

ZONING BOARD OF APPEALS
Regular Meeting
August 22, 2023

The meeting was called to order by Chairman Russ Boersma at 5:30 p.m.

Present: Chairman Russ Boersma, Members Jack Vander Meulen, Elliott Church, Robert De Vries and Steve Haberkorn. Also present were Community Development Director Corey Broersma, Assistant Planner and Zoning Administrator Kate White, and Recording Secretary Laurie Slater.

Absent: Ross De Vries

** It was moved by Vander Meulen and supported by Robert De Vries to approve the minutes from the July 25, 2023, meeting as written. Motion carried.

There were no public comments.

Chairman Boersma explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for a Nonuse Variance submitted by QCW Enterprises, LLC for property located at 9627 Adams Street, known more specifically as Parcel Number 70-16-25-400-023. Petitioner is requesting variances consisting of: 1) 6.1 feet from the minimum 50-foot front yard setback, resulting in a front yard setback of 43.9 feet for a canopy structure; and 2) 24.6-foot variance from the minimum 50-foot front yard setback, resulting in a front yard setback of 25.4 feet for mechanical gate arms and associated equipment. The variance is being requested for a proposed car wash facility. The subject property is zoned C-3 Highway Commercial.

Present for this request was Steve Witte of Nederveld, Project Engineer for Quality Car Wash and Dan Kender, Project Manager for QCW Enterprises, LLC.

Quality Car Wash ("QCW") is under contract to purchase the southern 2.3 acres of the 5.9-acre subject property, zoned C-3 Highway Commercial on Adams Street. They are proposing to construct a carwash. The site plan was approved by the Planning Commission at the July meeting. The proposed carwash would be the same as the one on North Park Drive (Walmart Plaza).

QCW is asking for two front yard variances for this project. This property is on a corner lot, so it has two front yards. There is a canopy that would encroach on the south front yard setback by 6.1 feet. If the canopy was classified as an architectural feature, the encroachment would be 3.1 feet. The applicant also stated that they have 4 feet of space available to the north in which they could move the building back and make it compliant if 3' of the canopy was considered an architectural feature of the building. They want to establish the north property line to line up with the property next door, 9673 Adams St. Also, they want to have the ability for a future split of this 2.3-acre parcel.

The Board asked the applicant if he would be willing to move the building back 3.1 feet. He stated that, yes, they would be willing to do that.

The second variance is for the gate arms and the “go” lights. The gate arms stand at 36 inches and the “go” lights are 5 feet in height. If they were 30 inches or less, there would be no need for a variance.

Mr. Witte stated that the main building would line up with other buildings in the area. By ordinance, they are required to have 10 feet of greenspace; they are putting in 15 feet of greenspace. The property having two front yards is a unique feature. The pumphouse and transformer station on the westerly adjacent property (9673 Adams St) is 5.3 feet off the right-of-way. The self-serve carwash across the street at 9670 Adams St has vacuum stations that are 15 feet off the right-of-way. Granting this variance would be compatible with the surrounding area. Mr. Witte stated the gates and arms would not be a nuisance.

The lane closest to the building would be the only lane with cash transactions. The other two lanes would have license plate readers in them, and the gates would open automatically for the customers with memberships when it’s their turn to pull forward and get in line.

Mr. Witte commented that they were thinking about removing the temporary sign with the prices and what that includes and putting it on top of the license plate scanners. The Board commented that the only line that needs that signage is the line with the cashier. The customers with memberships will automatically get what they paid for.

Chairman Boersma opened the floor for public comment. In the audience was Jeff Moss, owner of lot 2 to the north (Parcel Number 70-16-25-400-020). His concerns were for a turn lane to be installed on 96th Avenue all the way to the next intersection. He would also like to see the power lines go underground rather than the existing poles. The Board informed him that that is not their decision to make. He would need to contact the Ottawa County Road Commission.

** It was moved by Church and supported by Haberkorn to close the hearing. Motion carried.

Mr. Church made a motion to deny the variance request for 6.1 feet from the minimum 50-foot front yard setback but then withdrew the motion for denial given the Board’s understanding that the applicant wished to withdraw this portion of their request.

Mr. Witte confirmed the desire to withdraw the first portion of their variance request for 6.1 feet from the minimum 50-foot front yard setback.

** It was moved by Robert De Vries and supported by Haberkorn to accept the withdrawal of the variance for 6.1 feet from the minimum 50-foot front yard setback, resulting in a front yard setback of 43.9 feet for a canopy structure. Motion carried with a unanimous roll call vote.

The Board went over the standards to review the nonuse variance request for the mechanical gate arms and associated equipment.

1. That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of

record, including but not limited to:

- a. *Exceptional narrowness of the width or depth of a lot of record, or irregular shape.*
- b. *Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.*
- c. *Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.*
- d. *Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.*

There are no exceptional, extraordinary, or unique conditions of the land which would relate or impact the need for the requested nonuse variance for the mechanical gate arms and associated equipment. This is a corner lot with two front yards.

2. *That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.*

The operation of this car wash facility is unique given the “go” lights and associated equipment are needed to cue the vehicles to move forward to be washed. The vacuum cleaners at the carwash across the street are in the setback.

3. *That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.*

The Board noted that the equipment is needed for the functionality and operation of the business, which helps with queuing vehicles in a safe manner on-site.

4. *That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.*

Granting this variance will not be of substantial detriment to adjacent and nearby land uses and properties.

5. *That the applicant shall not have created the problem for which the variance is being sought.*

The Board argued they did not create the problem. They need the gates to signal to customers who in the three lanes goes next instead of all of them going at once.

6. *That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.*

Granting this variance will not be contrary to the public interest and it would be in the spirit of the ordinance, public safety secured, and substantial justice done for both the applicant and

other property owners in the district. These mechanical gate arms and equipment assist in the function of the business for safer operations, and the equipment will not create any clear vision area concerns. The maximum height for the arms should be stipulated at 38 inches. They are proposed to be 36 inches in height.

** It was moved by Vander Meulen and supported by Robert De Vries to approve the request for 24.6-foot variance from the minimum 50-foot front yard setback, resulting in a front yard setback of 25.4 feet for mechanical gate arms and associated equipment with the stipulation that the posts be no more than 38 inches in height and no signage is to be attached to the license plate readers in the two automatic pay lanes. Motion carried with a unanimous roll call vote.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Elizabeth Klynstra for property located at 10483 Paw Paw Drive, known more specifically as Parcel Number 70-16-23-250-012. Petitioner is requesting variances consisting of: 1) 336 square feet from the maximum 240 square feet permitted for a detached accessory building, resulting in a 576 square-foot detached accessory building; and 2) 9 feet from the minimum 35-foot front yard setback for a detached accessory building located on a corner lot and adjacent to a secondary street, resulting in a front yard setback of 26 feet for the detached accessory building. The variance is being requested to build a two-stall, detached accessory building. The subject property is zoned R-2 Moderate Density Residential.

Present for this request was Roger Klynstra representing his daughter Elizabeth Klynstra.

Mr. Klynstra explained to the Board that this property is a corner lot resulting in two front yards. With the 26-foot front yard setback, the proposed accessory building would line up with the other properties on Burton. There is room to move the garage back nine feet, but it would look out of place with the other lots on this street. Ms. Klynstra does have a one-stall attached garage on her house, which she uses to park her car in. Looking ahead, with a growing family and more than one driver, there will be additional vehicles. The maximum allowed by ordinance is 240 square feet, which would be too small.

Ms. Klynstra has owned the house for three years. The Board asked if they knew any of the history of the property. Mr. Klynstra explained that the property was owned by family members and that it was a farm setting. Burton was possibly added later after the house was built.

The garage was placed away from the house so that they could see the kids playing in the yard and so they could utilize the area between the garage and the house. It will meet the side and rear yard setbacks. There is an entrance at the back of the existing garage so they would not have to walk all the way around the house to get into the house. If they were to remove the attached garage and move the garage to the north side of the house, they would lose one of the two bedrooms on that side of the house. If they were to turn the garage into a sunroom, they would still need a variance to extend a non-conforming use. Neither of these proposed solutions would make sense to do.

The siding and roofing would match the existing structure. The lot coverage would not exceed 35%. There are other oversized accessory buildings in the neighborhood within the setback;

10503 Paw Paw may only be 17 feet from the public right of way; 10484 Paw Paw only 27 feet from the public right of way. These pre-dated the current ordinance and are now considered legal non-conforming.

Present in the audience to speak to this request was Kyle Baker of 10464 Paw Paw Drive. He stated that he has one of the smallest lots in the neighborhood. There are two stall garages within the neighborhood that are bigger than the one proposed. For this neighborhood, it is a very normal size. He was pleased that they were trying to keep the neighborhood aesthetically maintained. It would look awkward to set it back so far. He further stated that there are other properties in the neighborhood with attached and/or oversized accessory buildings.

** It was moved by Vander Meulen and supported by Haberkorn to close the hearing. Motion carried.

The Board went over the standards to review when considering a nonuse variance request.

1. That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:

- a. Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
- b. Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
- c. Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
- d. Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

The location of the existing dwelling and attached garage on the property is unique. The 35-foot setback would not fit in with the neighborhood. If it were moved back to meet the setback, it would look awkward in this neighborhood.

2. That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.

The location of the home on the property is unique, given it is in the front corner of the lot. There are other structures in the neighborhood that are closer to the road and larger within this neighborhood.

3. That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

There would be no financial return by granting this variance. They need a place to park

additional vehicles as the family grows.

4. That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.

Granting this variance would not worsen the encroachment. No one would be worse off. They have the support of one other landowner.

5. That the applicant shall not have created the problem for which the variance is being sought.

The existing location of the dwelling and attached garage is not self-created and it would be harder to expand the existing garage for their needs.

6. That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.

Within this neighborhood, as pointed out by a neighbor, setback encroachments are common and would not be out-of-character in this area. There are no objections from surrounding property owners.

** It was moved by Vander Meulen and supported by Church to approve a variance of 336 square feet from the maximum 240 square feet permitted for a detached accessory building, resulting in a 576 square-foot detached accessory building. Motion carried with a unanimous roll call vote.

** It was moved by Robert De Vries and supported by Vander Meulen to approve a variance of 9 feet from the minimum 35-foot front yard setback for a detached accessory building located on a corner lot and adjacent to a secondary street, resulting in a front yard setback of 26 feet for the detached accessory building. Motion carried with a unanimous roll call vote.

Hearing declared open to consider a petition for a Nonuse Variance submitted by William A. Sikkel on behalf of Mitchell Cook for property located at 1340 Center Street, known more specifically as Parcel Number 70-16-25-250-027. Petitioner is requesting a variance of 9 feet from the minimum 35-foot rear yard setback, resulting in a rear yard setback of 26 feet for the dwelling. The variance is being requested for a new addition to the dwelling. The subject property is zoned R-1 Low Density Residential.

Present for this request was William (Bill) Sikkel and Mitchell Cook. Also present was Doug Geerlings – the builder to answer any questions the Board may have.

Mr. Sikkel explained that in 1984, the small one and a half story house was granted a variance for the square footage to be 792 square feet, less than the 900 square feet required by ordinance. He further stated that this house has the smallest kitchen ever seen. The applicant would like to

add 300 square feet onto the first floor for a larger kitchen and more living space. The lot is an odd shape and very small. The house was originally constructed on the front yard setback.

In 1989, a second variance was granted to enclose an existing porch which was noted to have a setback of 27 feet from the rear property line, instead of the required 35 feet, based on the application submittal from 1989 and ZBA meeting minutes. Somehow, the rear yard setback ended up being 26 feet from the rear property line.

They are proposing to push out the rear of the house so that it lines up with the existing sunroom. The lot is an unusual shape, it is at an angle and on a cul-de-sac. On the southern portion of the property there is a slight slope. There are also two shade trees, the only ones on the property, that would need to be removed if they did an addition to the southern portion of the house. There is an existing septic field that is not being used and would need to be removed too if they did a southern addition. Building anywhere else other than in line with the sunroom would further block the neighbor's views. Their views are already blocked to the east by the sunroom, rather not block them to the south as well. The proposed location would open up the house with an open kitchen/living room concept. There are currently four people living there. The proposed location of the addition in line with the sunroom is a single story with no additional dormers. There is a block crawl space under the sunroom. Adding on in line with the sunroom would not create any more of a non-conformity than is already there. Also, it would fit with the layout of the house.

There was no one present in the audience to speak to this request. However, several emails were submitted to the Community Development Director. All the emails were in favor of the request. They were received from:

Robert and Stacey Marlink of 1357 Center St, Zeeland, MI 49464
Andrew and Heather Miller of 1427 Center St, Zeeland, MI 49464
Les and Carol Baumann of 1345 Center St, Zeeland, MI 49464
Steve and Angela Van Order of 1403 96th Ave, Zeeland, MI 49464
Jeremy Dreyer of 1356 Center St, Zeeland, MI 49464

** It was moved by Haberkorn and supported by Church to close the hearing. Motion carried.

The Board went over the standards to review when considering a nonuse variance request.

1. That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:

- a. ***Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
- b. ***Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
- c. ***Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***

- d. ***Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

There is a slope and trees on the southern portion of the lot limiting where the addition can feasibly be built. The house is on a cul-de-sac with an angled lot line making it an irregular shape.

2. ***That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.***

It is a 24-foot-wide house as close to the road right-of-way as possible.

3. ***That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

This addition will improve the enjoyment and use of the property as it will give them room to move – larger kitchen and more living space.

4. ***That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

Granting this variance will not be of substantial detriment to adjacent and nearby land uses and properties. Several neighbors have submitted letters of support for the request.

5. ***That the applicant shall not have created the problem for which the variance is being sought.***

The property was purchased this way; the owners did not construct the house to be this small.

6. ***That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

This request is not contrary to the public interest – several neighbors are in support. It will not encroach on their property rights / view any more so than it does now. It will not be any closer to the property line than the existing sunroom.

** It was moved by Church and supported by Robert De Vries to approve a variance of 9 feet from the minimum 35-foot rear yard setback, resulting in a rear yard setback of 26 feet for the dwelling. Motion carried with a unanimous roll call vote.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Peter Spencley for property located at 3576 144th Avenue, known more specifically as Parcel Number 70-16-07-300-075. Petitioner is requesting variances consisting of: 1) 384 square feet from the maximum 240 square feet permitted for a detached accessory building, resulting in a 624 square-foot detached accessory building; and 2) 2 feet from the maximum height of 12 feet permitted for

a detached accessory building, resulting in a 14-foot-tall detached accessory building. The variance is being requested to build a two-stall, detached accessory building. The subject property is zoned R-1 Low Density Residential.

Present for this request was Peter Spencley, property owner.

Mr. Spencley had come before the Board previously requesting a detached oversized accessory building of 960 square feet. The request was denied, and Mr. Spencley requested for the wait period of one year to be waived so that he could submit a new plan with a smaller accessory building and a plan for buffering the building from the surrounding neighborhood. The Board waived the wait period for Mr. Spencley's request.

Mr. Spencley stated that he lives on a private drive that has seven large lots on it. He lives at the end of the road. He is requesting an accessory building of 624 square feet with a height of 14 feet. By ordinance, he is allowed to build a 240 square foot accessory building with a height of 12 feet.

Mr. Spencley further stated that the precedent has already been set by allowing three of the seven lots to have oversized accessory buildings:

3580 144 th	480 square feet
3584 144 th	560 square feet
3592 144 th	864 square feet

His lot is .66 acres in size. The lot coverage would be 2.3%. The rear setback was a concern at the June meeting. He had proposed a 10-foot setback; by ordinance, he was required to have 5 feet. The new rear yard setback will be 27 feet. He will be planting trees along the rear lot line to limit the view of the accessory building from the property to the south – Joel Van Kampen of 3546 144th Avenue. Mr. Van Kampen wrote and signed on the back of the Notice of Hearing to “Please let Peter Spencley build this building. Joel Van Kampen, 3546 144th Ave”.

In the original request in June, the height variance was missed and did not get advertised. He is now asking for a height variance of 14 feet allowing for a couple inches of error. His previous submittal was 13.7.

The proposed accessory building will be consistent with the existing house in looks – black and tan. Construction will be stick-built or post frame.

The Board commented that the Township has changed from a rural area to more of an urban area. The need for larger accessory buildings has gone down. The Board needs to look at each request and its circumstances individually. Mr. Spencley listened to what the Board had to say when he was here in June and came back with a workable solution. The new plan fits well with the neighborhood.

Mr. Cal Overway of 3580 144th Avenue (across the street) was present in the audience to speak to this request. He stated that all three of the existing accessory buildings are stick-built. Whatever Mr. Spencley does is going to be done well. He and his wife have completely

renovated this property. Mr. Spencley plows the driveway, and he needs the accessory building to store the tractor in. The accessory building will match the rest of the neighborhood.

** It was moved by Vander Meulen and supported by Church to close the hearing. Motion carried.

The Board went over the standards to review when considering a nonuse variance request.

1. That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:

- a. Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
- b. Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
- c. Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
- d. Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

There are no exceptional, extra ordinary or unique characteristics or conditions of the land or lot of record.

2. That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.

What they are asking for is consistent with what other lots in this ~~zoning district and this~~ neighborhood have asked for and been approved for.

3. That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

Granting the variance would give more enjoyment of the lot. A place to store the tractor. There would be no financial return.

4. That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.

What is being proposed fits well with this neighborhood. He has minimized the size, but he can still enjoy the accessory building like his neighbors have.

5. That the applicant shall not have created the problem for which the variance is being sought.

It's hard to argue that the applicant did not create the problem. The neighbors put up

larger accessory buildings. It was more of a rural area, then water and sewer were put in, then came the factories and the rural feeling was lost. In an urban area, you don't expect the need for large accessory buildings. This request is a reasonable compromise.

- 6. That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

The proposed accessory building fits within this neighborhood. It is not appropriate everywhere, but it is here. The accessory building will match the main residence. No negative effect on the public interest.

** It was moved by Vander Meulen and supported by Haberkorn to approve a variance of 384 square feet from the maximum 240 square feet permitted for a detached accessory building, resulting in a 624 square-foot detached accessory building. Motion carried with a unanimous roll call vote.

** It was moved by Haberkorn and supported by Church to approve a variance of 2 feet from the maximum height of 12 feet permitted for a detached accessory building, resulting in a 14-foot-tall detached accessory building. Motion carried with a unanimous roll call vote.

The meeting adjourned at 7:22 pm.

Respectfully submitted,

Laurie Slater
Recording Secretary