



Andy Schor
Mayor

**LANSING BOARD OF ZONING APPEALS
REGULAR MEETING
DEPARTMENT OF ECONOMIC DEVELOPMENT AND PLANNING
THURSDAY, June 9, 2022, 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-4076.22, 109 E. Randolph Street - Variance to the parking requirement to permit a 20-bed, State-licensed, adult foster care home**
- V. OLD BUSINESS**
 - A. BZA-4075.21, 545 Paris Avenue – Request for reconsideration of a variance to permit 2 driveways**
- VII. NEW BUSINESS**
- VI. APPROVAL OF MINUTES**
 - A. Regular Meeting January 13, 2022**
- 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: Bruce Hicks
1579 Picadilly Drive
Haslett, MI 48840

OWNER: Passionist Sisters Convent
109 E. Randolph Street
Lansing, MI 48906

REQUESTED ACTION: Variances to the required number of parking spaces

EXISTING LAND USE: Vacant convent

EXISTING ZONING: “R-6A” Urban Detached Residential District
The applicant has an application pending to rezone the property to “R-AR” Residential Adaptive Reuse

PROPERTY SIZE: 16,296 square feet (.374 acres)

SURROUNDING LAND USE: N: Single Family Residential
S: Single Family Residential
E: Single Family Residential
W: St. Therese Parish Church

SURROUNDING ZONING: N: “R-6A” Urban Detached Residential District
S: “R-6A” Urban Detached Residential District
E: “R-6A” Urban Detached Residential District
W: “R-6A” Urban Detached Residential District

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

REQUEST

This is a request by Bruce Hicks for a variance to the parking requirement to allow the building at 109 E. Randolph Street to be used for a state-licensed adult foster care, large group home for the aged (up to 20 residents). Section 1254.01.03 of the City of Lansing Zoning Ordinance requires 10 parking spaces for the proposed group home. There are no parking spaces on the subject property. A variance of 10 to the required number of parking spaces is therefore, being requested.

Required	Proposed	Variance
10 parking spaces	0 parking spaces	10 parking spaces

BACKGROUND INFORMATION

At some point in time, the subject property had to have been located on the same parcel of land as the church on the adjoining property to its west. Despite a thorough search, I have been unable to determine when it was split off although I am certain that it did not occur within the past 25 years. The City would have had to authorize the split and by doing so, creating a situation where there is a building on a lot that cannot possibly accommodate the required amount of parking to support any reasonable use thereof. At the very most, there would only be adequate parking for a single-family residence. This would be accomplished by utilizing the existing walkway from the street to the building for a driveway allowing 2 vehicles to park in tandem. Any other uses besides a single-family residence will require a parking lot in the side or rear yard that complies with the dimensional requirements of the Zoning Ordinance and, as evidenced by the attached aerial photograph, there is not adequate space on the lot to do so. To that end, the split should not have been authorized.

The building on the subject property has historically been used as a convent for 17 nuns. Presumably, the nuns utilized the parking on the church property to the west. The capacity of the convent has decreased over the years and is now vacant entirely. The current owner would like to sell the property but has had difficulty doing so, in part because any future use will be subject to current parking requirements and the church is unwilling to sell or lease any of its parking to a new owner.

The City, particularly since it is partially responsible for creating this situation by authorizing the split, has an obligation to allow for reasonable use of the property and given the size of both the building and the site, restricting it to a single-family residence would not be reasonable. Single family use is the only use permitted by right under the current zoning. Furthermore, the property is located in an area that, other than the church to the west, is exclusively single family residential. Given these circumstances, the intent is to allow a use that would not be disruptive to the neighborhood and would generate a low volume of traffic. The traffic is of particular concern since all vehicles related to the facility will have no choice but to use the on-street parking, which is shared by the residents in the area.

The applicant has requests pending at this time to rezone the property to R-AR, Residential Adaptive Reuse and for a special land use permit to allow use of the building for a state-licensed adult foster care, large group home for the aged (up to 20 residents). Since it is highly unlikely that the residents of the facility will drive and since the staff needed to operate a 20-bed home is minimal (5-6 employees in the largest shift), the proposed facility seems to be the most appropriate use of the property and the one which will have the lowest impact on the area in general and the on-street parking in particular. All three requests (variance, rezoning and special land use permit) must be approved in order to permit the group home.

ANALYSIS

Sections 1274.06 (c)(1-4) and (e)(1-4) of the Zoning Code set forth the criteria and standards which must be used to evaluate a variance request. Approval of a variance must be based upon a finding that:

- * There is a unique feature of the lot such as size, shape, or uneven topography that either prevents or makes compliance with the ordinance unreasonable difficulty,

- * The owner cannot make reasonable use of the property without the requested variance; or
- * Denial of the variance would cause an unnecessary hardship on the applicant since the result of the variance will not be contrary to the intent and purpose of the ordinance, will not set a negative precedent for future requests to vary the ordinance standard and will have no negative impacts on surrounding properties

Practical Difficulty or Hardship

The applicant bases a practical difficulty on the inability to accommodate the required number of parking spaces because of the small size of the lot and the placement of the building thereon.

The following criteria are described in Section 1274.06(c) of the Zoning Ordinance for the Board to consider in making its findings:

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 does meet the first criterion since the practical difficulty is directly related to the application of the parking ordinance requirements on a lot that is too small to accommodate on-site parking. Section 1254.01.03 of the Zoning Ordinance requires .5 parking spaces for every 2 beds in the facility, plus .25 spaces per unit for visitor/employee parking. The proposed facility will have 20 beds which requires 10 parking spaces. In addition, the current Zoning Ordinance does not permit parking in a front yard and there is no room in the side or back yards, as evidenced by the attached aerial photograph of the property.

With respect to the second criterion, the practical difficulty cannot be considered self-created. The Church to the west split off the subject property at some point in the past and in doing so, created the situation that necessitates a variance to the parking requirements in order for the building to be reused now that it is no longer a convent. The Church has always allowed the nuns to park on its property but will not sell or lease any of its parking to a new owner. The Passionist Sisters Convent, which is not under the ownership or control of the adjoining Church, is the current owner and is not responsible for creating the practical difficulty involving the small size of the lot that resulted in a lack of existing on-site parking and an inability to construct any new parking on the site. The City, however, does bear some of the responsibility by authorizing the property to be split without consideration as to how the lack of parking would impact future use of the site.

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 size and layout of the site. As the attached aerial photograph illustrates, there is simply no room on

the site to accommodate a parking lot in compliance with the Zoning Ordinance requirements. This is a very unique case because without a variance, the building could not be used for anything other than a single-family residence which is not a reasonable use for a 7,442 square foot building.

The other consideration relates to whether there is a viable use of the property without the variance. As described in the preceding paragraphs of this report, a variance to the parking requirement is necessary to allow reuse of the existing building. The proposed 20 bed group home facility for the aged seems to be the most appropriate use and will have the least amount of impact on the surrounding neighborhood. The facility will generate a low volume of traffic, thus not resulting in overuse of the on-street parking in the area. It will also not generate noise or outdoor activity of any significance.

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 the public in general. These standards and the manner in which they relate to this request are as follows:

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

The requested parking variance will allow an existing building to be used for a low impact residential use, similar in intensity to the historical use of the property as a convent. Approval of the variance, therefore, will not change the general character of the neighborhood. It will, however, result in use of on-street parking on a daily basis as there are no other options available for parking to accommodate reuse of the building. The amount of traffic/parking is anticipated to be minimal, and not burdensome to the surrounding neighborhood. If the parking variance is not approved, the building will remain vacant and will deteriorate over time which will have a negative impact on the neighborhood.

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.**

The variance is not expected to have any negative impacts on vehicular or pedestrian traffic in the area. A 20-bed home for the aged will generate a fairly low volume of traffic resulting in minimal usage of on-street parking. In fact, since the residents of the facility will not likely be in a position to drive, the traffic on a daily basis will be limited to that of visitors and staff which will only be 5-6 persons during the day and even fewer in the evenings and overnight. This level of traffic will be comparable, if not even lower, than that which was generated by the convent when it housed 17 nuns.

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

The proposed 20-bed group home for the aged will not generate any nuisances. In fact, it should have the least amount of impact on the surrounding residential neighborhood of any use that could potentially occupy the existing building. Traffic is expected to be light which will result in a low demand for use of on-street parking in the area. In addition, activity

associated with the use should be minimal and should not generate noise, fumes, light glare or other nuisances that would be disruptive to the neighborhood.

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

Given the unique circumstances surrounding this request as detailed in the preceding paragraphs of this report, approval of the variances will not set a negative precedent for future requests to vary the parking requirements.

SUMMARY & FINDINGS

This is a request by Bruce Hicks for a variance to the parking requirement to allow the building at 109 E. Randolph Street to be used for a state-licensed adult foster care, large group home for the aged (up to 20 residents). Section 1254.01.03 of the City of Lansing Zoning Ordinance requires 10 parking spaces for the proposed group home. There are no parking spaces on the subject property. A variance of 10 to the required number of parking spaces is therefore, being requested.

The available information supports a finding that the requested variance is consistent with the practical difficulty criteria of Section 1274.06 (c) and the impact criteria of Section 1274.06 (e). More specifically, the variance is necessary to allow for reasonable use of the subject property and the small size and layout of the site presents a practical difficulty in complying with the ordinance requirement for on-site parking.

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 4076.22, a request for a variance of ten (10) to the required number of parking spaces to permit a 20-bed, state-licensed adult foster care center in the existing building at 109 E. Randolph Street, on a finding that the variance complies with the variance evaluation criteria set forth in Sections 1274.06 (c) & (e) of the Zoning Ordinance.”

Respectfully Submitted,

Susan Stachowiak
Zoning Administrator



CITY OF LANSING - PLANNING OFFICE
PETITION
BOARD OF ZONING APPEALS

Reset Form

Print

FILE NUMBER: BZA- 4076.21
DATE SUBMITTED: 4.14.2022

A request is hereby made to vary the requirements of the Zoning and / or Sign Ordinance.

Street Address (include zip code): 109 E Randolph St. Lansing, MI 48906

Legal Description: LOT 17 & PART OF LOT 18 NORTH GARDENS SUB AND ALSO PART OF LOT 11 ASSESSORS PLAT NO 45 LYING E'LY OF A LINE COM 3.3 FT W OF SE COR LOT 11, TH N 137.77 FT, W 9.15 FT, N 28.74 FT, W 13.2 FT, N 02DEG 05MIN 20SCD W 8 FT TO NW COR LOT 18 & POE NORTH GARDENS SUB

Applicant Name: Bruce Hicks

Address (include zip code): 1579 Picadilly Dr. Haslett, MI 48840

Phone Number: 5175286040

Owner Name: Bruce Hicks

Owner Address (include zip code): 1579 Picadilly Dr Haslett, MI 48840

Owner Phone: 5175286040

Interest in Property (please check one)

☐ Option to buy ☐ Owner ☒ Other (please specify) Property under a purchase agreement
☐ Leasee ☐ Represent Owner

Zoning of the property: R-6A Lot dimensions: 90 x 105 Is this property in the flood plain?
☐ Yes ☒ No

Is this property residential? ☐ Yes ☒ No

of Efficiency Units: # of 1 Bedroom Units 20 # of 2 Bedroom Units: # of 3 Bedroom Units:
Total # of Units Total # of Bedrooms: 20 # of accessible on-site parking spaces:

Is this property non-residential? ☒ Yes ☐ No

of employees (largest shift): # of accessible on-site parking spaces:

Hours and days / week of operation:

Describe or explain your proposal for this property:

attach a separate sheet if more space is necessary

We propose to use this home as an adult foster care home for the aged. Our home will provide care, meals, laundry, food plans, transportation and any other necessities needed by our clients. We have not applied for state licenses yet, we want to ensure ALL SLU and variances are approved first. We do not anticipate any issues obtaining the required license from the state of Michigan.

Section # with which this proposal is in conflict: _____

If this petition is not granted, explain how your proposal will be affected:

attach a separate sheet if more space is necessary

If for any reason a zoning change is not granted, we will not be able to open our AFC. The sole purpose for our acquisition of this building is to convert it to an AFC.

Items to be submitted with the petition:

- 1 A site plan drawn to a scale of at least 1" = 100' showing the location of all structures, existing and proposed, in relation to the lot lines and access points.
- 2 Flood plain information where applicable.
- 3 Non-refundable fee for processing (7/14/98)

FEES:

<u>Single Family Home Improvement:</u>	\$160.00
<u>Other appeals by acreage:</u>	
Less than one (1) acre:	\$250.00
One (1) to three (3) acres:	\$350.00
Greater than three (3) acres:	\$450.00

A zoning variance means a modification of the strict letter of the zoning or sign codes, being title six and chapter 1442 respectively, of the City of Lansing, granted when, by reason of exceptional conditions, the strict application of the provisions of this chapter result in peculiar or exceptional practical difficulties or unnecessary hardship to the owner of the lot.

Please file this petition with the Planning Office.

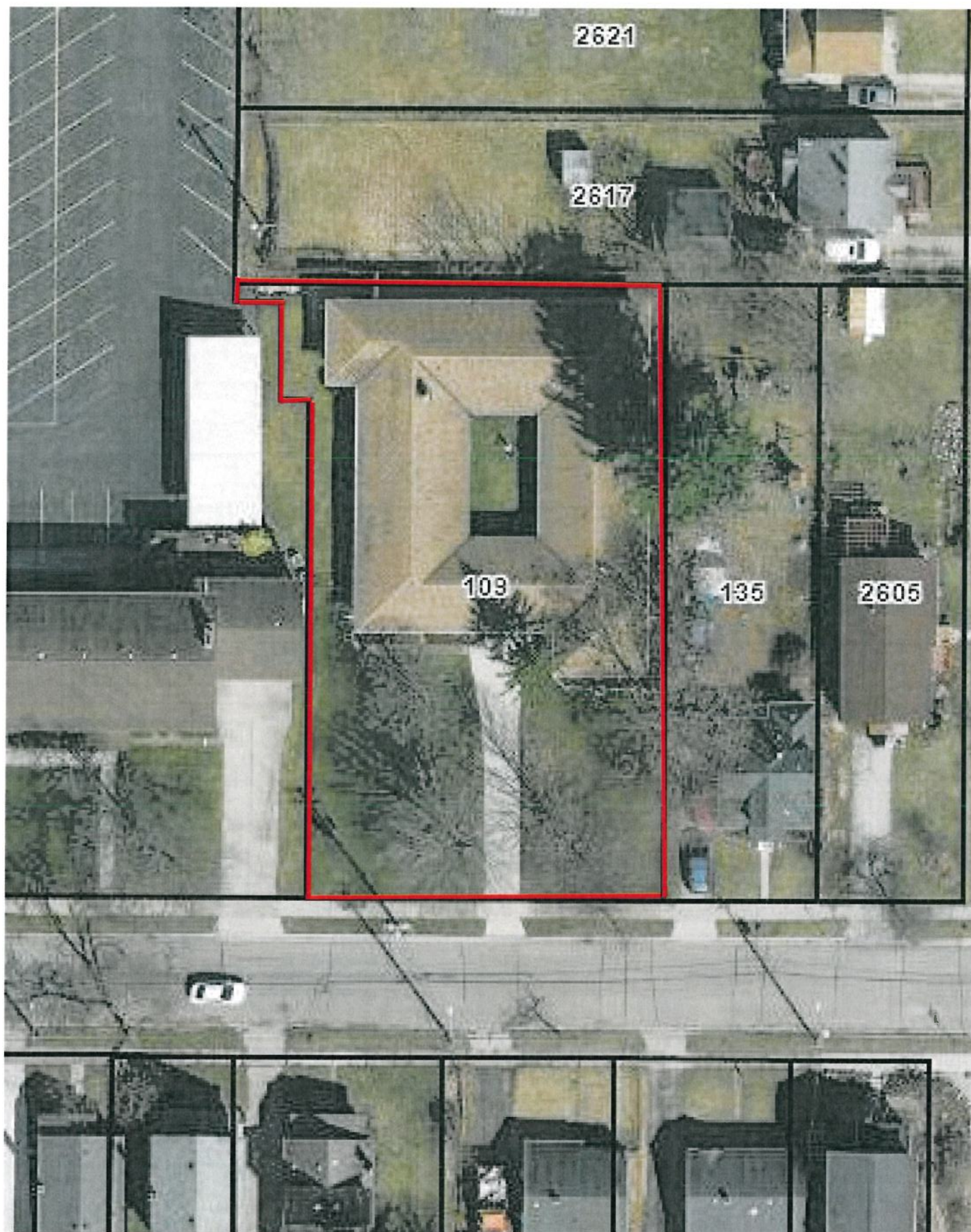
Signature of applicant: _____

Name: **Bruce Hicks** _____

For assistance, please contact:

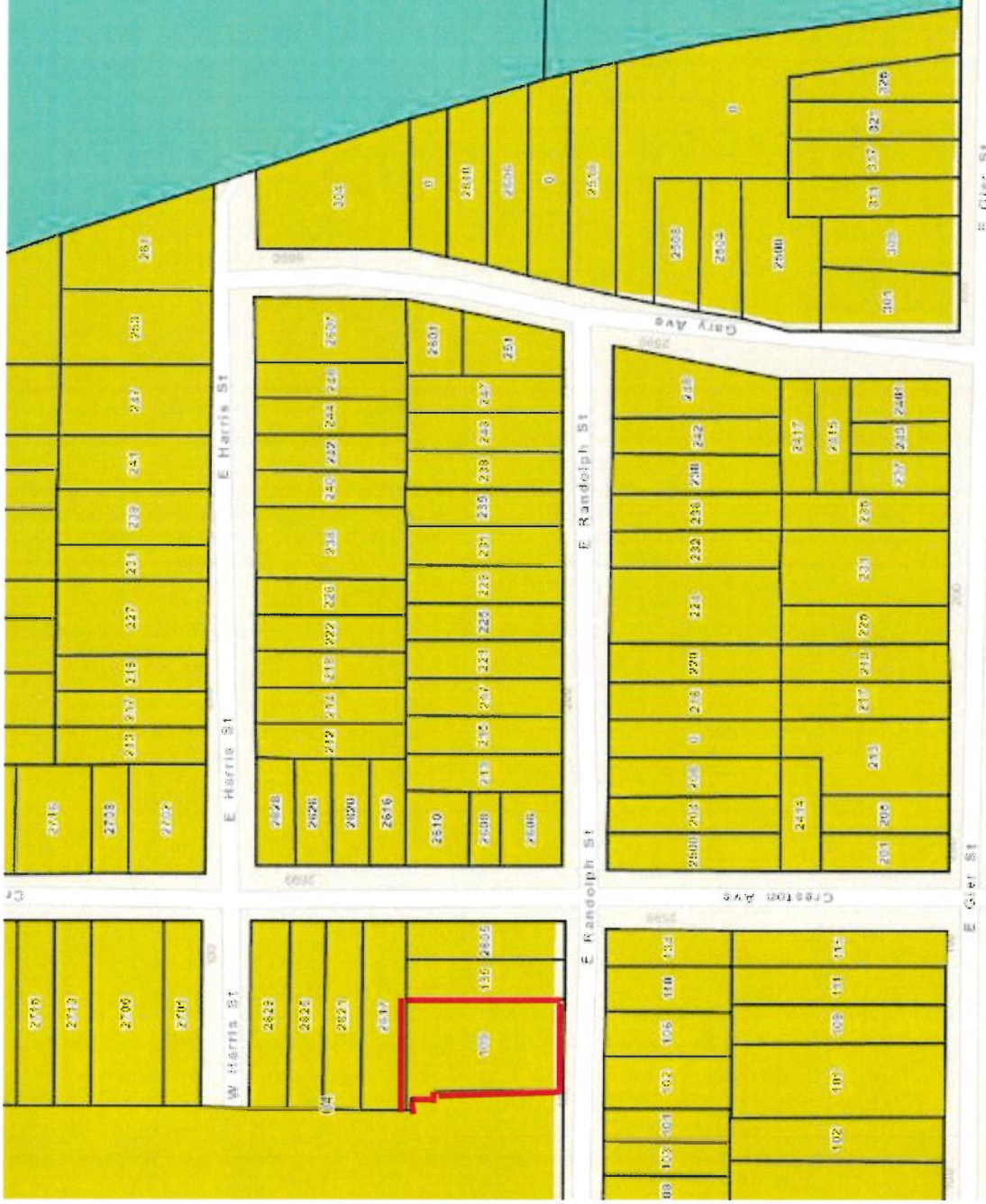
PLANNING OFFICE
316 N. CAPITOL AVE., SUITE D-1
LANSING, MI 48933-1236
(517) 483-4066
FAX: (517) 483-6036







City of Lansing Zoning Map



Zoning Districts

- R-1 - Suburban Detached Res.
- R-2 - Suburban Detached Res.
- R-3 - Suburban Detached Res.
- R-4 - Urban Detached Res.
- R-5 - Urban Detached Res.
- R-6A - Urban Detached Res.
- R-6B - Urban Detached Res.
- R-MX - Residential Mix
- MFR - Multi-Family Residential
- R-AR - Residential Adaptive Reuse
- S-C - Suburban Corridor
- MX-C - Mixed-Use Corridor
- MX-1 - Mixed-Use Neighborhood Center
- MX-2 - Mixed-Use Community Center
- MX-3 - Mixed-Use District Center



North

Department of Economic
Development and Planning
Brian McGrain, Director



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

MEMO

TO: Board of Zoning Appeals

FROM: Susan Stachowiak, Zoning Administrator

DATE: June 3, 2022

RE: BZA 4075.21, 545 Paris Avenue

At its January 13, 2022, meeting, the Board of Zoning Appeals considered a request to allow a second driveway at 545 Paris Avenue that was installed, at the request of the property owner, by Consumer's Energy as part of a construction project in the area. There were 5 members present at the meeting which is the minimum necessary for a quorum. A motion to approve the variance failed on a split vote (3 in favor and 2 opposed). According to the BZA rules of procedure and the Zoning Enabling Act, a variance can only be approved by a majority vote of the members serving on the Board (not just those present at the meeting). In other words, the vote at the January 13th meeting would have had to have been unanimous for the variance to be approved.

Attached is a letter from the attorney representing the owner of the property at 545 Paris Avenue requesting reconsideration of the variance at a meeting when there are more Board members present. This matter has been reviewed by the City Attorney's Office which has determined that, while the Board has no obligation to reconsider the variance, there would be nothing preventing the Board from doing so. This request is on the June 9th agenda for the Board to decide if it will reconsider the variance at its July 14th meeting.

If you have any questions, please contact me at (517) 483-4085 or by email at susan.stachowiak@lansingmi.gov

ROBERT S. ROLLINGER, P.C.

ATTORNEY AT LAW

30500 Northwestern Highway

Suite 500

Farmington Hills, MI 48334

Tel. (248) 626-1133

Fax (248) 851-9421

Robert S. Rollinger*

*Also a member of the District of Columbia

February 17, 2022

Susan Stachowiak
Zoning Administrator
Department of Economic Development and Planning
316 N. Capitol Ave.
Lansing, MI 48933

RE: Petition for Reconsideration by the Zoning Board of Appeals of its Decision
Regarding 545 E. Paris Avenue, Lansing, Michigan.

Dear Ms. Stachowiak:

On behalf of the petitioner of the property located at 545 E. Paris Avenue in Lansing, Michigan, Ms. Earnestine Pugh; a request is being made for a Reconsideration of the decision made at the January 13, 2022 meeting. Although the minutes of that meeting have not yet been formally approved by the Zoning Board of Appeals (ZBA), it is important to note the following particular information regarding the decision based upon the composition of the ZBA that heard the request for my client's receiving a variance, from the requirements of the City of Lansing's ordinance regarding only allowing one (1) driveway.

First and foremost, the Zoning Enabling Act (ZEA) provides in MCL 125.3603(2) as follows: "The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance."

At the January 13, 2022 meeting, there were only five members present of the total ZBA membership who heard the appeal filed; seeking a variance from the strict requirements of the ordinance, limiting only one driveway per single-family residence.

The ZBA for the City of Lansing consists of a nine-member board. Only five (5) of the members were present for the ZBA meeting. Therefore, four of the members of the ZBA were neither present; nor, did they hear the appeal being submitted by my client, as the Applicant to allow the second driveway on her property to continue to exist.

Consequently, my client was unable to obtain a "majority vote" from the members who compose the ZBA, as there were only five of the nine members present. As to the five members who were present, three of those members did vote in favor of the request to allow the second driveway to remain in existence on her property.

Although that was the decision of those members who were present and voted in favor of the request being granted, because there were only five of the nine members present, a favorable vote "did not count" for purposes of granting the requested zoning variance.

At the outset of the meeting, there was no recommendation. There was no explanation of the absence of four of the members of the ZBA, of the total nine-member board. It is routine and typical in most ZBA hearings, where a majority of the members of the ZBA are physically absent from the meeting; and, therefore can not have their votes considered to grant or deny a zoning variance, to announce the absence of a majority of the members to allow the applicant to defer their particular case on the agenda; and have it rescheduled to be heard by the full-nine member board.

I say this as a former member of the Zoning Board of Appeals of the City of Farmington Hills. If we had a scheduled Zoning Board of Appeals meeting, and there is less than a "full member board present," it is always announced at the outset of the meeting; and, the applicant is granted the opportunity to either go forward with the hearing when their case may be called; or, to reschedule the hearing to a date when the "full member board" would be present to hear and determine whether the zoning variance should be granted or not be granted.

Given the explicit language of MCL 125.3603(2); and, the fact that there was not "a majority of the members of the Zoning Board of Appeals currently sitting" at the hearing being held on January 13, 2022, I am requesting that a reconsideration of the decision made be granted to my client.

Separately, and equally as important, was the absence of any discussion at all of the applicability of the nonconforming use requirements under Michigan law. Here, it must be mentioned that the allowance of the second driveway on the Applicant's property, had existed since 1997, when she purchased her property. The second driveway's presence and use of the property was; therefore, in existence prior to the City of Lansing's zoning ordinance amendment, which restricts a single-family residence to one driveway per single-family residence. At the time

of my client's purchase was discussed, both during the hearing and in our written submission, there were two (2) separate driveways on the property which had each been allowed; and used by the Applicant. Consequently, as an existing nonconforming use, it qualifies as a vested right in the use of the property, even though it does not conform to the current zoning restrictions. Rather, it is protected because it lawfully existed before the zoning regulation's effective date. *Belvidere Township v Heinze*, 241 Mich App 324, 328 (2008).

What the Applicant is seeking to do in allowing the continuation of the existing nonconforming use, is substantially the same as the use that existed at the time of the passage of the current valid zoning ordinance. *Norton Shores v Carr*, 81 Mich App 715, 720 (1978). The nonconforming use is something which involves the physical characteristics, dimensions, or location of the structure on the property; and, can also include the use of the premises. *Long Island Court Homeowners Assn v Methner*, 74 Mich App 383, 387 (1977).

During the course of the Hearing on January 13, 2022, there was a misconception in the Opinion of the undersigned by members of the ZBA that this nonconforming use did not remain in existence for a period in excess of twenty-five (25) years, as my client became the legal title holder in 1997 to the subject property.

The removal of the second driveway; but not the approach on the lane, was not accomplished by my client, or anyone acting on her behalf. Rather, it was a result of a mistake by Consumers Energy personnel and the construction company hired by Consumers Energy, who wrongfully removed portions of the driveway's approach; and, the driveway. At no time did my client request this to occur; nor, did my client have any involvement in retaining the construction company who undertook the removal action. Rather, during the period that a portion of the driveway approach and accompanying driveway was removed, my client was undertaking a serious, continuous, concerted effort to determine the source of the wrongful removal; and, to make arrangements for it to be reestablished where it had existed since she purchased the property in 1997.

Some members of the ZBA appeared to be confused; and, misstated the facts as to the origin of the wrongful removal of a portion of the drive approach and the driveway.

Again, because it was lawful, nonconforming use, my client had the right to retain the second driveway on her property as it existed when she purchased it in 1997. She has at no time sought to enlarge, expand, or in another manner, alter what had existed when she purchased the property. Her only effort at the current time was to reestablish what had physically been in existence prior to the wrongful removal.

An examination of the driveway approach itself, disclosed and revealed the existence of the underlying concrete bricks and mortar, which established the driveway approach from prior to 1997.

These are substantial and important reasons as to why my client is entitled to have a Reconsideration of her petition seeking the zoning variance for her property.

If additional information is request, please do not hesitate to contact the undersigned.

Very Truly Yours,

A handwritten signature in cursive script that reads "Robert S. Rollinger". The ink is dark and the signature is fluid.

Robert S. Rollinger

**MINUTES OF REGULAR MEETING
BOARD OF ZONING APPEALS
THURSDAY, January 13, 2022, 6:30 P.M.
600 W. Maple Street, Lansing, MI 48915**

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, E. Jefferson, M. Rice, & B. Fryling

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

Staff: S. Stachowiak & A. Fedewa

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

II APPROVAL OF AGENDA

It was moved by Ms. Jefferson, seconded by Mr. Leaming 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

Eugenia Zacks-Carney spoke on a variance application for 109 E Randolph St. Ms. Zachs-Carney stated there had been a payment to the City to hear the variance application and that she disagrees with staff's decision that her application not be given a public hearing or included on the January agenda.

IV. PUBLIC HEARING/ACTION

A. BZA-4075.21, 545 Paris Ave. - Variance to permit two driveways

Mr. Fedewa stated this is a request by Earnestine Pugh for a variance to permit two (2) driveways on the property at 545 Paris Avenue. Section 1254.01.17(b)(2) of the City of Lansing Zoning Ordinance permits one (1) driveway on a single-family residential parcel of land.

In August of 2021, it was brought to the attention of Planning and Zoning staff that a second paved driveway was constructed on the west side of the house without proper approvals. The curb cut was installed by Consumer's Energy as part of the restoration of the drive approaches along Paris Avenue following completion of a utility project. The applicant installed the driveway at the same time as the curb cut/approach was being installed. According to Consumer's Energy, the applicant asked the contractors to install the 2nd approach on the west side of the house by informing them that a curb cut already or had previously existed on the west side of the house.

The City of Lansing Public Service Department has visited the property, both before and after the installation of the second driveway and provided photographs showing that it was not a legal curb cut but rather just a worn down and broken curb from where vehicles had been illegally driving over it to park in the yard on the west side of the

house over the past 10 years or so. Even if there was a legal curb cut/driveway several years ago, once it was eliminated, it lost any nonconforming status it may have had and could not be restored since it does not comply with current ordinance standards.

In addition to the violation of the City of Lansing Zoning Ordinance, it is also in violation of the Michigan Administration Code R.247.247 Residential driveways; number and separation, Rule 47 which limits the number of driveways on the subject property to one (1). Even if the variance were to be approved, therefore, the applicant will still need to seek a waiver from Rule 47.

Mr. Fedewa stated that the subject property has a driveway wide enough to accommodate three vehicles and that there is nothing unique about the property that warrants a second driveway. The subject property has a parcel size larger than many others in the neighborhood, is not an irregular shape, and conforms to the required setbacks. Staff is concerned that the request, if approved, will create an additional conflict with pedestrians using the sidewalk, will set a precedent for additional requests for two driveways in the neighborhood, and thus recommended denial of the variance request.

Ms. Stachowiak informed the Board that the agenda packet included a petition in support of the request and three letters in objection of the request.

Robert Rollinger, attorney for the applicant, spoke on the applicant's request. Mr. Rollinger stated that this request is for the continuation of an existing driveway that has been reconstructed at the west side of the house. Mr. Rollinger stated it is not a new driveway location and it existed when Ms. Pugh, the applicant, purchased the property in 1997. Mr. Rollinger declared that there are numerous parcels with two driveways which also makes this request not unique.

Ms. Pugh, applicant, spoke in support of her request.

Mr. Berryman asked if the applicant could confirm that the second driveway was previously paved. Le'Sharron Rodgers, relative of applicant, confirmed that the area was previously paved and said that Consumers Energy also confirmed that a driveway was at this location. Mr. Fryling asked why Consumers did not restore the curb cut after their work previously. Mr. Rodgers stated that the applicant did request this but the contractor and Consumers could not agree upon responsibility and the applicant lost contact.

Mr. Fryling asked when the driveway was last in its completed state. Mr. Rodgers answered 2004-2005. Mr. Fryling asked about the need for a second driveway. Mr. Rodgers answered that they need more room for their trailer and camper.

Ms. Alling opened the public hearing.

Robin Gregory, Paris Ave., stated she is the applicant's neighbor, confirmed that there has always been a second driveway on the subject property, and spoke in favor of the request.

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

Mr. Berryman stated his concern with Consumer's Energy's actions with this second driveway. Ms. Stachowiak stated the City is not responsible for Consumers' projects and that no one, Consumers or the applicant, contacted the City about a second driveway so it is still a violation of the Ordinance. Ms. Stachowiak stated the City has photographic proof that a legal driveway has not been present for many years. It lost its legal nonconforming status once the curb cut was removed in 2004-2005.

Mr. Fryling asked staff if an applicant could technically have a circular driveway to accommodate two curb cuts. Ms. Stachowiak answered that the ordinance limits all properties to only one driveway.

Mr. Rice made a motion, seconded by Ms. Jefferson to deny BZA 4075.21 for a variance of one additional driveway to the property at 545 Paris Avenue, on a finding that the request does not comply with the variance evaluation criteria listed in Sections 1274.06 (c) & (e) of the Ordinance. On a roll call vote, the motion failed (2-3). Mr. Berryman, Mr. Fryling, & Ms. Alling cast dissenting votes.

Mr. Fryling made a motion, seconded by Mr. Berryman to approve BZA 4075.21 for a variance of one additional driveway to the property at 545 Paris Avenue, on a finding that the request complies with the variance evaluation criteria listed in Sections 1274.06 (c) & (e) of the Ordinance. On a roll call vote, the motion failed (3-2). Mr. Rice & Ms. Jefferson cast dissenting votes.

[Author's note: Per the Michigan Zoning Enabling Act of 2008 MCL 125.3603(2) and the Lansing Zoning Code 1274.04, a majority of serving Board of Zoning Appeals members are necessary to approve in favor of the applicant]

B. BZA-4058.20, 1015 Westmoreland – Variance to permit a bicycle sales and repair business with outdoor storage as a home occupation

Mr. Fedewa stated this is a request by Aaron Wallace for variances to permit a home occupation that involves the sale and outdoor storage of bicycles at 1015 Westmoreland Ave. The zoning code prohibits the sale of goods and outdoor storage related to a home occupation and not customarily associated with a residential use.

The request was originally scheduled for May 14, 2020 but was unable to be heard because of complications with the Covid-19 Pandemic. Staff submitted photographic evidence of the extreme number of bicycles stored on the rear and front yards of the subject property. Because the business is not being conducted entirely within the dwelling unit it does not qualify as a permitted home occupation as defined in the zoning code. Staff does not believe that denial of the request would create an unnecessary hardship on the applicant by determining that the sale and outdoor storage of bicycles is not consistent with the purpose and intent of the ordinance and thus recommends denial of the request.

Mr. Fedewa stated that the applicant is in the process of moving the business to an appropriate commercial property and many bicycles have been removed from the residential property, but many remain and are still a violation of the ordinance to which the variances are being sought.

Mr. Wallace, applicant, spoke in favor of his request, but discussed his plans to move the business to the new location and his difficulties with the process with ongoing health issues during the pandemic. Mr. Wallace is making an effort to complete the move and stated his goal to finish during summer 2022.

Ms. Alling opened the public hearing.

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

Mr. Fryling asked if the Board could temporarily approve the request to accommodate the applicant's move. Ms. Stachowiak answered that the Board cannot make temporary variances and that approvals are in perpetuity.

Mr. Rice stated his opposition based on the finding that the existing business does not meet the requirements of a legally established Home Occupation.

Mr. Berryman voiced his agreement with Mr. Fryling wishing the Board could approve a temporary variance.

Mr. Rice made a motion, seconded by Ms. Jefferson to deny BZA 4058.20, for variances to permit a bicycle sales business with outdoor storage as a home occupation at 1015 Westmoreland Ave. on a finding that the variances do not comply with the evaluation criteria set forth in 1274.06 (c)(1) - (4) and (e)(1) - (4) of the Zoning Ordinance. On a roll call vote the motion passed unanimously (5-0).

V. OLD BUSINESS - None

VI. NEW BUSINESS

A. Excused Absences

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

VII. APPROVAL OF MINUTES

A. Regular Meeting, October 14, 2021

Mr. Rice made a motion, seconded by Ms. Jefferson to approve the November 17, 2021 meeting minutes, as presented. On a voice vote, the motion carried unanimously (5-0).

VIII. PUBLIC COMMENT

IX. ADJOURNMENT AT 7:51 p.m.

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator