
MINUTES OF REGULAR MEETING – *Approved 7/22/20*
BOARD OF ZONING APPEALS
May 14, 2020, 6:30 P.M.

The meeting was conducted as an online teleconference in compliance with State of Michigan Executive Order No. 2020-75, to allow for the continued operation of the City while complying with Executive Order No. 2020-92.

I. ROLL CALL

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

Present: M. Alling, J. Hovey, J. Leaming, M. Rice, K. Berryman, Chris Iannuzzi, R. Fryling, E. Jefferson & M. Solak

Absent: None

Staff: S. Stachowiak

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

II APPROVAL OF AGENDA

It was moved by Mr. Rice, seconded by Mr. Leaming to approve the agenda as presented. On a voice vote, the motion carried 9-0.

III. PUBLIC COMMENT

IV. PUBLIC HEARING/ACTION

A. BZA-4057.20, N. Homer Street, Variance to the height limitation for a telecommunications tower

Ms. Stachowiak said that this is a request by Metro Fibernet to construct an 85 foot high telecommunications tower at the southeast corner of the Board of Water & Light property (Parcel No. 33-01-01-11-251-281) located between 1220 and 1306 N. Homer Street. Section 1248.10 limits the height of structures in the "A" Residential district, which is the zoning designation of the subject property, to 35 feet. A variance of 120 feet to the height limitation is therefore, being requested. Ms. Stachowiak stated that the staff recommendation is to approve the variance based on a finding that the request complies with all the applicable criteria of Sections 1244.06 (c) and 1244.06 (e) of the Zoning Ordinance, as described in the staff report for this request.

Ms. Stachowiak said that telecommunication towers are inherently unique in that they simply cannot function at a height of 35 feet. As with all communication towers, the proposed tower must be of sufficient height to transmit and receive signals. At 35 feet, the tower would be lower than most mature trees in the area and several buildings that separate it from towers in the area that transmit television, radio, internet and telephone services. Since the purpose of the applicant's tower is to receive those signals in order to provide the same services to its customers, denial of the variance would render the proposed project unfeasible.

Ms. Alling opened the public hearing.

Jim Rood, representing Metro Fibernet, LLC explained that the company is a provider of fiber optic telecommunication services, including high-speed Fiber Internet, full-featured Fiber Phone, Fiber-based streaming television and a wide variety of programming and products. He stated that the purpose of the antenna pole is to receive over the air digital television broadcasts from local television stations in order to provide those same program choices to MetroNet customers. Mr. Rood stated that the antennae on the antenna pole are for reception of existing signals only; no broadcasting antennae are used.

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

Ms. Stachowiak stated that a condition of the special land use permit to allow the tower on Board of Water & Light property is that the applicant will be required to install a row of evergreen trees along the entire length of the south property line to buffer the tower/compound area from the residential property to the south, which is really the only property that will be impacted by the project. Ms. Stachowiak stated that this can also be a condition of the variance approval.

Mr. Rice asked why the N. Homer Street location was selected.

Mr. Rood said that MetroNet has another tower in Lansing and with the addition of this one, they will be able to provide services to all customers in Lansing.

Ms. Jefferson asked about the City's proposal to amend the Zoning Ordinance to allow for higher towers as mentioned by Ms. Stachowiak so that they do not need to come before the BZA for height variances.

Ms. Stachowiak said that the recommendation is to amend the Zoning Ordinance to permit towers up to 120 feet.

Mr. Leaming expressed support for the request by acknowledging that the tower is not functional at a height of 35 feet.

Mr. Rick also expressed his support for the request based on the practical difficulty associated with constructing a tower without approval of a height variance.

Mr. Leaming made a motion, seconded by Ms. Jefferson to approve BZA 4057.20 for a variance of 50 feet to the height limitation to permit an 85 foot high telecommunications tower at the southeast corner of the Board of Water & Light property (Parcel No. 33-01-01-11-251-281) located between 1220 and 1306 N. Homer Street, on a finding that the variance is consistent with criteria listed in Sections 1244.06(c) 1244.06(e) of the Zoning Ordinance, as described in the staff report for this application. On a roll call vote, the motion carried unanimously (9-0).

B. BZA-4058.20, 1015 Westmoreland Avenue, Variance to permit a home occupation that involves the outdoor storage/display and sale of bicycles

Ms. Stachowiak stated that the applicant does not possess the necessary technology to participate in a remote meeting and therefore, is requesting that his case be tabled until such time as he is able to meet with the Board in person. She said that the Board

must hold the public hearing because the notices were sent out to the owners, taxpayers and occupants of all real property within 300 feet of the site, as required. Ms. Stachowiak said that following the public hearing, she recommends that the Board table the case. She also explained that when it comes back up on a future agenda, the Board will not need to hold another public hearing.

Ms. Stachowiak stated that this is a request by Aaron Wallace to permit the outdoor storage/display of bicycles for sale at 1015 Westmoreland Avenue. Section 1248.03(e) of the City of Lansing Zoning Ordinance permits home occupations in single family residential zoning districts that are conducted entirely within the confines of a dwelling unit and do not involve the sale of goods on the property. The applicant repairs and sells bicycles at 1015 Westmoreland Avenue, a significant amount of which are being stored/displayed outside on the property. Ms. Stachowiak said that the unlike a variance to a dimensional requirement (setback, height, lot size), the applicant's request does not involve establishing a practical difficulty that prevents or makes compliance with the ordinance unreasonable difficult due to a condition (irregular shape, uneven topography, small size) of the lot that is unique in comparison to most other lots to which the ordinance standard applies. In this case, the standard that must be satisfied is a determination as to whether denial of the variances would create an "unnecessary hardship" on the applicant if authorizing the requested variances to allow the sale and outdoor display/storage of bicycles would be consistent with the intent and purpose of the ordinance. Ms. Stachowiak said that the outdoor storage of bicycles on the property is contrary to the intent and purpose of the ordinance which is to permit home occupations that do not change the residential character of the property/neighborhood.

Mr. Berryman stated that if the request is tabled, the applicant should reserve him comments until the meeting where it is to be considered rather than being allowed to speak at this meeting and then again at a future meeting.

Mr. Leaming expressed concerns about tabling the request indefinitely and stated that when the request does appear on a future agenda, if the public hearing has already been held, the applicant technically will not have an opportunity to address the Board as the matter will move right into Committee of the Whole deliberations.

Ms. Alling opened the public hearing.

Zona Viruet 3833 Wilson Street, spoke in support of the variances. She said that the applicant's business is good for the neighborhood. Ms. Viruet said that the applicant helps the children in the neighborhood with their bikes and she does not understand why the City would not want to allow Mr. Wallace to continue as he has been doing right along.

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

Mr. Hovey made a motion, seconded by Mr. Rice to table BZA 4058.20 until such time as the BZA is able to meet in person. On a voice vote, the motion carried unanimously (9-0).

V. **OLD BUSINESS** - None

VI. **NEW BUSINESS** - None

VII. APPROVAL OF MINUTES

A. Regular Meeting, March 12, 2020

Mr. Leaming made a motion, seconded by Mr. Hovey to approve the minutes from the regular meeting held on March 12, 2020, as printed. On a voice vote, the motion carried unanimously (9-0).

VIII. PUBLIC COMMENT

IX. ADJOURNMENT AT 7:02 p.m.

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator