
**MINUTES OF A SPECIAL MEETING
BOARD OF ZONING APPEALS
June 11, 2015 6:30 P.M.
600 W. Maple (Neighborhood Empowerment Center)**

I. ROLL CALL

The meeting was called to order by Marcie Alling at 6:35 p.m. Ms. Alling read the BZA introduction. Roll call was taken.

Present: M. Alling E. Horne J. Hovey K. Litwiller M. Rice

Absent: K. Whitfield B. McGrain A. Shinn

Staff: S. Stachowiak

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

II APPROVAL OF AGENDA

E. Horne moved, seconded by M. Rice to approve the agenda with the addition of "Excused Absence" under New Business. On a voice vote, the motion carried 5-0.

III. HEARINGS/ACTION

A. BZA-4010.15, 3120 N. Cambridge Road

This is a request by Michael R. Hourani to permit a fence at 3120 N. Cambridge Road that ranges in height from 7 feet to 8.8 feet in height. Section 1292.03(a)(1) of the Zoning Code states that no fence shall exceed a height of 6 feet within a side or back yard. A variance of 1-2.8 feet to the height limitation for a fence is therefore, being requested. Staff recommended denial on a finding that the variance would not be consistent with the practical difficulty criteria of Section 1244.06 (c) or the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Ms. Stachowiak stated that according to the applicant, the increased height of the fence is necessary to block the view of the "unsightly industrial looking" City of Lansing pump station on the property to the north. The application states that the new fence replaces an 8 foot high fence that had been on the property since 1983. It further states that last fall the Board of Water & Light cut down many of the trees and scrubs that provided natural screening of the pump station and in doing so, damaged the fence that had been on the property for more than 3 decades.

Ms. Stachowiak stated the newly erected fence is at least 8 inches higher than the previous fence along the applicant's northeast property line and in addition, the ground at the base of the fence has been increased by another 10-12 inches as a result of adding a layer of stones. Increasing the total height of the fence by approximately 18 inches over what previously existed has diminished the view of the Grand River for the property owners to the east. In essence, the fence has improved the views from the applicant's property by screening the pump station to the north and in doing so, has cut-off the view of the Grand River for his neighbors to the east. Obstructing the view of the Grand River has adversely impacted the enjoyment and possibly the values of the neighboring properties as well.

Ms. Alling opened the public hearing.

James T. Heos, 2827 E. Saginaw, said that he is one of the attorney's that represents the applicant, Dr. Hourani. provided photographs of the fence to the Board. He said that when the Board of Water & Light built the pump station adjacent to the applicant's house in 1984, a lawsuit was initiated and a consent judgement was reached which specifically permitted the applicant to have an 8 foot high fence on the property for the express purpose of screening the pump station. Mr. Heos said that the adjoining neighbor, Linda Buckingham, purchased her property about a year ago and there was an 8 foot high fence on the applicant's property when she moved in. Therefore, since the height of the new fence is no different from the fence that previously existed, Ms. Buckingham's view of the river has not changed. Mr. Heos said that in some areas on the property, the new fence is actually lower than the old fence. He stated that Dr. Hourani, has lived in his house for more than 30 years and Ms. Buckingham has lived there for less than 2 years. He asked that the Board approve the variance.

Charles Lasky, 120 N. Washington Square, attorney represented Dr. Hourani. He said that the purpose of having a variance process is to remedy these types of situations. In this case, the additional fence height is necessary to screen the view of an unsightly pump station from the applicant's property. The view of the pump station diminishes the enjoyment of the applicant's property and the hardship that warranted the original 8 foot high fence was renewed when the Board of Water & Light recently clear cut a bunch of trees on its property and in doing so, damaged the original fence. Mr. Lasky said that the original fence would have been there for another 30 years if it had not been damaged. He said that there were never any objections to the original fence. He also said that this situation is unique to the applicant's property and the size and location of the fence are harmonious with the surrounding area. He stated that Dr. Hourani paid \$18,000 for the new fence and did not submit a claim to the Board of Water & Light for the damage that they caused to the original fence.

Mr. Hourani (applicant's son), spoke in support of the variance. He said that there has been an 8 foot high fence on his father's property since 1984. Mr. Hourani said that the fence not only screen the view of the pump station but also prevents littering and trespassing on the property. He also said that a 6 foot high fence would diminish their privacy.

John Mastilock, 3110 N. Cambridge Road, said that he and wife live next door the applicant's property. He said that the photographs that he and his wife provided clearly show that the new fence is higher than the fence that previously existed. Mr. Mastilock said that they did get a good value on their home but that has nothing to do with this situation. He said that the problem is not just how the fence impacts the financial value of their home but the enjoyment of their property since the increased height of the fence diminishes their view of the river which was one of the primary features/assets of their property.

Mr. Hovey asked if the Board could get a copy of the consent agreement from 1984 that allowed the 8 foot high fence.

Mr. Lasky said that the lawyer that handled that case is deceased. He also said that they may be able to find in on their microfiche system.

Linda Buckingham, 3110 N. Cambridge Road, spoke in opposition to the variance. She said that the fence has an impact on the enjoyment of her property by impeding her view of the river 7 months out of the year. Ms. Buckingham said that the photographs show that the dark boards that were part of the old fence are lower than the new fence. She said that the fence is uneven in height and the construction of the fence is very poor. She also said that there are no other fences in excess of 6 feet in the neighborhood and approval of this variance could result in future requests for higher fences in the area. Ms. Buckingham said that there are other, natural methods of screening the pump station than putting up a fence.

Judge Charles Felice, 1462 Cambridge Road, spoke in support of the variance. He said that Dr. Hourani's has beautified the neighborhood and by extension, has improved property values

in the area. Judge Felice said that the fence was there when the next door neighbor moved in. He said that if you move next door to a farm, you cannot complain about the smell. He said that the neighbor moved in next to an 8 foot high fence that had been there for 30 years and now are complaining about it being rebuilt to the same height.

Dr. Michael R. Hourani, 3120 N. Cambridge Road, spoke in support of his request. He said that the next door neighbors purchased their home for only \$145,000 which is extremely low. Dr. Hourani said that the neighbor's property values could not possibly have gone down given the price that they paid for it. He said that he could purchase their property. Dr. Hourani stated that the new fence is no higher than the previous fence and the 8 feet in height is necessary for the privacy and enjoyment of his property. He said that he has lowered the height of the fence twice for Ms. Buckingham. He also said that she wants a better view of the river but across his property which diminishes his privacy.

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

Ms. Horne asked how the lawsuit settlement agreement would affect the variance request.

Ms. Stachowiak stated that it would likely still be in effect which means that the applicant would be allowed to have a fence at the same height and in the same location as the fence that previously existed, and no variance would be necessary for him to do so. She said that she would need to have that confirmed by the City Attorney's Office. Ms. Stachowiak asked the lawyers representing Dr. Hourani if they thought it would be possible to produce a copy of the settlement agreement, give that it is 30 years old.

Mr. Heos said that they would do their best to locate it.

Mr. Rice said that he is trying to look at this objectively. He said that the purpose of a privacy fence is to provide privacy but there also has to be consideration for how it impacts the adjoining property owners.

Ms. Alling said that the Board has to consider both. She said that the applicant's property is elevated about the elevation of the BWL pump station which gives is some screening without blocking the view of the river for the neighbor.

Ms. Horne said that she is not comfortable voting on this matter until the Board has all of the information which includes the lawsuit settlement authorizing an 8 foot high fence on the applicant's property.

Councilmember Judi Brown Clarke stated that the Board of Water & Light has been trying to archive is information and therefore, it may be easier to obtain it from them than from the City.

Mr. Hovey agreed that the Board should have a copy of the settlement agreement before acting on this case.

Mr. Hovey made a motion, seconded by Mr. Rice to table BZA 4010.15 until the next meeting of the Board of Zoning Appeals to give the applicant and his attorney's time to try to locate the lawsuit settlement from the early 1980's authorizing construction of an 8 foot high fence at 3120 N. Cambridge Road. On a voice vote (5-0), the motion carried.

B. BZA-4011.15, 2525 Meadowlane Drive

Ms. Stachowiak stated that the applicant is requesting a variance to permit a hair salon in the home at 2525 Meadowlane that would have a swivel/hydraulic chair, hair dryer and a professional grade shampoo sink. Section 1248.03(e)(7) of the Zoning Code states:

"No equipment is used, except equipment which is normally used for purely domestic or household purposes. Equipment no normally used for purely domestic or household purposes may be installed if the Board of Zoning Appeals approves such use. The Board shall approve of such use if it is satisfied that the intensity of use will not be increased to a level that will adversely impact any lot within 300 feet of the lot seeking Board approval."

Ms. Stachowiak stated that the applicant has been operating a hair salon in the home at 2525 Meadowlane for some time. When it was recently brought to her attention, she issued a violation notice which is what precipitated this request.

Ms. Stachowiak said that the intent of requiring approval by the Board of Zoning Appeals for more intensive home occupations is to ensure that they will not negatively impact the neighborhoods in which they are located. She said that the criteria established in the Zoning Ordinance for evaluating variances does not apply in this situation. Rather than establishing a practical difficulty that warrants a variance from the Zoning Ordinance, the Board must determine that the home occupation will not adversely impact the properties within 300 feet of the home occupation.

Ms. Stachowiak stated that staff is recommending that the request be approved, but with certain conditions designed to protect the neighborhood from any negative effects of the home occupation. The applicant is bound by the conditions contained in the Zoning Ordinance for home occupations but will be further bound by any conditions that the Board attaches to the approval.

Ms. Horne asked if any changes will be made to the house.

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Ms. Stachowiak stated that the ordinance does not allow changes to a house just to accommodate a home occupation. She said that because it is a home occupation, it does not have to comply with building code requirements for a business use. She said that she does not know if it has to be licensed through the State of Michigan.

Ms. Alling asked how these home occupations are monitored.

Ms. Stachowiak said that they are very difficult to monitor. She said that it is all pretty much complaint driven. She said that the City has successfully enforced the home occupation regulations for a dog grooming business in a residential neighborhood on the south side of the City. Ms. Stachowiak said that there have been complaints of excessive on-street parking being generated by the hair salon and complaints from the neighbors about that problem is what brought this to light. She said she is recommending approval of the variance but with the following conditions:

1. The applicant must live in the home and adhere to all of the conditions contained in Section 1248.03(e) of the Zoning Ordinance for the operation of a home occupation which includes but is not limited to:
 - a. No person, other than a member of the family residing at 2525 Meadowlane engages in the home occupation;
 - b. No signs advertising the hair salon are permitted anywhere on the property;
 - c. The activity on the site relative to the hair salon does not rise to a level that it adversely impacts the surrounding neighborhood or the right of the surrounding residents to the quiet enjoyment of their property;
2. The hair salon is limited to one swivel chair, one professional hair dryer and one shampoo sink;

3. The applicant provides service to no more than 5 customers per day; and
4. All customers must park in the driveway at 2525 Meadowlane Drive.

Ms. Stachowiak said that she received a petition with 26 signatures in opposition to the request.

Ms. Alling opened the public hearing.

Victoria Van Debois, 2525 Meadowlane Drive, spoke in support of her request. She said that she has 2 children and several foster children and she needs to hair salon to support them. Ms. Van Debois said that she provides hair salon services to approximately 3 clients per day and the majority of the traffic and on-street parking is related to the foster care rather than the hair salon.

Mr. Rice asked how long the hair salon has been operating at this location.

Ms. Van Debois said 3 years. She said that the majority of the traffic is related to the foster kids. She said that the social workers do not like to park in the driveway. Ms. Van Debois said that she had to quit working because one of her adopted children is disabled and she depends on the money from doing hair to make ends meet.

Barbara Grady, 2517 Meadowlane Drive, stated that she lives next door to the applicant and she does not object to the hair salon. She said that she was concerned that the zoning for the area was being changed from residential to business.

Ms. Stachowiak stated that there will be no zoning changes. This request is simply to permit the applicant to use commercial grade equipment as part of the hair salon in the house.

Gayle Munson, 2002 N. Waverly Road, spoke in support of the request. She said that she helps Ms. Van Debois with her children. She said that foster children's case workers always park on the street and that is why there is so much on-street parking in front of the house. She said that the hair salon clients almost always park in the driveway. Ms. Munson said that that having 26 neighbors sign a petition in opposition to the hair salon seems kind of cruel.

Joseph Bachar III, 2600 Meadowlane Drive, stated that he lives across the street from the applicant and there was a trailer in the driveway for 2 years and no one seemed to be using the driveway for parking but rather parking up and down the street which has caused problems in the neighborhood. He said that the trailer is now gone and in fact, the property has been cleaned up a lot in the last 4-5 days. Mr. Bachar stated that he is concerned that approval of this request will result in other businesses opening up in the neighborhood. He said that he received several phone calls when the postcards for the public hearing first came out and most residents do not want a hair salon in the neighborhood. Mr. Bachar said that apparently the applicant has been running the hair salon illegally for the past 3 years and would have continued to do so had someone not notified the City.

Ilene Hernandez, 518 Harwood Court, Eaton Rapids, spoke in support of the request. She said that the majority of the traffic to the property is not related to the hair salon but rather to the foster children that Ms. Van Debois cares for. She said that there is never more than 1 or 2 people there for the hair salon. She said that the hair salon clients almost always park in the driveway.

Grace Major, 3600 Colchester Road, said that her driveway is on Meadowlane and she has not noticed much traffic related to the applicant's property. Ms. Major said that there is a lot going on at the house but it looks clean and is fairly quiet. She said that she doesn't have much to complain about and is not opposed to the applicant cutting hair in her home. Ms. Major said that with the restrictions on home occupations that are already in place, coupled with the

additional conditions that the Zoning Administrator is recommending, she does not have a problem with the request, particularly since there are procedures in place to deal with any issues that may occur.

Stan Draminski, 2601 Meadowlane Drive, said that his concern was that the zoning for the area was changing from residential to business and now that he has found out that that is not the case, he does not object to the request. He said that there is a lot of traffic coming and going from the applicant's property and a lot of on-street parking.

Eric Tucker, 263 Wickham, said that he is neither for or against the request but is concerned about how the City would be able to tell if the conditions of the approval are being violated. He said that the City will not be able to tell if vehicles parked in the street are friends or clients. Mr. Tucker said that his concern is the disposal of contaminants from the hair salon.

Ms. Alling suggested that Mr. Tucker speak with the applicant about how she disposes of chemicals as that is not an issue for the BZA.

Dennis Grady, 2517 Meadowlane Drive, spoke in support of the request. He said that he hasn't seen much traffic at the applicant's property and he does not object to the hair salon. Mr. Grady said that he understands that there are 2 sides to consider in this matter but he does not personally object to the request. He said that he cuts grass for Ms. Van Debois and sees a lot of case workers coming and going from the property and the applicant cannot control them parking in the street.

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

Mr. Hovey stated that he can understand the concerns about the traffic and the on-street parking but it is hard to differentiate between parking by friends, family and case workers and clients for the hair salon. He said that with the restrictions on home occupations already in the ordinance combined with the additional conditions of approval that staff is recommending, he is able to support the request.

Mr. Rice stated that by adding the condition that the salon is limited to one chair, it will limit the amount of activity generated by the salon.

Ms. Alling agreed that the conditions should prevent the hair salon from being disruptive to the neighborhood.

Mr. Hovey made a motion, seconded by Mr. Rice to approve BZA 4011.15 to permit a hair salon with commercial grade equipment in the home at 2525 Meadowlane Drive, based upon the findings of fact as detailed in the staff report, with the following conditions:

1. The applicant must live in the home and adhere to all of the conditions contained in Section 1248.03(e) of the Zoning Ordinance for the operation of a home occupation which includes but is not limited to:
 - a. No person, other than a member of the family residing at 2525 Meadowlane engages in the home occupation;
 - b. No signs advertising the hair salon are permitted anywhere on the property;
 - c. The activity on the site relative to the hair salon does not rise to a level that it adversely impacts the surrounding neighborhood or the right of the surrounding residents to the quiet enjoyment of their property;
2. The hair salon is limited to one swivel chair, one professional hair dryer and one shampoo sink;

3. The applicant provides service to no more than 5 customers per day; and
4. All customers must park in the driveway at 2525 Meadowlane Drive.

Vote	Yes	No
Horne	X	
Rice	X	
Hovey	X	
Alling	X	
Litwiller	X	

On a roll call vote (5-0), BZA 4011.15 was approved.

VI. OLD BUSINESS

VII. PUBLIC COMMENT - None

VIII. APPROVAL OF MINUTES

Minutes of Regular Meeting held February 12, 2015

Ms. Horne made a motion, seconded by Mr. Rice to approve the minutes from the February 12, 2015 meeting as printed. On a voice vote, the motion carried unanimously (5-0).

IX. NEW BUSINESS

A. Excused Absences

Mr. Rice made a motion, seconded by Ms. Horne to grant excused absences for Ms. Whitfield, Ms. Shinn & Mr. McGrain from this meeting. On a voice vote (5-0), the motion carried unanimously.

X. ADJOURNMENT AT 7:53 P.M.

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator