

ZONING BOARD OF APPEALS

Regular Meeting

February 20, 2024

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

Present: Chairman Russ Boersma, Members Jack Vander Meulen, Elliot Church and Robert De Vries. Also present were Community Development Director Corey Broersma and Assistant Planner/Zoning Administrator Kate White.

Absent: Vice-Chairman Ross De Vries

There were no public comments.

** It was moved by Vander Meulen and supported by Bob De Vries to approve the minutes from the December 19, 2023 meeting. Motion carried by roll call vote – 4 Yes, 0 No, 1 Absent.

Chairman Boersma noted that due to the cancelled January ZBA meeting, the Board would need to elect their officers for 2024 at this meeting.

**It was moved by Church and supported by Vander Meulen to re-nominate the same officers to their position: Boersma to Chairman, Ross De Vries to Vice-Chair, and Bob De Vries to Secretary.

Chairman Boersma explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Bryan and Stacy Huffman for property located at 516 Howard Ave, known more specifically as Parcel number 70-16-30-176-013. Petitioner is requesting variances consisting of: 1) 6.5 feet from the required 7-foot side yard building setback, resulting in a side yard setback of 0.5 feet along the northeastern side lot line; and 2) 102 square feet from the maximum 1,050 square feet of attached accessory building area, resulting in an area of 1,152 square feet. The variances are being requested for an addition to an attached garage. The subject property is zoned R-1 Low Density Residential, FP Floodplain, and Macatawa Residential Setback Overlay.

Present for this request were Bryan and Stacy Huffman, owner of 516 Howard Ave.

Mr. Huffman noted that they would like to do an in-fill addition to connect their existing garage to their detached pool house. He noted that the existing garage is about 1 foot from the lot line. Currently, there is a cement slab between the garage and pool house which functions as an outdoor parking stall for their vehicles. They simply want to convert the area used for parking to a covered, enclosed area for parking their vehicles and equipment.

Mr. Huffman noted he understands the side yard setback requirements but believes that building the garage addition to the setback line would create dead, wasted space between their addition and their property line. Additionally, the garage stall would be too short to park most vehicles. If they were to shift the length of the proposed addition to comply with the side yard setback, then it would create issues with proximity to the existing fountain, functionality of their driveway, and would impact the visual of their house.

Mr. Huffman stated that the proposed garage addition would eliminate some existing nonconformities of the property by reducing the number of detached accessory buildings on the property to one. The

proposed addition would connect the existing oversized pool house to the dwelling and would be converted into a conditioned recreational space and would be considered as part of the dwelling.

Mr. Huffman also noted that many of the structures on the property were built in the 1930s and they have plan/design their additions around the placement of those existing structures. Those structures were subject to different rules when they were originally constructed.

Mr. Vander Meulen asked about the existing lake side detached accessory building; it was determined that the lake side accessory building was larger than a “pumphouse” by definition. Mr. Huffman noted that he plans to come forward to the Board with another request pertaining to the lake side accessory building and retaining wall at a later date.

Chairman Boersma asked the applicant if the addition were built to meet the side yard building setback, would it eliminate the need for the variance request for the oversized accessory building. Mr. Huffman noted yes, but it would not be ideal for the functional storage of most vehicles, and if the addition were moved closer to the existing fountain in their driveway, then they may need to reconstruct the fountain and alter the driveway layout.

Mr. Church asked the applicant if they talked to their neighbors about the variances and whether they were supportive. Mr. Huffman indicated yes. Staff noted that they had not received any communication from neighboring properties regarding the requests tonight. Mr. Church asked how much space there would be between the proposed addition and the neighbor’s accessory building. Mr. Huffman noted their neighbors to the northeast are building a new house and it would be about 8 feet from their new accessory building.

Mr. Bob De Vries asked about a photo provided in the applicant’s report and the presence of an underground electrical service; Mr. Huffman is aware he will have to relocate it. Mr. De Vries then noted concerns about the need for a fire-rated assembly given the proposed distance being less than 10 feet between the addition and neighboring building.

Chairman Boersma noted that a similar request had been presented in 1995 for an addition with a side yard setback variance; the Board denied the variance request for a reduced side yard setback.

Mr. Church noted that it seems to him that the biggest practical concern with the request is fire spread; he felt that denying the request does not lessen the concerns for fire spread. Mr. Vander Meulen noted there are also concerns with stormwater drainage being directed onto the neighboring property given the presence of the shed roof and eaves that may abut or even encroach onto the neighbor’s property line. Mr. Vander Meulen noted that the ordinance does not allow for stormwater dumping onto neighboring properties. Staff echoed concerns regarding the proximity of eaves to property lines and whether there may be concerns with eaves encroaching past lot lines with only a 6 inch building setback.

There was no one present in the audience to speak to this request.

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

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.*

Existing buildings are in unique locations on the property and offsetting an in-fill additions between existing buildings to comply with building setbacks may be visually impactful to the neighborhood aesthetics of the general area.

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 lot is unusually long and narrow, but there are several long-narrow lots in the area. The length to width ratio may be extreme for this property but it does not pertain to this request.

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 variances are not necessary for the preservation and enjoyment of a substantial property right; the owner could feasibly build the garage addition in compliant location and size. A similar request was presented in 1995 but was denied.

Mr. Church noted that a right is not being taken away, but the principle of not wasting space on a property is being infringed. If the addition were to comply with building setbacks, it would create dead, wasted space and eliminate the utility of said space.

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

There are concerns with fire spread between neighboring buildings and stormwater drainage onto the neighboring property.

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

The applicant has options to build the addition to ordinance requirements, so it is hard to argue it is not self-created.

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 the variances would be contrary to the spirit of the ordinance and public interest in maintaining a community standard for new construction when unique circumstances of the land are not present. The purpose of minimum setbacks is to create sufficient room between buildings on separate lots for access, maintenance, and limit potential damage to neighboring properties in the

event of fire. It would also set a bad precedent to allow a .5-foot setback seeing as a similar request was denied by the ZBA in 1995.

** It was moved by Church to approve the variance of 6.5 feet from the required 7-foot side yard building setback, resulting in a side yard setback of 0.5 feet along the northeastern side lot line. The motion died due to lack of support.

** It was moved by Vander Meulen and supported by Bob De Vries to deny the variance of 6.5 feet from the required 7-foot side yard building setback, resulting in a side yard setback of 0.5 feet along the northeastern side lot line. A roll call vote was taken – 3 Yes and 1 No. Motion carried.

** It was moved by Russ Boersma and supported by Bob De Vries to deny the variance of 102 square feet from the maximum 1,050 square feet of attached accessory building area, resulting in an area of 1,152 square feet. The variances are being requested for an addition to an attached garage. A roll call vote was taken – 3 Yes and 1 No. Motion carried.

The next item noted on the agenda is the **petition for a Nonuse Variance submitted by Mike Bocks on behalf of HS&J / Dutch Village** for a variance of 25 feet 4 inches from the required 50-foot front yard building setback; resulting in a front yard setback of 24 feet 8 inches. Variance is being requested in order to construct a windmill themed structure. The subject property is zoned C-2 Community Commercial.

** It was moved by Church and supported by Bob De Vries to untable the item. Motion carried by voice vote.

Present for this request was Mike Bocks, applicant.

Mr. Bocks provided a brief history of the property. He noted the property was purchased in the 1950s when US-31 was a two-lane road. The road expanded to four lanes, the Water Resource Commissioner added stormwater drainage systems along the sides of the road, and the road was expanded another time to add a third lane of traffic to each side of the road. This brought the road closer to their property.

Mr. Bocks noted that their variance request is part of a new attraction they are planning for Dutch Village; they are doing a tractor track where the windmill will serve as decoration and theming for the park and attraction.

Mr. Vander Meulen asked about the height of the windmill. Staff noted it is shown to be 16' 6". Mr. Bocks noted the 16' 6" is measured to the cap of the windmill. Mr. Bob De Vries asked about whether it would have power; Mr. Bocks indicated no. Chairman Boersma asked if they planned on putting letters on the windmill for signage; Mr. Bocks said no.

Chairman Boersma asked if there was room to move the windmill further back; Mr. Bocks noted no as it would be in the race track.

Chairman Boersma reviewed the conditions placed previously to table the items. He noted a legible survey had been provided. Chairman Boersma asked Mr. Bocks about future attractions. Mr. Bocks indicated a proposed gazebo would need a variance, as well as a proposed boat house at the northwest corner of the property. Chairman Boersma asked Mr. Bock's plan for the pirate ship given the structure was installed in a noncompliant location. Mr. Bocks noted he will submit for a nonuse variance then. Chairman Boersma asked for an update on the restroom construction; Staff noted they are under construction.

Mr. Bob De Vries noted that the Board granting this variance may set precedent for future requests for this property. Mr. Bocks argued that this use as a theme park is special and the associated activities and structures do not fit neatly into the zoning ordinance requirements. Mr. De Vries then noted he appreciates the novelty of the use and activities but noted the ordinance requirements exist for a reason. He does not see an issue with the windmill location and, driving by, feels like the windmill may be a comfortable distance from the road.

Chairman Boersma noted that Staff had pointed out that the proposed structure is not a habitable structure and would not have people inside. Could it be similar to a sign and tall fence and be allowed closer to the right-of-way?

Church asked Staff what the rationale for the minimum 50-foot front yard building setback is for the C-2 Zoning District. Mr. Broersma noted that Holland Charter Township is a suburban, auto-oriented community. Many suburban communities in the past have required these front yard setbacks to create space for parking lots, accommodate road expansions, and to create spatial buffers between a business and the vehicular traffic on the roads. Mr. Church wondered if there may be a safety concern to encourage people closer to vehicular traffic on US-31. Mr. Vander Meulen argued that the structure is surrounded by a racetrack and will not attract walking traffic.

Mr. Church then asked whether there are any concerns for visual obstruction or distraction for drive-by traffic. He asked Mr. Bocks if the sails spin and will be lights; Mr. Bocks noted he didn't think it spun and they do not plan on lighting it. The park closes down typically before dark so there wouldn't be lights at night. Mr. Church indicated he would like any motion for approval that may be provided to place stipulations restricting lighting and spinning sails.

Mr. Church asked Staff what they thought a safe setback may be for something like this? Mr. Broersma noted that in the cases of cell towers, they must be setback from lot lines the minimum distance per the height of the structure, so should the structures fall, they do not land onto neighboring properties or roads.

There was no one present in the audience to speak to this request.

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

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.*

US-31 was expanded and widened over time, with added drainage systems which impact the property. Additionally, the zoning ordinance is silent on special conditions for theme parks and the use is unique in the Township.

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 theme park, classified as Outdoor Commercial Recreational Facility, and its desire to expand within its existing parameters is an unusual circumstance. There are similar facilities (e.g., mini golf) with structures closer to property lines.

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.*

It is hard to argue this when the goal of any business to be profitable.

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

The proposed windmill-themed structure will not be of substantial detriment to adjacent and nearby properties as the proposed structure would border along US-31 to the west. Plus, it may help draw in traffic for neighboring properties. The only detriment would be if it were distracting to vehicular traffic, but conditions could be placed to eliminate those concerns.

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

The client wants the variance and windmill.

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 granting of the variance will not be contrary to the spirit of the ordinance as the placement of the windmill-themed structure is not going to impact public safety, especially considering it is not an interactive display and it is not habitable.

Mr. Church noted he thinks a motion should include stipulations to limit lighting and movement. Mr. Vander Meulen noted he is okay with the windmill's proposed setback but if the track is removed, then he feels the windmill should go, too.

** It was moved by Church and supported by Vander Meulen to approve the variance of 25 feet 4 inches from the required 50-foot front yard building setback; resulting in a front yard setback of 24 feet 8 inches, subject to the stipulation that the windmill is to be a static display, inaccessible to the general public, used only for the tractor race track, and is not to be used as a sign. Motion carried unanimously by roll call vote.

The next item noted on the agenda is the **petition for a Nonuse Variance submitted by Caroline Kimmel of Kittle Property Group on behalf of K & J Legacy, LLC** for variances consisting of: 1) 39 square feet from the minimum 120 square feet of storage area required for a 1-bedroom multi-family dwelling unit, resulting in a storage area of 81 square feet; 2) 17 square feet from the minimum 120 square feet of storage area required for a 2-bedroom multi-family dwelling unit, resulting in a storage area

of 103 square feet; and 3) 12 square feet from the minimum 120 square feet of storage area required for a 3-bedroom multi-family dwelling unit, resulting in a storage area of 108 square feet. No new information has been received; however, the Planning Commission has begun reviewing the ordinance to address storage area requirements. The item is to remain tabled.

The meeting adjourned at 7:25 p.m.

Respectfully submitted,

Kate White
Assistant Planner/Zoning Administrator