



Andy Schor
Mayor

**LANSING BOARD OF ZONING APPEALS
REGULAR MEETING
DEPARTMENT OF ECONOMIC DEVELOPMENT AND PLANNING
THURSDAY, August 12, 2021, 6:30 PM
600 W. Maple (Neighborhood Empowerment Center)**

AGENDA

- I. ROLL CALL**
- II. APPROVAL OF AGENDA**
- III. PUBLIC COMMENT**
- IV. PUBLIC HEARING/ACTION**
 - A. BZA-4071.21, 1218 Theodore Street - Variance to permit artificial turf in the front yard**
 - B. BZA-4072.21 – 804 W. Shiawassee Street - Variance to permit covering the front and side yard with mulch**
- V. OLD BUSINESS**
- VII. NEW BUSINESS**
- VI. APPROVAL OF MINUTES**
 - A. Regular Meeting, June 10, 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: Jose Lopez Marques
3105 S. ML King, #148
Lansing, MI 48915

REQUESTED ACTION: Variance to permit artificial turf in the front yard

EXISTING LAND USE: Single Family Residential

EXISTING ZONING: "R-6A" Urban Detached Residential

PROPERTY SIZE & SHAPE: Rectangular Shaped Lot
45' x 110' = 4,950 square feet

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

SURROUNDING ZONING: N: R-MX, Residential Mix
S: "R-6A" Urban Detached Residential
E: "R-6A" Urban Detached Residential
W: "R-6A" Urban Detached Residential

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

REQUEST

This is a request by the owner of 1218 Theodore Street for a variance to permit the front yard at this location to be covered with synthetic turf. Section 1252.05 of the City of Lansing Zoning Ordinance requires those areas of a lot that are not covered by buildings or pavement to be covered by grass or other natural (growing) ground covers.

BACKGROUND INFORMATION

In April of this year, it was brought to my attention that the applicant covered the front yard and an area of the public right-of way at 1218 Theodore Street with gravel. A letter (attached) was sent to the applicant on April 5, 2021 notifying him that the gravel in the front yard violates the Zoning Ordinance and the gravel in the public right-of-way violates the provisions of City Ordinance 1020.03 & 1020.04. Section 1252.05 of the Zoning Ordinance requires those areas of a lot that are

not covered by buildings or allowable pavement to be landscaped with grass or other natural ground covers. City Ordinance Sections 1020.03 and 1020.04 prohibit the placement of any plant or other material, other than natural grass, in the public right-of-way. The right-of-way typically begins 1-2 feet from the inside edge of the sidewalk. As the attached photographs illustrate, the gravel was placed right up to the edge of the sidewalk. In response to the letter, the applicant covered the front yard at 1218 Theodore and that area of the right-of-way between the front property line and the sidewalk with artificial grass rugs (see photographs). The applicant was subsequently notified that artificial grass does not satisfy the ordinance requirements for covering a yard/public right-of-way with grass. The applicant is requesting a variance to permit the artificial grass on the basis that it would be low maintenance, will look good all of the time and will not require the use of pesticides or fertilizers.

Please note that the Board of Zoning Appeals does not have the authority to grant a variance to allow gravel, artificial grass or anything else in the public right-of-way. Ordinance 1020 grants the City's Public Service department sole authority over use of the public right-of-way.

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 as described in his application is that the artificial grass will be low maintenance, will look good all of the time and will not require the use of the pesticides or fertilizers. These factors are not justifications for approval of a variance. In fact, the request does not satisfy any of the following criteria set forth in the Zoning Ordinance for evaluating variance requests:

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

Approval of a variance must be based on a unique feature of a property that sets it apart from most other properties in the City. It must be found that the "unique feature" makes compliance with the ordinance impractical or unreasonably difficult. 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. There is nothing unique about the subject property that warrants relief from the

ordinance. The entire basis for the applicant's request is that the artificial grass will be easier to maintain than natural grass as required by the ordinance. Since any property owner could make this same claim, approval of the variance would set a negative precedent for future requests to vary the ordinance requiring natural ground covers.

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.**

Allowing a front yard, particularly in a residential neighborhood, to be covered with an artificial grass rug will certainly change the character of the area, particularly if it results in other property owners covering their lawns with artificial grass.

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 variance will have no impact on vehicular traffic in the area. As the photographs illustrate, the rug overlaps the sidewalk by a small distance and since the rug could shift or become frayed, it may become a trip hazard to pedestrian traffic on the sidewalk.

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.**

Since there is nothing unique about the subject property, approval of the variance will set a negative precedent for approval of future requests to allow artificial ground covers simply because they require less maintenance for the property owner.

FINDINGS

This is a request by the owner of 1218 Theodore Street for a variance to permit the front yard at this location to be covered with synthetic turf. Section 1252.05 of the City of Lansing Zoning Ordinance requires those areas of a lot that are not covered by buildings or pavement to be covered by grass or other natural (growing) ground covers.

The available information supports a finding that the requested variance does not comply with the criteria listed in Sections 1274.06 (c) & (e) of the Zoning Ordinance that is to be used for evaluating variance requests.

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 4071.21 for a variance to permit the front yard at 1218 Theodore Street to be covered with artificial grass, on a finding that the request does not comply with the variance evaluation criteria listed in Sections 1274.06 (c) & (e) of the Zoning Ordinance.”

Respectfully Submitted,

Susan Stachowiak
Zoning Administrator

Department of Economic
Development and Planning
Brian McGrain, Director



Planning and Zoning Office
316 N. Capitol Avenue, Suite D-1
Lansing, Michigan 48933
PH: 517.483.4060 – FAX: 517.483.6036
www.lansingmi.gov

April 5, 2021

Mr. Jose Marquez Lopez
1218 Theodore Street
Lansing, MI 48915

RE: Notice of Violation

Dear Mr. Lopez,

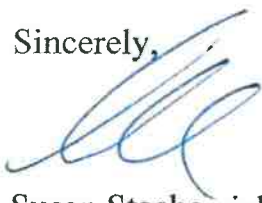
Please be advised that the gravel in your front yard violates multiple provisions of the City of Lansing codified ordinances. It **appears** that the gravel area is being used, at least in part, for parking which is a violation of Sections 1286 & 1284(15) of the City of Lansing Zoning Ordinance. These Sections require all vehicles to be parked on an approved/paved driveway or in a garage. The allowable parking on your **property** is limited to the garage and the paved driveway leading to the garage.

In addition, the gravel in the public right-of-way at 1218 Theodore is in violation of City Ordinance Sections 1020.03 and 1020.04. These Sections prohibit the placement of gravel and any other materials in the public right-of-way. The public right-of-way is the area between the street and the property line which is typically located 2 feet from the inside edge of the sidewalk. This area must be planted with standard grass/lawn turf.

Please have all vehicles parked on the approved driveway or in the garage and have the gravel removed from your front yard/public right-of-way and seeded or sodded to return it to a lawn within thirty (30) calendar days from the date of this letter. Failure to comply with this notice will result in issuance of a civil fine. In addition, the City will seek a court order of compliance.

If you have any questions, please do not hesitate to contact me at 517-483-4085.

Sincerely,



Susan Stachowiak
Zoning Administrator

June 26, 2021

Planning and Zoning Office

316 N. Capitol Avenue, Suite D-1

Lansing, Michigan 48933

RECEIVED

JUN 30 2021

PLANNING DIVISION

Dear Susan:

After my phone conversation and email received from you on June 14th, 2021 I would like to start the BZA process and request to waive the Zoning Code requirement for my front yard (private property) that only permits natural grass or other natural ground cover (plants/flowers). Also, in regards to the Notice of Violation sent on April 5, 2021 I would like to explain that the gravel in front of my yard was placed with landscape rocks (see attached picture on February 8, 2017) to keep the yard to a low maintenance since this is my second residence. Furthermore, I would like to request the use of the Star Grass-35 (see attached picture on June 26th, 2021) as an alternate to natural grass with the benefits that include the low maintenance (no pesticides or fertilizers) and good looks all the time. Finally, I would like to let you know that I work in the state of Arizona so I need to coordinate with the Planning Office to ensure my attendance to the public hearing.

Sincerely

Jose Lopez Marques

Enclosures ⁵⁽¹¹⁾ ~~4~~ (5):

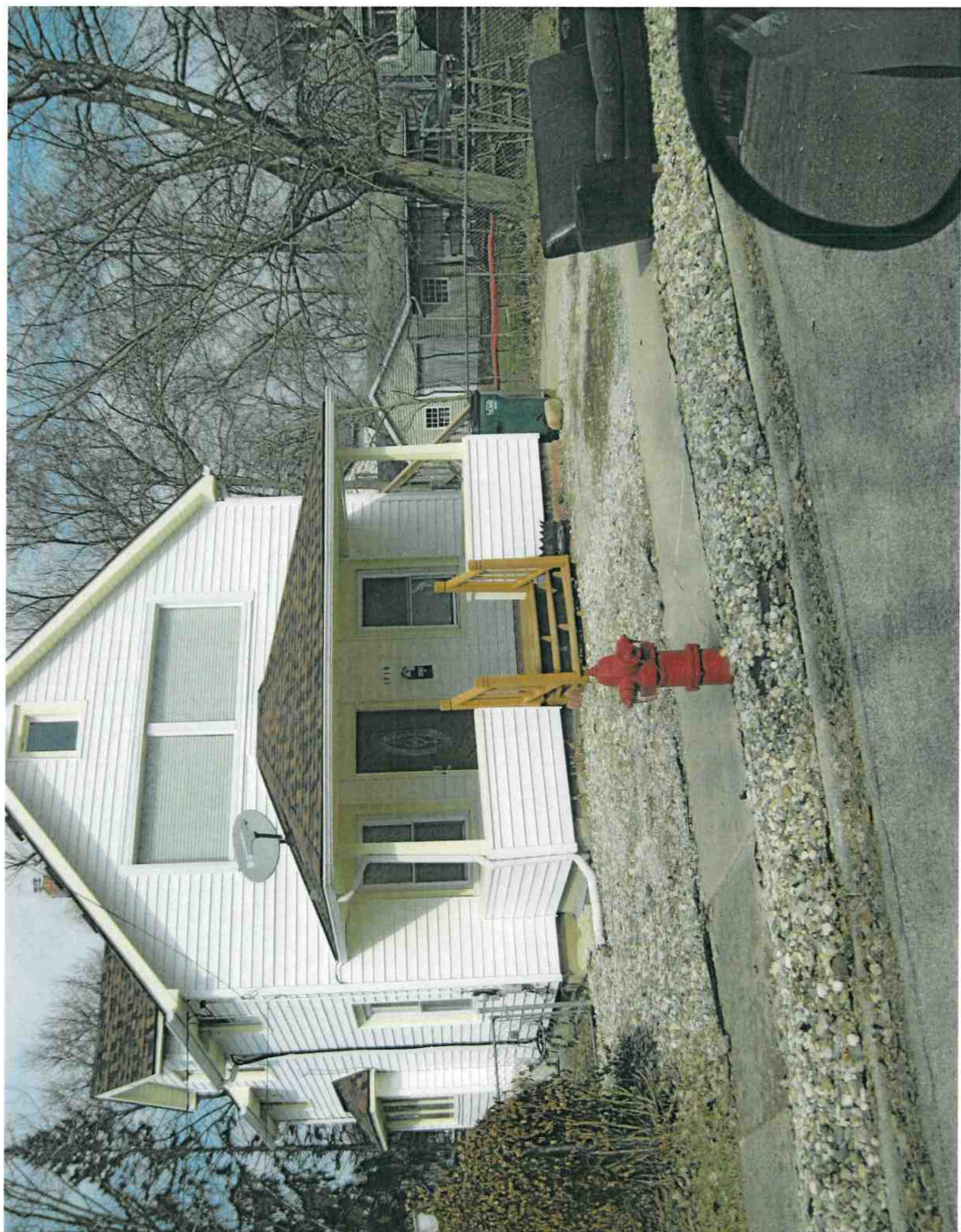
Check with the \$160 fee

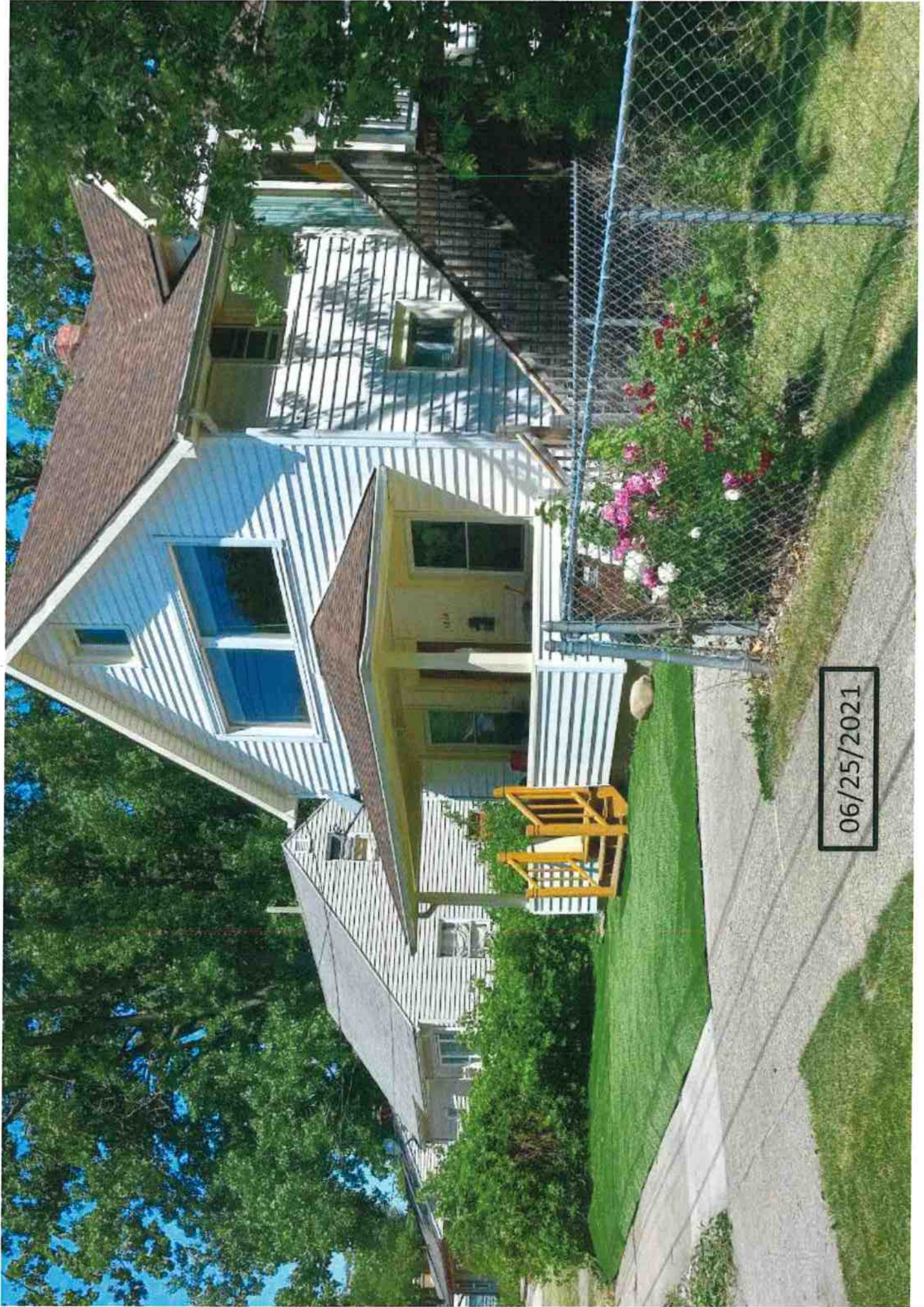
BZA application signed

1218 Theodore (pdf) – April 5th, 2021 Notice of Violation

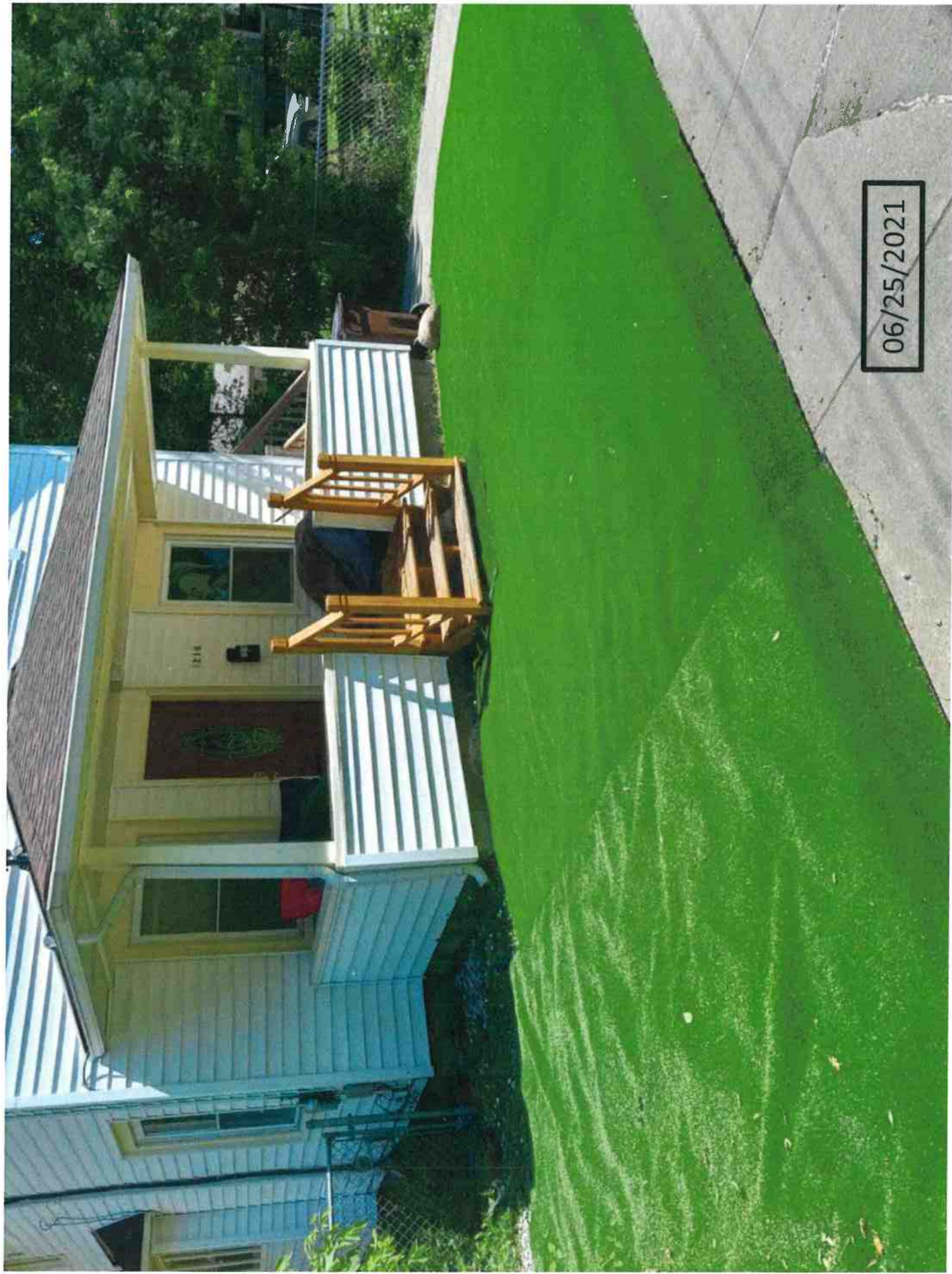
Email correspondence with Susan Stachowiak

SAMPLE OF THE STAR GRASS-35





06/25/2021

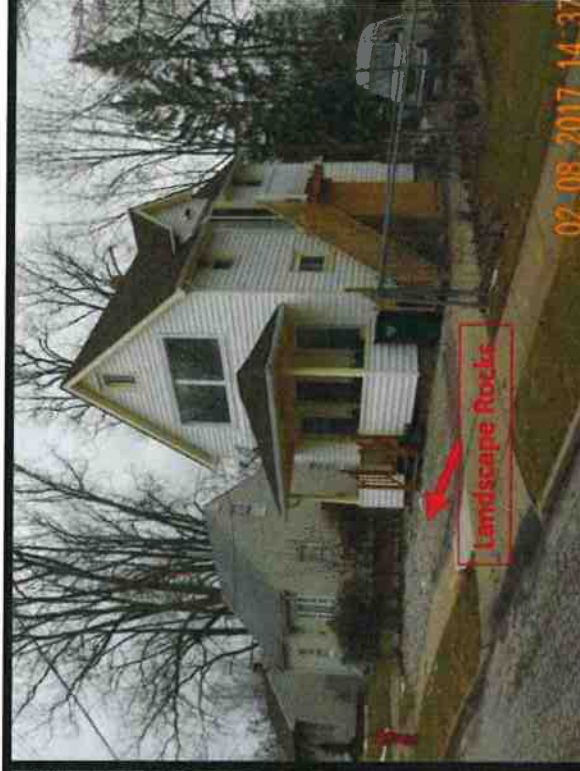


06/25/2021

Star Grass-35



The industry's first product into the world of synthetic turf, Star Grass-35 is for those who are looking to get a taste of the amazing benefits that 100% artificial grass provides. Reliable and long-lasting, Star Grass-35 features a Diamond-shaped fiber that allows the individual blades to stand taller and stronger under applied pressure and everyday wear and tear. That means you won't have flat, dead, and inconsistent green blades like natural grass lawns. We've taken Emerald Green and Olive Green colored blades and joined them with Green and Green Quilted backing to match the look and feel of natural grass. With Star Grass, you'll never have to mow, water, weed, or fertilize hundreds of dollars on fertilizer or pesticides. And if you have pets, you can say goodbye to muddy footprints trailing all across your floors. After installing Star Grass-35, you'll wonder why you didn't make the switch to synthetic turf years ago!





GENERAL INFORMATION

APPLICANT/OWNER: M. Cherry
804 W. Shiawassee Street
Lansing, MI 48915

REQUESTED ACTION: Variance to permit the front/side yard to be covered in mulch

EXISTING LAND USE: Single Family Residential

EXISTING ZONING: "R-6B" Urban Detached Residential

PROPERTY SIZE & SHAPE: Rectangular Shaped Lot
47.4' x 132' = 6,262 square feet

SURROUNDING LAND USE: N: Vacant School Building
S: Single Family Residential
E: Single Family Residential
W: Single Family Residential

SURROUNDING ZONING: N: R-AR, Residential Adaptive Reuse
S: "R-6B" Urban Detached Residential
E: "R-6B" Urban Detached Residential
W: "R-6B" Urban Detached Residential

MASTER PLAN DESIGNATION: The Design Lansing Master Plan designates the subject property for low-medium density residential use. W. Shiawassee Street is designated as a local road.

REQUEST

This is a request by the owner of 804 W. Shiawassee Street for a variance to permit the front yard and part of the side yard at this location to be covered with mulch. Section 1252.05 of the City of Lansing Zoning Ordinance requires those areas of a lot that are not covered by buildings or pavement to be covered by grass or other natural (growing) ground covers. This Section also limits the area of a yard that can be covered by mulch to 25%.

BACKGROUND INFORMATION

In June of this year, it was brought to my attention that the applicant covered the front yard, part of the side yard and the public right-of way at 804 W. Shiawassee Street with mulch. A letter (attached) was sent to the applicant on June 23, 2021 notifying her that the mulch in the front/side yards violates Section 1252.05 of the Zoning Ordinance and the mulch in the public right-of-way

violates the provisions of City Ordinance 1020.03 & 1020.04. Section 1252.05 of the Zoning Ordinance requires those areas of a lot that are not covered by buildings or allowable pavement to be landscaped with grass or other natural (growing) ground covers. This Section further requires that ground covers, such as mulch, must be arranged in a deliberate manner and may not exceed more than 25% of the lawn area. City Ordinance Sections 1020.03 and 1020.04 prohibit the placement of any plant or other material, other than natural grass, in the public right-of-way. The right-of-way typically begins 1-2 feet from the inside edge of the sidewalk. As the attached photographs illustrate, the entire front yard, part of the side yard and the right-of-way were covered with mulch when the violation letter was issued. An updated photograph shows that the applicant has removed a great deal of the mulch. Please note that the Board of Zoning Appeals does not have the authority to grant a variance to allow mulch or anything else in the public right-of-way. Ordinance 1020 grants the City's Public Service department sole authority over use of the public right-of-way.

In response to the letter, the applicant applied for a variance to allow the mulch to remain on the property as it existed at the time. As noted above, the applicant has already removed a great deal of the mulch. A detailed description of the basis for the applicant's request is attached to this report. The applicant does not disagree that the mulch is a violation of the City Ordinances but does not feel that the City should be taking enforcement action against her because (1) she was not aware of the ordinance, (2) the time frame to correct the violation (21 days) is not sufficient, (3) there has historically been mulch beds in the front yard and public right-of-way at 804 W. Shiawassee, (4) trash that collects in her yard from littering in the area does not have to be picked up to mow the yard as long as it is covered with mulch; and (5) the City is only pursuing this matter because her next door neighbor, who is a former City employee, contacted the City about the mulch.

Aerial photographs from 2015 and 2020 do not show that there was mulch in the public right-of-way at 804 W. Shiawassee Street. The aerials do show that there have been mulch beds in the front yard at this location. This was considered a legal nonconformity (grandfathered-in) and allowed to continue as it has existed for many years. As a nonconformity, however, the area covered by mulch could not be increased which is what has occurred and why it became a violation of the ordinance.

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 bases for the applicant's request, as described in the attachments and briefly described in the first paragraph on this page, are not justifications for approval of a variance to permit the front/side yard at 804 W. Shiawassee Street to be covered by mulch. In fact, the request does not satisfy any of the following criteria set forth in the Zoning Ordinance for evaluating variance requests:

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

Approval of a variance must be based on a unique feature of a property that sets it apart from most other properties in the City. It must be found that the “unique feature” makes compliance with the ordinance impractical or unreasonably difficult. 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. There is nothing unique about the subject property that warrants relief from the ordinance. The entire basis for the applicant’s request is that, unlike a lawn, the mulch does not require maintenance which means that she does not have to be in the yard and have contact with her next door neighbor. Since this is not something that is related to the property itself, any other property owner could make the same claim and thus, approval of the variance would set a negative precedent for future requests to vary the ordinance requiring natural ground covers.

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.**

Allowing a front yard, particularly in a residential neighborhood, to be covered by mulch will certainly change the character of the area, particularly if it results in other property owners covering their lawns with mulch or some other ground cover besides grass. Covering a lawn with mulch is not just an issue from an appearance standpoint. Mulch spills onto the sidewalk and the street, clogging the storm sewer system and creating a hazard for pedestrians and bicyclists.

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 variance will have no impact on vehicular traffic in the area. As the photographs illustrate, the mulch was located right up to the sidewalk and curb of the street, which could be a pretty significant hazardous to pedestrian traffic on the sidewalk and bicyclists or skateboarders using the street.

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

With the exception of mulch spilling into the street and onto the sidewalk, 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.**

Since there is nothing unique about the subject property, approval of the variance will set a negative precedent for approval of future requests to allow mulch or some other similar type of material covering a front/side yard simply because it requires less maintenance for the property owner.

FINDINGS

This is a request by the owner of 804 W. Shiawassee Street for a variance to permit the front yard and part of the side yard at this location to be covered with mulch. Section 1252.05 of the City of Lansing Zoning Ordinance requires those areas of a lot that are not covered by buildings or pavement to be covered by grass or other natural (growing) ground covers. This Section also limits the area of a yard that can be covered by mulch to 25%.

The available information supports a finding that the requested variance does not comply with the criteria listed in Sections 1274.06 (c) & (e) of the Zoning Ordinance that is to be used for evaluating variance requests.

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 4072.21 for a variance to permit the front yard and part of the side yard at 804 W. Shiawassee Street to be covered with mulch, on a finding that the request does not comply with the variance evaluation criteria listed in Sections 1274.06 (c) & (e) of the Zoning Ordinance."

Respectfully Submitted,

Susan Stachowiak
Zoning Administrator

Department of Economic
Development and Planning
Brian McGrain, Director



Andy Schor, Mayor

Planning and Zoning Office
316 N. Capitol Avenue, Suite D-1
Lansing, Michigan 48933
PH: 517.483.4066 – FAX: 517.483.6036
www.lansingmi.gov

June 23, 2021

Cherry M.T.
804 W. Shiawassee Street
Lansing, MI 48915

RE: Notice of Violation

Dear Madam,

Please be advised that the mulch that you have placed in your front yard and into the public right-of-way is in violation of the following provisions of the City of Lansing Codified Ordinances:

- * 1020.03(a): "The owner of any property abutting a public right-of-way shall properly grade the spaces between the line of the lot and the back of the curb or edge of the roadway, **shall improve and care for the same so that such spaces shall be, in fact, lawns, and shall keep the grass thereon trimmed or mowed.** Such lawns shall be deemed to be public parks. No plant, shrub or tree shall be planted or allowed to grow in the right-of-way unless authorized by the Director of Public Service."
- * 1020.04: "**No person shall remove any earth, turf, sand or gravel from any of the rights-of-way of the City...**"
- * 1252.05: "**Areas of lot coverage that are not paved or occupied by building footprint must be landscaped with grass lawn, ground cover (living plants) perennial / shrub beds, or a combination thereof.**" Note: there is an exception in the ordinance to permit covering up to 25% of the open space on the lot (does not include the public right-of-way between the sidewalk and the street) with mulch, as long as it part of a landscape feature and does not result in mulch spilling onto the public sidewalk.

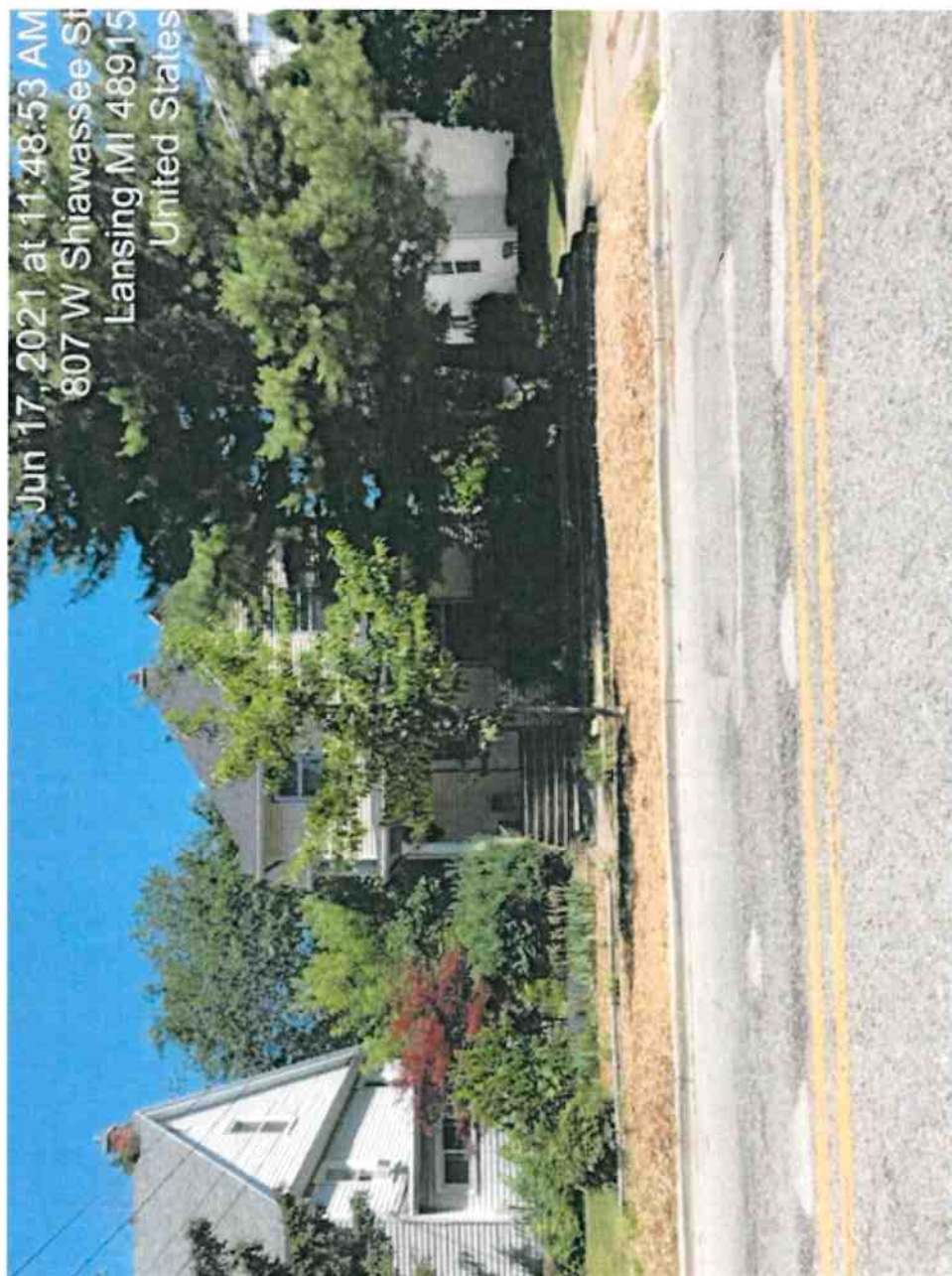
Please have all mulch removed from the public right-of-way and have the area seeded or sodded to create a lawn (grass). Please also have the amount of mulch covering your yard reduced to not more than 25% of the open space on the lot and have the remainder of the yard seeded or sodded to create a lawn (grass). These corrections must be completed within twenty-one (21) calendar days from the date of this letter. Failure to comply within the 21-day time period will result in issuance of a civil fine. In addition the City will seek a court order of compliance.

If you have any questions, please do not hesitate to contact me at 517-483-4085 or by email at susan.stachowiak@lansingmi.gov

Sincerely,

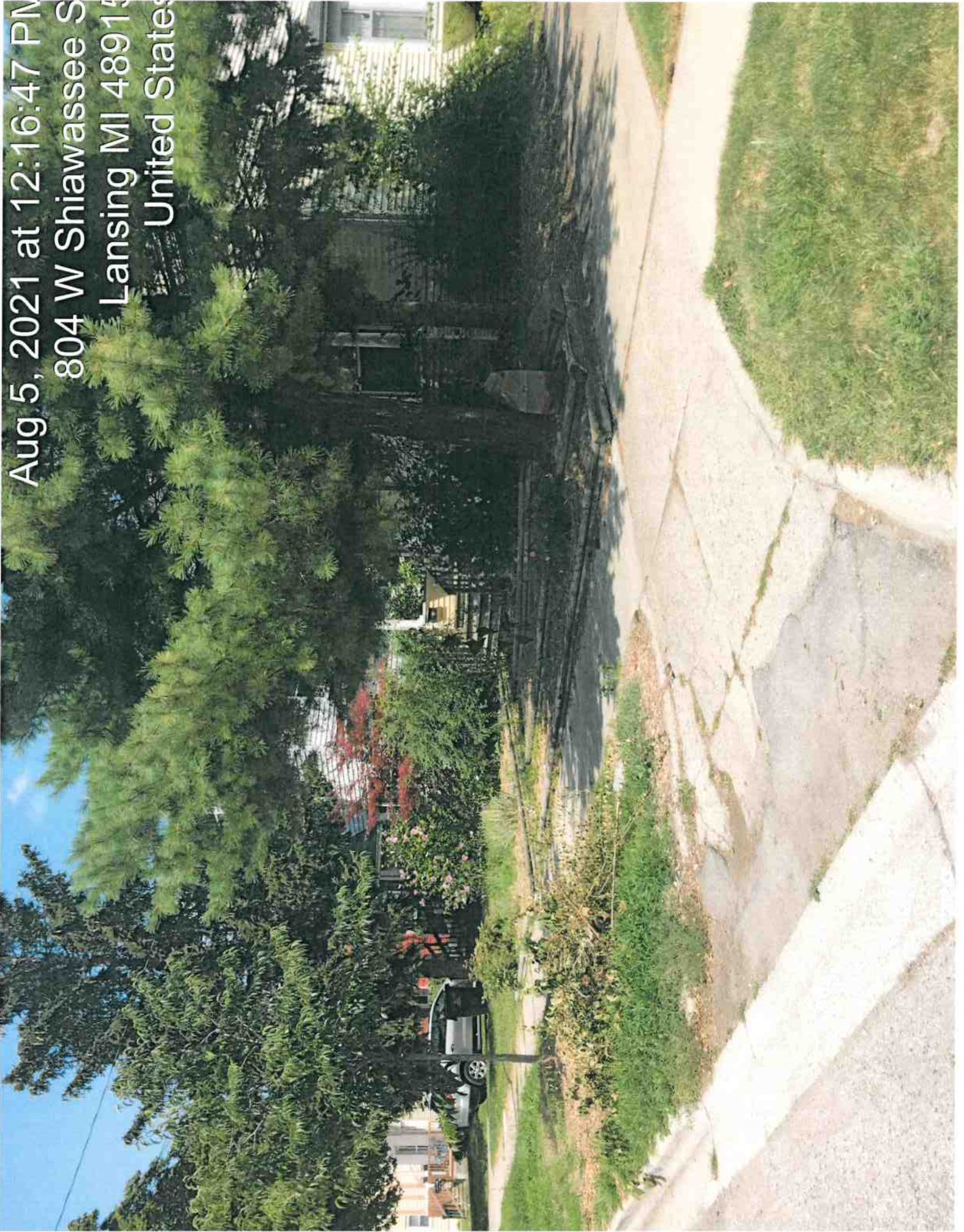
A handwritten signature in blue ink, appearing to read "Susan Stachowiak", is written over the word "Sincerely,".

Susan Stachowiak
Zoning Administrator



Jun 17, 2021 at 11:48:53 AM
807 W Shiawassee St
Lansing, MI 48915
United States

Aug 5, 2021 at 12:16:47 PM
804 W Shiawassee S
Lansing MI 48915
United States



Aug 5, 2021 at 12:16:32 PM
804 W Shiawassee St
Lansing MI 48913
United States



CITY OF LANSING - PLANNING OFFICE
BOARD OF ZONING APPEALS

Regarding violation notice dated June 23, 2021

I am appealing the 1) the short window allotted to redress the charged code violation, 2) the notice to remove mulch from the private front lawn, and 3) the application of a violation charge in general, on the basis that the mulch was laid out in good conscious without intent to break or violate any ordinances, and that the insigating application of a charge was from another private individual in yet another harrassment action.

I. Reason for appying the mulch

I purchased this property just in November 2020. The front lawn was already covered with mulch as part of the pre-existing landscape.

Since moving to the property, I have endured a persistent trash situation with debri being deposited into my lawn for the entire 7 + months i have resided here. I do not exit the property from the front on a regular basis, or do I or my visitors frequent the front area in proportion to the amount of trash deposited; the tash deposits are from other persons not directly associated with me. The neighoring properties regularly have trash in both their lawns and right a ways, and i have observed unknown persons intentionally depositing trash in and near the right of way in front of my home.

Additionally, I have observed occupations in direct neighboring houses on a weekly, recurring basis bringing their dogs to specifically defecat in my yard, and then returning to their nearby homes. These events are outside of normal random persons taking their dogs out for walks in residential areas.

I am a single person, without much physical protection. I also understand some of these other persons may have non malicious reasons for signalling out my residence to deposit their rubbish, so I am not requesting action against them. These occurrences are provided for explanation as to why I investigated alternate measures to inhibit trash deposits.

II. Obtainment of the mulch

City of Lansing tree trimming service men were working in the neighborhood in the month of May. I observed them depositing residual mulch around a tree growing in the right of way section of another neighborhood home. I asked the City of Lansing tree trimming service men if I could have some of the collected wood trimming to use as mulch to cover the right of way area in front of my home. The workman granted me two very large piles of mulch collected from trim work on my street.

I am not insinuating that the City of Lansing tree trimming service men had the authority to permit me to violate any public ordinances. I wanted to identify the source of the mulch to

clearly demonstrate that neither I, nor your fellow City of Lansing residential maintenance personnel had ANY idea that applying mulch was a violation of a city ordinance.

As stated previous, the house as purchased had a significant amount of pre-covered mulched areas. Someone placed a used, potentially COVID infected mask on the side of my home. When spreading the mulch, i used the excess to refill worn out areas inside the lawn, and to create a unified appearance with the right of way. I also hoped the additional coverage would inhibit lawn retainment of trash debri, such as the used COVID mask.

III. Grievance statement regarding your office selection to enforce this code

As written above, I at no time sought to violate any law / edict. There are several neighboring properties with various alternate plants, rock / wood structures, etc within the right of ways in front of homes.

The individual in the home to the left side of my address (I know him only as Bob) has been harrassing me non stop since moving into the property. He has aggressively approached me with yells and threats, he has driven his massive red pick up truck twice up to my unprotected person at a 1 foot distance, he intentionally piled excessive snow deposits behind my car to block me in, he verbally taunts me almost every time I go outside including loudly laughing at me when my car got stuck due to the snow pile he shovelled behind me, he has verbally insulted and maligned my person to neighbors (the conversation sound echos) and overall has made it both an unpleasant and unsafe space for me to go outside into the front yard area.

I notified the Planning and Zoning officer Susan Stachowiak on June 28 that i observed an agent from her office park in front of the house directly across mine (I have security cameras and saw his approach), walk diagonally across the street and up the stairs to Bob's home about 3 weeks prior to receiving the violation citation. Ms. Stachowiak alleged that the agent was sent to take pictures of my lawn. I pointed out to Ms. Stachowiak that his approach, and ascension up Bob's porch steps was inconsistent with her implied statement that his presence was strictly to take pictures. She also stated that she is familiar with the location and drives by the area, presumably on a frequent basis. The implication of her statment (she did not explicitly state this) was to deny my expressed concern that Bob, who is very well known and established in the Lansing community and has worked with city officials through his extended time of residency here, was the instigating factor of assigning the violation.

I would like to point out that in the 7+ months that I have resided here, I have observed 1) extensive trash debri in yards and right of way sections and 2) extensive periods of tall / above 6 inch grass. While I, of course, do not know if any notices or violation charges have been levied regarding these clearly known infractions, the regularity and extensive reoccurrence of them does not suggest that any such charges have been laid. However, a few weeks after Bob received visitation from a City of Lansing employee during business hours (since the automobile used clearly displayed the city logo), I received a violation charge.

I am expressing this grievence not in an attempt to evade any established ordinance. But rather to expose the misuse of personal connections to harrass another private citizen, and the Planning and Zoning Office's willingness to permit such usage.

IV. Appeal Requests

I am appealing the citation as a violator. Not the charge itself, but the implication that I knowingly sought to violate city ordinances and, as such, am culpable for issuance of a civil fine. Additionally, I am appealing the extremely short time window assigned for me to redress the city violation.

I am appealing the directive to remove mulch from the lawn and application of grass to the lawn. As mentioned previous, the house was purchased fully landscaped with mulch / plastic barriers restricting grass growth, which is a feature that drew me to purchase the property.

I am appealing the directive for me to maintain grass in the right of way. As previously mentioned, there are several neighboring homes with landscaped right of ways. Additionally, when researching ways to redress the trash situation I found city of Lansing articles indicating ground cover and plants (maximum height of 2 feet, flower height of 3 feet) were permitted within the right of way sections.

I am pleading for your basic sense of kindness and understanding relative to the emotional stress and hardship of having to persistently deal with deliberate, and non malicious but persistent, depositing of trash into the yard, which I've found that the mulch effectively expels. I am also pleading for fairness and universal justice relative to inhibiting the use of city ordinances and public offices by an individual to harass and emotionally injure another person, specifically my person.

Thank you for your time and attention in this matter.


M. Cherry

Additional Objection:

The order of violation notice dated June 23, 2021 includes the charged that I violated Ordinance 1020.04 "No person shall remove any earth, turf, sand or gravel from any of the rights-of-way of the City..."

I, at NO time, removed any earth, turf, sand or gravel from the right of way. I did move earth and turf WITHIN my private backyard from one area to another.

There were / are NO visible signs or suggestions that I moved anything from the right of way. I only spread out the mulch deposited by the City tree trimers.

HOWEVER, Bob and his household are the ONLY persons who accurately and honestly know that I transported and moved earth and turf WITHIN my own private backyard.

It is interesting that a violation charge, that as Ms.Stachowiak implied, which was assigned based on casual visual observation includes a false charge of earth transport from the right of way. Bob did / does object to my reclaiming an asphalted section of my own backyard.

This included false accusation of an ordinance violation is consistent with my contention that Bob was the instigating agent for the levy of this violation charge.

On July 5, while assisting me with removing the mulch, my brother in law was approached by Bob, who voluntarily told my brother in law that he, Bob, was a former City of Lansing Director, AND that he was contacted by the city about my property and the mulch in the right of way. I present the following question, why would the City of Lansing contact a private individual, as Bob is reportedly no longer an officer within the city, regarding a matter related to another private individual? Not only is that a violation of my privacy and civil liberties, but it also demonstrates that a city office willingly ignores conflict of interest issues and solicits (or as I protest accepts) suggestions and requests for application of civil charges at the behest of person(s) with untoward agendas.

(Aside, while not relevant to this charge, I do have video evidence of Bob engaging in harassing behavior towards me, as corroboration that I am not slandering an innocent party).

m cherey
m cherey



**MINUTES OF REGULAR MEETING
BOARD OF ZONING APPEALS
THURSDAY, June 10, 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 6:35 p.m. Roll call was taken.

Present: M. Alling, M. Rice, K. Berryman, Chris Iannuzzi & E. Jefferson

Absent: M. Solak, B. Fryling, J. Hovey & J. Leaming

Staff: S. Stachowiak & A. Fedewa

A quorum of at 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 Ms. Jefferson 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-4069.21, 409 W. Sheridan Road - Variance to the allowable width of a driveway in a residential front yard

Ms. Stachowiak stated that 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. Ms. Stachowiak stated that the staff recommendation is to deny the variance 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.

Ms. Stachowiak stated that 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. She explained that the basis for the applicant having installed the concrete in the front yard is to provide better access to the front door for a disabled relative that lives in the house. Ms. Stachowiak said that a photograph of the property taken by the Assessor's Office 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 along with the gravel area have been paved with concrete. She said that there does not appear to

be a sufficient basis for approval of the variance since 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.

Ms. Alling opened the public hearing.

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

Mr. Rice asked how the ramp was able to be constructed and the gravel placed in the front yard.

Ms. Stachowiak said that the ramp was not legal to extent that it emptied onto the public sidewalk but she is not sure how that was able to be constructed. She said that the recently repealed zoning ordinance allowed the gravel, although not for parking.

Mr. Berryman asked is the pavement would have to be removed if the variance is denied.

Ms. Stachowiak said that it would have to be removed.

Mr. Rice stated that the request does not comply with the criteria that is used to evaluate variances and thus, it should not be approved. He also said that the applicant already has a driveway that is of sufficient size and since there is nothing unique about the property to warrant the variance, approval may set a negative precedent for future requests to permit parking in a front yard.

Ms. Alling agreed with Mr. Rice. She said that the situation is unfortunate but there just is not any justification for granting the variance. She also said that perhaps the applicant could construct a new ramp that provides better access to the home for the person who is disabled.

Ms. Jefferson made a motion, seconded by Mr. Rice 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. On a roll call vote, the motion carried unanimously (5-0).

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

Ms. Stachowiak said that 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. Ms. Stachowiak stated that the staff recommendation is to approve the variances based on a finding that the request complies 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 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. She said that the proposed house is 28 feet wide by 38 feet deep (1,064 square feet) which is a very reasonable size. She also said that, as evidenced by the parcel map in the packet, 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. Ms. Stachowiak said that if the subject property had the same shape and dimensions/size, no variances would be necessary in this case.

Ms. Stachowiak stated that the lots along Jessop Avenue were platted in the 1920's when setback requirements and minimum lots sizes were much less restrictive. Under the current City ordinances, a new single family residential lot would have to 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. Ms. Stachowiak said that if the subject property complied with current lot size requirements, no variances would be necessary in this case.

Ms. Stachowiak said that the setbacks are measured from the nearest point of the house to the nearest point on the lot line(s). She said that, as depicted on the 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. Ms. Stachowiak said that the encroachments are minimal and without setback variances, the lot would be rendered virtually unbuildable.

Ms. Alling opened the public hearing.

Patrick Lee, 821 Jessop Avenue, spoke in opposition to the variances. Mr. Lee said that he owns the property directly adjacent to 815 Jessop and when he purchased the property, he was told that the property was not buildable. He said that the variances would allow for a house to be squeezed in on the property which will negatively change the character of the area.

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

Ms. Alling asked Ms. Stachowiak if the City sold the property to the current owner.

Mr. Fedewa said that he looked it up on the Assessor's records and it was sold to the current owner by Ingham County in May of this year.

Mr. Rice stated that the request seems to comply with the criteria used to evaluate variances. He said that the owner of a property has a right to develop it in a reasonable manner and the reason for variances is when that cannot occur because of a unique feature of the site such as irregular shape. He also said that the lot was platted along time ago, so the current owner did not create the situation that warrants the variances.

Mr. Rice made a motion, seconded by Ms. Jefferson 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. On a roll call vote, the motion carried unanimously (5-0).

V. OLD BUSINESS - None

VI. NEW BUSINESS

A. Excused Absences

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

B. Return to in-person meetings

Ms. Stachowiak stated that beginning July 12, 2021, the City will return to in-person meetings. She said that July BZA meeting is on the 8th so the first in-person meeting will be in August. Ms. Stachowiak said that the meetings will be held at the Neighborhood Empowerment Center and she will try to book them in the training room so there is more space for everyone to spread out.

VII. APPROVAL OF MINUTES

A. Regular Meeting, February 11, 2021

Ms. Stachowiak said that the minutes need to be corrected to reflect that Mr. Berryman was granted an excused absence.

Mr. Iannuzzi made a motion, seconded by Mr. Rice to amend the minutes to reflect that Mr. Berryman was granted an excused absence. On a voice vote, the motion carried unanimously (5-0).

Mr. Rice made a motion, seconded by Mr. Berryman to approve the February 11, 2021 meeting minutes, as amended. On a voice vote, the motion carried unanimously (5-0).

VIII. PUBLIC COMMENT

IX. ADJOURNMENT AT 7:07 p.m.

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator