
**MINUTES OF REGULAR MEETING
BOARD OF ZONING APPEALS
April 13, 2017, 6:30 P.M.
Neighborhood Empowerment Center - 600 W. Maple Street**

I. ROLL CALL

The meeting was called to order by Chairperson Marcie Alling at 6:30 p.m. Ms. Alling read the BZA introduction. Roll call was taken.

Present: M. Alling E. Horne K. Whitfield J. Leaming J. Quick K. Litwiller Mr. Rice

Absent: B.McGrain J. Hovey

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

It was moved by Ms. Horne, seconded by Mr. Rice to approve the agenda with the addition of "excused absence" under "new business". On a voice vote, the motion carried 7-0.

III. HEARINGS/ACTION

A. BZA-4027.17, Northwest Corner –S. Cedar Street & E. Willard Avenue

Ms. Stachowiak stated that this is a request by AR Engineering for variances to the required rear yard setback requirement and to the required number of parking spaces to permit the construction of a new commercial retail building at the northwest corner of S. Cedar Street and E. Willard Avenue that would have a rear yard setback of 7 feet. In addition, 28 parking spaces would be provided on the site. Section 1272.08 of the Zoning Ordinance requires a building setback of 15 feet from the rear property line. Section 1284.13(c)(20) requires 38 parking spaces, based on the useable floor area of the proposed building. Variances of 8 feet to the required rear yard setback and 10 to the required number of parking spaces are therefore, being requested. Staff recommended approval on a finding that the variances would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Ms. Stachowiak said that the practical difficulty involves the small size of the lot (3/4 of an acre), coupled with the added setback constraints of it being a corner lot. She said that the applicant had no control over the size of the lot and cannot purchase additional property adjacent to the site to provide more room to accommodate building setback and parking requirements as the area surrounding the property is completely developed. Ms. Stachowiak said that the proposed variances are minimal and are necessary to allow for reasonable development of the site. She stated that since the site is uncommonly small for commercial development of a corner lot, the uniqueness criterion for establishing a practical difficulty can be met.

Ms. Stachowiak stated that while the proposed parking lot layout complies with ordinance regulations, it is not a good design as it results in dead end rows of parking. Parking lots should allow for unobstructed and continuous circulation so that drivers do not have to back up if all of the spaces are full. Ms. Stachowiak said that this may result in a loss of 2 additional parking spaces and elimination of the islands at the north end of the parking lot so that a one-way

circulation pattern can be implemented, thus allowing for continuous circulation. She said that there may be some other designs that would work as well such as reconfiguring the parking lot to create a row of parking spaces along the north property line. Ms. Stachowiak stated that a variance to the parking requirement will not set any negative precedents since providing adequate parking is more of a business issue than a zoning issue.

Ms. Horne asked if the neighborhood organizations in the area have been notified of the variance request.

Ms. Stachowiak said that they were not notified.

Ms. Alling opened the public hearing.

Andrew Russell, AR Engineering, 4664 Campus Drive, Suite 106, Kalamazoo, MI 49008, spoke in support of the request. He said that the site is very tight and as a result, they will have to reduce the size of the building to 7,500 square feet from the 9,100 square feet that they normally build. Mr. Russell said that they typically require 30 parking spaces in a walkable area which S. Cedar Street would certainly qualify as. He said that the parking lot was designed to accommodate deliveries and maximize the number of parking spaces. Mr. Russell said that they usually have between 8-10 cars on the lot at one time so the 28 spaces being proposed will be more than adequate. He said that they are prepared to clean up the contamination on the site as necessary for the new construction.

Ms. Horne stated that there was a house on the site many years ago. She asked what type of products will be sold in the store.

Mr. Russell said that it will be a general retail store, like a mini Walmart. They will sell food, clothes, diapers, paper products, etc.

Mr. Horne said that the car lot to the south often has semi-trucks blocking Willard while they are dropping off cars. She said that Willard is sometimes used as a cut through and residents do park on the street. Ms. Horne asked about landscape, screening and buffering as there is an apartment complex directly west of the subject property.

Mr. Russell said that there will be a 6 foot high board-on-board fence along the west property line and an 8 foot landscape buffer in those areas required by City ordinance.

