
MINUTES OF REGULAR MEETING – *Approved 10/9/21*
BOARD OF ZONING APPEALS
THURSDAY, August 12, 2021, 6:30 P.M.
600 W. Maple Street, Lansing, MI 48915

The meeting was also accessible to members of the public via online teleconference in compliance with the Open Meetings Act, as amended.

I. ROLL CALL

The meeting was called to order by Marcie Alling at 6:30 p.m. Roll call was taken.

Present: M. Alling, K. Berryman, J. Leaming, E. Jefferson & B. Fryling

Absent: M. Solak, M. Rice, C. Iannuzzi & J. Hovey

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. Leaming, 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-4071.21, 1218 Theodore Street - Variance to permit artificial turf in the front yard

Ms. Stachowiak stated that 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. 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 In April of this year, it was brought to her attention that the applicant covered the front yard, including the public right-of way at 1218 Theodore Street with gravel. In response, she sent a letter notifying the applicant that the gravel violates the Zoning Ordinance and the gravel in the public right-of-way violates the provisions of City Ordinance 1020.03 & 1020.04, which prohibit the placement of any plant or other material, other than natural grass, in the public right-of-way. In response to the letter, the applicant covered the front yard with artificial grass rugs and was then notified that artificial grass does not satisfy the ordinance requirements for covering a yard/public right-of-way with grass. Ms. Stachowiak said that there is nothing unique about the applicant’s property that warrants relief from the ordinance. She said that the basis for the applicant’s request is that the artificial grass would be low maintenance, will look good all of the time and will not require the use of pesticides or fertilizers.

Ms. Stachowiak pointed out 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. She said that Ordinance 1020 grants the City's Public Service department sole authority over use of or placement of anything in the public right-of-way.

Ms. Alling opened the public hearing.

Jose Lopez, 1218 Theodore Street, addressed the Board remotely via Zoom Conferencing. Mr. Lopez explained that 1218 Theodore is his second home and the artificial turf ensures that it will always look nice since he is not there much of the time to perform maintenance. He said that he did not realize that the artificial turf would be an issue and he asked that the Board grant the requested variance so that it can remain as is.

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

Mr. Leaming stated that he went by the property to look at it and it appears that grass is growing up through the rug. He said that since there is nothing unique about the property itself that makes compliance with the ordinance impractical or unreasonably difficult, the Board is not in a position to approve the variance.

Ms. Stachowiak assured Mr. Lopez that he would be given ample time to remove the artificial turf and the gravel and plant the area with grass.

Ms. Jefferson made a motion, seconded by Mr. Leaming to deny BZA 4071.21 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-4072.21 – 804 W. Shiawassee Street - Variance to permit covering the front and side yard with mulch

Ms. Stachowiak said that 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%. 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 In June of this year, it was brought to her 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. In response, she sent a letter notifying the applicant that the mulch violates the Zoning Ordinance and the mulch in the public right-of-way violates the provisions of City Ordinance 1020.03 & 1020.04, which prohibit the placement of any material, other than natural grass, in the public right-of-way. Ms. Stachowiak said that the applicant has removed the vast majority of the mulch and at this point, she considers the property to be in compliance with the ordinances.

Ms. Stachowiak said that the applicant does not seem 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 that was given to correct the violation (21 days) was 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. Ms. Stachowiak said that none of these issues are sufficient justification for issuance of a variance. She said that there is nothing unique about the applicant's property that warrants relief from the ordinance.

Ms. Stachowiak stated that 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.

Ms. Stachowiak again pointed out 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. She said that Ordinance 1020 grants the City's Public Service department sole authority over use of or placement of anything in the public right-of-way.

Ms. Alling opened the public hearing.

Ms. M. Cherry, 804 W. Shiawassee Street, stated that her purpose for bringing this matter before the Board was to explain the situation that resulted in a need to add additional mulch to areas where it has already existed for quite some time. She said that the situation with her next door neighbor has been very difficult and the mulch prevents her from having to spend as much time in the yard doing maintenance which is less time that she has to interact with the neighbor. Ms. Cherry said that if she cannot have the mulch, she would like to have some other type of ground cover that serves the same purpose of less maintenance. She also said that she naturally assumed that there would not be an issue with the mulch since it was given to her by the City or one of its contractors.

Jeffrey Rogers, 804 W. Shiawassee Street, reiterated the concerns expressed by Ms. Cherry with respect to trash in the yard, the tense situation with the next door neighbor, the prior existence of mulch on the property and the need for some type of ground cover that would not require as much maintenance as standard grass.

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

Ms. Jefferson informed Ms. Cherry that the Board does not have the authority to authorize the placement of mulch or anything else in the public right-of-way but that Ms. Stachowiak can provide her with the information she needs to request an exception from the City's Public Service Department.

Mr. Leaming asked Ms. Stachowiak about adding mulch to areas where it already existed.

Ms. Stachowiak said that if the applicant had just put some mulch over the area in the front yard where it previously existed just to give it a clean and fresh look, there would not have been an issue. She said that the problem occurred when the area was expanded, particularly into the public right-of-way.

Mr. Leaming explained that the request does not comply with the evaluation criteria to authorize a variance.

Mr. Leaming made a motion, seconded by Ms. Jefferson 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, and to confirm that the applicant will be permitted to maintain the current level and placement of mulch/mulch beds that have historically existed on the property, as shown in the photographs provided in the meeting packet. On a roll call vote, the motion carried unanimously (5-0).

V. OLD BUSINESS - None

VI. NEW BUSINESS

A. Excused Absences

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

- B.** Ms. Stachowiak stated that a new zoning ordinance went into effect on May 1, 2021. She said that as staff works with the ordinance, they are finding a lot of conflicts, unclear language and things that just need to be tweaked so there are already a number of amendments in the works.

VII. APPROVAL OF MINUTES

A. Regular Meeting, June 10, 2021

Ms. Jefferson made a motion, seconded by Mr. Fryling to approve the June 10, 2021 meeting minutes, as presented. On a voice vote, the motion carried unanimously (5-0).

VIII. PUBLIC COMMENT

IX. ADJOURNMENT AT 7:41 p.m.

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator