
MINUTES OF REGULAR MEETING – *Approved 6/9/2022*
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 contactors 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 it's 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