Mr. Leaming asked Mr. Russell if he is willing to consider an alternative traffic pattern as recommended by staff.

Mr. Russell said that they will work with the City to determine the best parking layout and traffic circulation pattern.

Ms. Horne stated that she does not like the proposed site plan.

Timothy Bowman, 401 E. Willard, #10, stated that he lives in the apartment building to the west of the subject property and is concerned about how traffic from the site will mix with the fast moving traffic already coming onto Willard from Cedar Street. He also expressed concerns about the possibility of the business closing after a few years and the site sitting vacant.

Mr. Russell said that traffic from the site will be confined to Willard as they will be unable to get a new driveway on Cedar Street given how close it would be to the Willard/Cedar intersection. He also said the store will have a 15 year lease on the property with an option to extend at the end of that period.

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

Mr. Rice stated that the property is small for commercial development, particularly since it is a corner lot. He said that without some variance of the ordinance requirements, it may render the property unbuildable. He also said that the applicant is in a unique position since there is no way to purchase additional land to accommodate the required setbacks and number of parking spaces.

Mr. Quick agreed with Mr. Rice. He said that the size of the lot warrants the requested variances. He also said that if there is an issue with the parking, it will negatively affect the business but should not have any negative impacts on the surrounding area.

Mr. Leaming made a motion, seconded by Ms. Litwiller to approve BZA 4027.17 for variances of 8 feet to the required rear yard setback and up to 12 to the required number of parking spaces to permit the construction of a new commercial retail building at the northwest corner of S. Cedar Street and E. Willard Street, on a finding that the variances are consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e).

Vote	Yes	No
Alling	X	
Quick	X	
Leaming	X	
Horne		X
Litwiller	X	
Whitfield	X	
Rice	X	

On a roll call vote (6-1), the variance request was approved.

B. BZA-4028.17, 908 Larned Street

Ms. Stachowiak stated that this is a request by Exteriors of Lansing to construct a porch on the front of the house at 908 Larned Street that would have a setback of 15 feet from the front property line. Section 1250.07 of the Zoning Ordinance requires a 20 foot front yard setback. A variance of 5 feet to the front yard setback requirement is therefore, being requested. Staff recommended approval on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Ms. Stachowiak said that the applicant would like to replace the 6 foot wide porch on the front of the house at 908 Larned Street with an 8 foot wide porch to make it more functional. She said that the house at 908 Larned Street was constructed in 1907 which was long before the City even had a zoning ordinance and long before the applicant owned the property. Ms. Stachowiak said that there is nothing unique about the subject property in terms of its size, shape, topography, etc., particularly in comparison to most other lots along Larned Street, that would be present a "practical difficulty" for the applicant in complying with the ordinance. She said that the issue in this case involves the application of current setback requirements on a lot that was developed prior to the City even having setback requirements. The average front yard

setback of the houses on the south side of the 900 block of Larned Street is 13 feet and the proposed porch will have a front yard setback of 15 feet. Therefore, while a “practical difficulty” cannot be established, denial of the variance would place an unnecessary hardship on the applicant since all of the other houses on the block already have front yard setbacks that are even less than what the applicant is proposing.

Ms. Alling opened the public hearing.

Kevin Dawson, Exteriors of Lansing, spoke in support of the request. He said that a tree recently damaged the porch at 908 Larned and they want to rebuild it but make it two feet wider. Mr. Dawson stated that the existing porch is just a deck whereas the new porch will be more in line with the original architecture of the home. He said that it will have a gambrel roof and may be enclosed at some point in the future.

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

Mr. Rice said that he is supportive of the variance request as the majority of the houses on the street are already closer to the front property lines than what the applicant is proposing. He said that the intent of the ordinance is to establish a uniform setback pattern along streets and this proposing is consistent with that intent.

Ms. Alling agreed. She said that the variance will not be disruptive to the established setback pattern in the area.

Ms. Whitfield made a motion, seconded by Ms. Horne to approve BZA 4028.17 for a variance of 5 feet to the required front yard setback to permit the construction of a new porch on the front of the house at 908 Larned Street that would have a front yard setback of 15 feet, on a finding that the variance is consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e).

Vote	Yes	No
Alling	X	
Horne	X	
Quick	X	
Leaming	X	
Whitfield	X	
Rice	X	
Litwiller	X	

On a roll call vote (7-0), the variance request was approved.

C. BZA-4029.17, 2930 Mayfair Drive

Ms. Stachowiak stated that this is a request by Raquel Llinas White to permit a hair salon, with commercial grade salon equipment, in her home at 2930 Mayfair Drive. The proposed hair salon would serve 5 customers per day on average and would include a swivel chair and a commercial 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 not 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.”

The use of commercial grade hair salon equipment for a home occupation at 2930 Mayfair Drive is, therefore, being requested.

Ms. Stachowiak said that no hardship or practical difficulty needs to be determined in this case. The Board is reviewing a proposed home occupation that will be using equipment that is not normally used for purely domestic or household purposes. The commercial equipment under review in this case consists of a swivel chair and a shampoo sink. For this case, the Board needs to determine whether the proposed hair salon will adversely impact any lot within 300 feet of 2930 Mayfair Drive. Ms. Stachowiak said that the proposed equipment (swivel chair, sink) will not generate any noise, vibrations, odors, heat or other nuisances that will impact the surrounding neighborhoods. The effects of this equipment will all be contained within the home. Ms. Stachowiak also stated that the proposed home occupation is not anticipated to generate a burdensome amount of traffic in the area in which it is located. Visits to the hair salon will be staggered throughout the day rather than heavy influxes of traffic all at one time. Based on these findings, staff recommended approval of the request with the following conditions:

1. The applicant must live in the home and adhere to all of the conditions required for the operation of a home occupation; and
2. The hair salon is limited to one swivel/hydraulic chair and one professional grade shampoo sink.

Ms. Alling opened the public hearing.

Raquel White, 2930 Mayfair Drive, spoke in support of her request. She said that the salon will consist of 1 swivel chair/station and a portable shampoo sink. Ms. White said that it will be just her, no employees and therefore, there will only be one customer on the site at a time. She said that she would serve a maximum of 6 customers per day.

Ms. Horne asked Ms. White if she is licensed through the State of Michigan as a cosmetologist.

Ms. White said that she has all of the proper licensing.

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

Mr. Rice said that the only concern is overuse of parking on the street.

Ms. Stachowiak asked that Ms. White instruct her customers to park in her driveway rather than on the street.

Mr. Leaming said that he does not anticipate any issues with the proposed salon.

Mr. Leaming made a motion, seconded by Mr. Quick to approve BZA 4029.17 to permit a hair salon in the home at 2930 Mayfair Drive, with the following conditions:

1. The applicant must live in the home and adhere to all of the conditions required for the operation of a home occupation; and

2. The hair salon is limited to one swivel/hydraulic chair and one professional grade shampoo sink.

on a finding that the proposed hair salon/equipment will not have any negative impacts on the surrounding area.

Vote	Yes	No
Alling	X	
Litwiller	X	
Rice	X	
Quick	X	
Leaming	X	
Whitfield	X	
Horne	X	

On a roll call vote (7-0), the request was approved.

IV. OLD BUSINESS

A. **BZA-4025.16, 1814 N. Genesee Street**

Ms. Stachowiak stated that this is a request by Christine Blackledge to permit a 6 foot high wrought iron fence in the Genesee Street and Verlinden Avenue front yards of the property at 1814 N. Genesee Street. Section 1292.03(a)(1) of the Zoning Code permits a maximum height of four (4) feet for a visually open fence within a front yard. A variance of two (2) feet to the height limitation for a front yard 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 there is nothing physically unique about the subject property that would set it apart from a request to vary the fence ordinance on any other corner lot in the City. While the applicant has concerns about people loitering at the bus stop in front of her property, a 4 foot high wrought iron fence as permitted by ordinance would be sufficient to prevent someone from trespassing on the subject property. In addition, Ms. Stachowiak said that a 6-foot high fence would be out of character with the surrounding area as it would have a negative impact on the appearance of the neighborhood, even if it is visually open. She also said that since there is nothing unique about the subject property to warrant relief from the ordinance, approval of the requested variance would set a negative precedent for future requests to vary the height limitation for a front yard fence, not just in the vicinity of the subject property but in the City in general. Ms. Stachowiak stated that what she can say in support of the variance is that the fence will be visually open which means that it will not obstruct vision at the intersection and will not create a "wall" effect like opaque fences.

Christine Blackledge, 1814 N. Genesee Street, spoke in support of her request. She said that she works for US Aid in Africa and has been out of the country for several weeks. Ms. Blackledge stated that she put in a greenhouse, planted some small fruit trees and wants to turn her side yard into a community garden. She said that there is a bus stop right in front of her

house on Verlinden and she often finds litter and empty alcohol bottles in her yard and trespassing and petty theft have been a real issue. She stated that the fence will be visually open, will not obstruct visibility for traffic and will fit in with the surrounding area.

Ms. Stachowiak said that she received a letter of support from Diane Arzberger of 1812 N. Genesee and a petition signed by 15 of the surrounding neighbors in support of the variance. She said that the public hearing was held on September 15, 2016 at which no comments were received.

Mr. Leaming said that it would be difficult to jump over a 4 foot tall fence which the applicant can install as a matter of right. He said that he understands the concerns relative to the issues surrounding the bus stop but feels that the additional 2 feet in height for the fence would not make a difference if someone was intent on getting into her yard. He also said that if there is going to be a community garden on the property, the idea would be to let people in rather than keep them out.

Ms. Horne said that she is concerned about the precedent that authorization of the variance would set. She said that kids will try to climb the fence and put bottles on top of the spikes. She also said the since it is a visually open fence, it could be 4 feet high in the front yards which should be adequate to prevent trespassing.

Mr. Rice said that he agrees with Mr. Leaming and Ms. Horne that a 4 foot high fence would serve the purpose of preventing trespassing without setting a negative precedent for higher front yard fences.

Ms. Whitfield said that she knows the challenges of securing a property from trespassing and theft and therefore, she is leaning towards supporting the requested variance.

Ms. Litwiller agreed with Ms. Whitfield that the proposed 6 foot high fence is warranted given the location of the bus stop.

Ms. Alling said that she is not sure that the additional 2 feet of height on the fence will make a difference in securing the property. She said that she appreciates what the applicant is doing with her property but is concerned about the precedent that would be set if the variance were to be approved.

Mr. Quick agreed with Ms. Alling. He said that he lives in the neighborhood and has experienced issues with trespassing as well but he is concerned about establishing a precedent for future requests of a similar nature.

Bob Rose, 1817 N. Genesee Street, spoke in support of the request. He said that Ms. Blackledge has done a wonderful job with her property and she has a need for increased security given the location of the bus stop and some of the negative activities that have occurred as a result.

Neil Newton, 1813 N. Genesee Street, spoke in support of the request. He said that he has lived in the neighborhood for a year and Ms. Blackledge exemplifies everything that is great about it. He asked the Board to approve the variance as requested.

Julie Rodocker, 4909 Devonshire Avenue, spoke in support of the request. She said that while she does not live in the neighborhood, she is a 2nd ward candidate for City Council and she is impressed with the support that Ms. Blackledge has received from her neighbors. Ms. Rodocker stated that 2 feet of additional height on the fence will make a difference in preventing trespassing on the applicant's property.

Ms. Horne said that while the proposed fence is more attractive than a stockade or chain-link fence, it still opens up the ordinance for future requests to vary the front yard fence ordinance.

Ms. Horne made a motion, seconded by Mr. Rice to deny BZA 4025.16 for a variance to permit a 6 foot high wrought iron fence in the Genesee Street and Verlinden Avenue front yards of the property at 1814 N. Genesee Street, 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.

Vote	Yes	No
Alling	X	
Horne	X	
Quick	X	
Leaming	X	
Whitfield		X
Rice	X	
Litwiler		X

On a roll call vote (5-2), the variance request was denied.

V. PUBLIC COMMENT - None

VI. APPROVAL OF MINUTES

A. Minutes of special meeting held on January 18, 2017

Mr. Rice made a motion, seconded by Mr. Leaming to approve the minutes from the January 18, 2017 meeting, as printed. On a voice vote (7-0), the motion carried unanimously.

VII. NEW BUSINESS

Ms. Horne made a motion, seconded by Mr. Rice to grant an excused absence for Mr. McGrain. On a voice vote (7-0), the motion carried unanimously.

IV. ADJOURNMENT AT 7:44 P.M.

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator