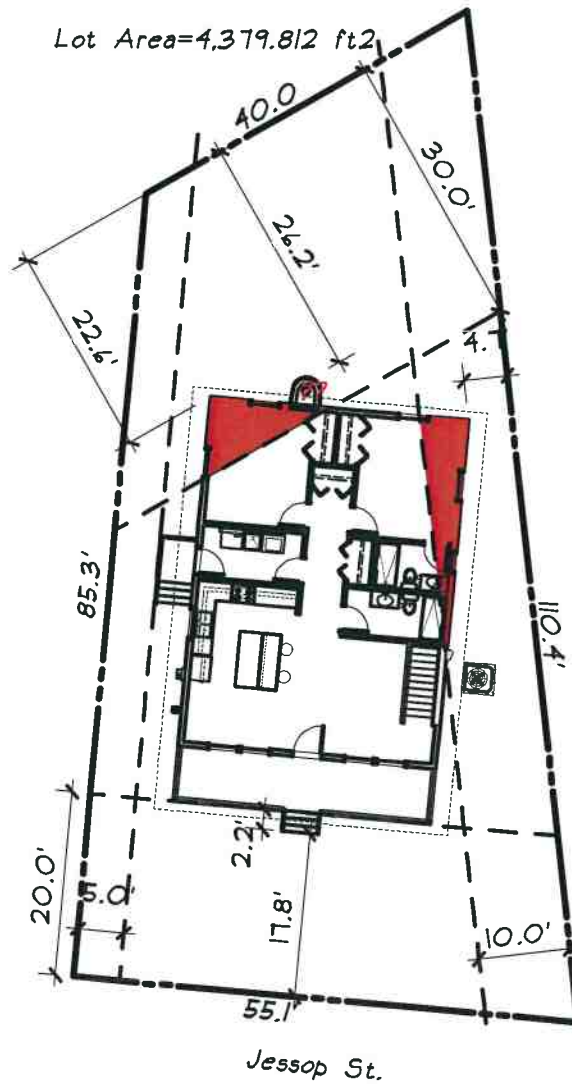
RECOMMENDATION

Based on the information and findings described above, the following motion is offered for the Board's consideration:

“I make a motion to approve BZA 4070.21 for variances of 7.4 feet to the rear yard setback requirement and 5.3 feet to the side yard setback requirement to permit the construction of a single family residential home on the property at 815 Jessop Avenue, on a finding that the request complies the variance evaluation criteria described in Sections 1274.06 (c) & (e) of the Zoning Ordinance.”

Respectfully Submitted,

Susan Stachowiak
Zoning Administrator



NORTH



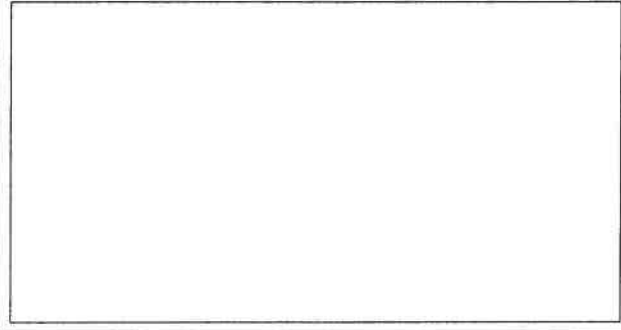
SITE PLAN

Scale: 1:20 = 1'-0"

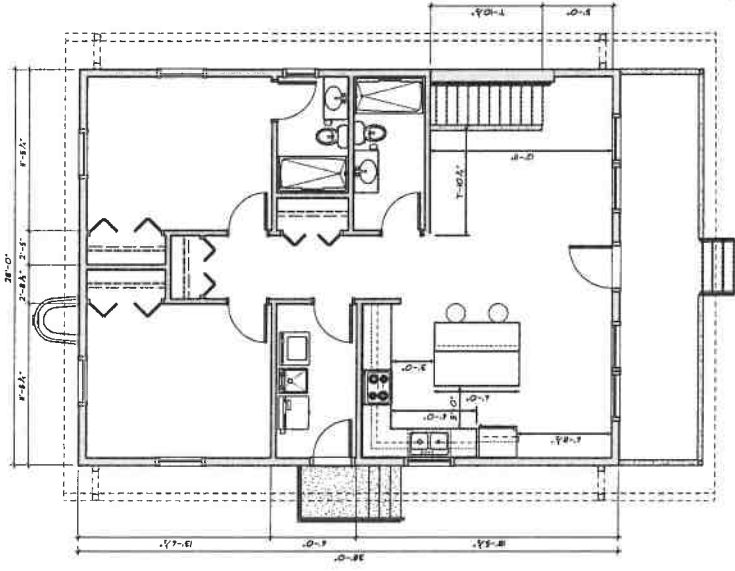
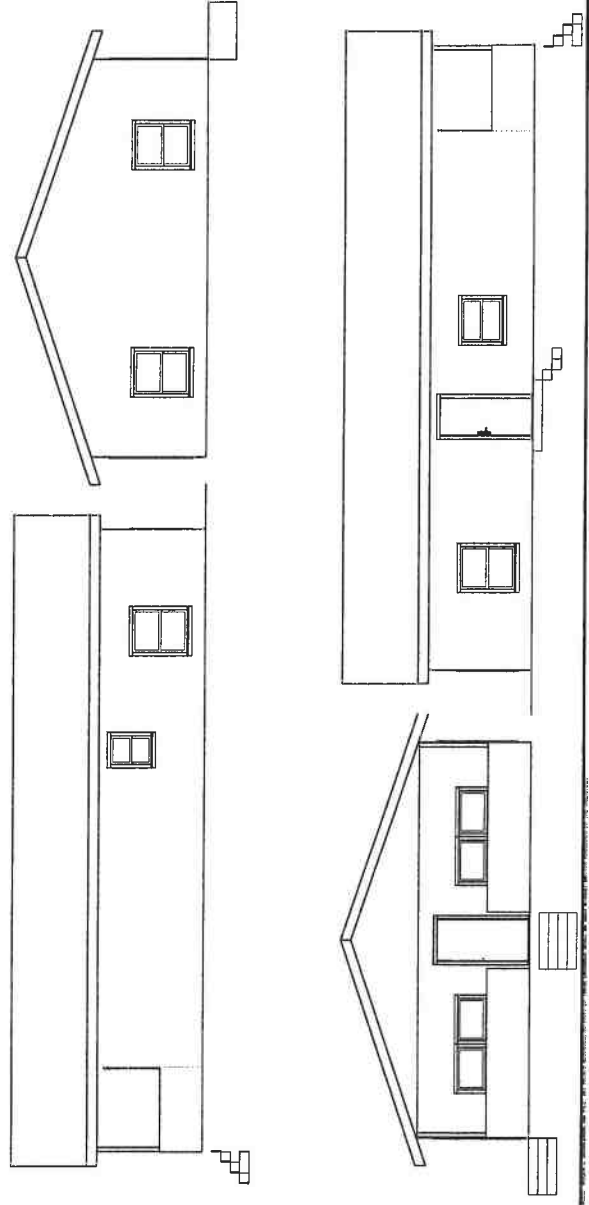


Parcel 33-01-01-34-151-III
LOT 443 MAPLE HILL

Progress Drawing For Review Only Not for Construction



New Wall
New Door



NORTH
FIRST LEVEL PLAN
Scale: 1/8" = 1'-0"

PROJECT
Single Family Residence
815 Jessup
City of Lansing, Ingham County
Lansing, Michigan 48910

DATE
04/10/2023

SHEET TITLE

SHEET NUMBER
125.00
23-2-000

ARCHITECT
ROGER L. DONALDSON, AIA P.L.C.
1015 SOUTH LANSING
LANSING, MI 48906
TEL: 517.487.1000
WWW.RLDONALDSON.COM

THIS DRAWING IS THE PROPERTY OF RLDONALDSON.COM. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF RLDONALDSON.COM. THE USER OF THIS DRAWING AGREES TO HOLD RLDONALDSON.COM HARMLESS FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, THAT MAY BE ASSERTED AGAINST RLDONALDSON.COM BY ANY THIRD PARTY AS A RESULT OF THE USER'S USE OF THIS DRAWING. THE USER OF THIS DRAWING AGREES TO INDEMNIFY AND HOLD RLDONALDSON.COM HARMLESS FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, THAT MAY BE ASSERTED AGAINST RLDONALDSON.COM BY ANY THIRD PARTY AS A RESULT OF THE USER'S USE OF THIS DRAWING.





**MINUTES OF REGULAR MEETING
BOARD OF ZONING APPEALS
THURSDAY, February 11, 2021, 6:30 P.M.**

The meeting was conducted as an online teleconference in compliance with the Open Meetings Act, as amended, and to follow recommendations by the Centers for Disease Control and other public health agencies concerning the COVID-19 pandemic.

I. ROLL CALL

The meeting was called to order by Marcie Alling at 6:33 p.m. Roll call was taken.

Present: M. Alling, J. Hovey, J. Leaming, M. Rice & R. Fryling

Absent: K. Berryman, Chris Iannuzzi, M. Solak & E. Jefferson

Staff: S. Stachowiak & A. Fedewa

A quorum of at least five members was present, allowing voting action to be taken at the meeting.

II APPROVAL OF AGENDA

It was moved by Mr. Rice, seconded by Mr. Hovey to approve the agenda with the addition of "Excused Absences" under New Business. On a voice vote, the motion carried 5-0.

III. PUBLIC COMMENT

IV. PUBLIC HEARING/ACTION

- A. BZA-4067.21, North & West of 1100 W. Saginaw – Variances to the allowable density for a proposed 67 unit apartment building – WITHDRAWN**
- B. BZA-4068.21 – Variances to permit barbed wire on a 6 foot high fence that would be within 30 feet of residential parcels of land**

Ms. Stachowiak said that this is a request by Loud Labs of Michigan to permit a 6 foot high chain-link fence topped with 3 strands of barbed wire around the perimeter of the property at 736 N. Larch Street which directly adjoins 2 residential properties to its south. Section 1290.08(a)(3)(B) of the City of Lansing Zoning Ordinance prohibits barbed wire on fences that are 6 feet or less in height and located within 30 feet of a residential parcel of land. Variances to permit barbed wire on a 6 foot high fence that would be located on the common property lines of 736 N. Larch Street and the adjoining residential parcels of land at 607 & 620 May Street are therefore, being requested. Ms. Stachowiak stated that the staff recommendation is to deny the variances based on a finding that the requests do not comply with the applicable criteria of Sections 1244.06 (c) and 1244.06 (e) of the Zoning Ordinance, as described in the staff report for this request.

Ms. Stachowiak said that the applicant selected a property as a site for a marijuana processing facility that adjoins residential uses, thus disqualifying it from having a barbed wire fence. She said that the ordinance regulating barbed wire fences has not changed and the adjoining residential uses existed long before the subject property

was converted to a processing facility. Ms. Stachowiak said that the adjoining residents should not have the character of their properties altered and their safety potentially compromised because a new business has determined that it needs the additional security of a barbed wire fence.

Ms. Alling opened the public hearing.

John Berry, 736 N. Larch Street, spoke in support of his request. Mr. Berry stated that there are not many options when it comes to finding properties that are zoned for marijuana processing facilities. He said that the barbed wire fence is needed to provide adequate safety for him and his employees and to secure the property to prevent against theft and vandalism. Mr. Berry said that he has had problems with vagrants loitering and has found heroin needles and crack pipes on his property. He said that he was told that he could only have a 3 foot high fence on the property.

Ms. Stachowiak said that the fence could be surrounded by a 6 foot high chain-link fence. She said that the issue is the barbed wire.

Mr. Hovey asked Mr. Berry if he would be satisfied with a 6 foot high fence, without barbed wire.

Mr. Berry said that while he would prefer to have the added protection of barbed wire, a 6 foot high fence would be acceptable.

Jason Kildea, Gillespie Group, representing the owner of the residential properties to the south and east of 736 N. Larch Street, stated that he appreciates the investment that the applicant has made into his property and understands the need for security but that a barbed wire fence would not be appropriate in such close proximity to residential properties. Mr. Kildea said that having a barbed wire fence on the common property line may discourage potential tenants from wanting to pay \$1,200-\$1,500 monthly rent to live in their buildings. He said that the applicant knew that there were adjoining residential properties when he selected his site for a processing center. Mr. Kildea said that he is not opposed to a fence on the property line but would ask that it be of a style that is appropriate for adjoining residential uses.

Kristi Marciniac, Monroe Street, stated that she can see the property from her home and is opposed to the barbed wire fence as it would send a negative message about the neighborhood. She asked if there is a security guard on the property.

Mr. Berry said that the business has been operating on the site since September of 2020. He said that they do not have a security guard on the property but they do work with the police to address security issues. Mr. Berry said that they are not open to the public. He also said that there is a junk yard in the area and a property that is surrounded by a barbed wire just a short distance down the street.

Seeing no one wishing to speak, Ms. Alling closed the public hearing.

Mr. Leaming said that this is an unfortunate circumstance with there being limited areas in the City to locate a marijuana processing facility. He said that he supports the staff recommendation to deny the variance as it was incumbent on the applicant to take into consideration that establishing the facility on a site with adjoining residential properties would likely come with restrictions on barbed wire fencing.

Mr. Rice stated that he also supports the staff recommendation. He said that the applicant, by located his business next to residential properties, created the hardship that is being used as a basis for the variance.

Mr. Hovey agreed. He said that the applicant will still be able to surround the property with a fence but without barbed wire. Mr. Hovey encouraged the applicant to consider a fence that would fit in with adjoining residential properties.

Mr. Fryling stated that he cannot support the use of barbed wire on a fence that would be located on the common property line of adjacent residential properties.

Ms. Alling agreed. She also encouraged the applicant to consider a better looking fence than 6 foot high chain-link so that it would fit in better with the residential area.

Mr. Rice made a motion, seconded by Mr. Hovey to deny BZA 4068.21 for variances to permit a 6 foot high fence topped with barbed wire on the property at 736 N. Larch Street which directly adjoins two residential properties to its south, on a finding that the requested variances do not comply with the practical difficulty criteria outlined in Section 1244.06(c) or the impact criteria outlined in Section 1244.06(e) of the Zoning Ordinance. On a roll call vote, the motion carried unanimously (5-0).

V. OLD BUSINESS - None

VI. NEW BUSINESS

A. Excused Absences

Mr. Hovey made a motion, seconded by Mr. Rice to approve excused absences for Mr. Iannuzzi, Mr. Solak & Ms. Jefferson.. On a voice vote, the motion carried unanimously (5-0).

VII. APPROVAL OF MINUTES

A. Regular Meeting, January 14, 2021

Mr. Leaming made a motion, seconded by Mr. Hovey to approve the minutes from the January 14, 2021 meeting. On a voice vote, the motion carried unanimously (5-0).

VIII. PUBLIC COMMENT

IX. ADJOURNMENT AT 7:09 p.m.

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator