

ZONING BOARD OF APPEALS

Regular Meeting

February 28, 2023

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

Present: Chairman Russ Boersma, Vice-Chairman Ross De Vries, Member Jack Vander Meulen. Also present were Community Development Director, Corey Broersma, Assistant Planner and Zoning Administrator, Kate White, and Recording Secretary, Laurie Slater.

Absent: Elliott Church and Robert De Vries.

Public Comment: None

The approval of the minutes from the January 24, 2023, meeting was tabled until the next meeting as there was only one ZBA Member present that had been at the January meeting.

Chairman Boersma explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Millie Luth for property located at 0 (vac) Brookview Drive, known more specifically as Parcel Number 70-16-11-400-042. Petitioner is requesting a variance of 27 feet from the required 35-foot front yard setback, resulting in a front yard setback of 8 feet. Variance is being requested for a single-family dwelling. The subject property is zoned R-1 Low Density Residential.

Present to speak to this request was Millie Luth, property owner.

Ms. Luth explained that she originally purchased this property and the property at 10498 Brookview as one vacant lot. She split the lot evenly into two lots and placed a house on the western lot approximately 20 years ago.

She now wants to build a house on the remaining vacant eastern lot for herself or her daughter with the same setback as the western house. If she has to use the 35-foot setback from the 33-foot easement, she would be left with a 15-foot-deep buildable area.

The Board asked if the road is private or public. The existing public road is a public stub up to the western boundary of the western lot and then access is provided by a private easement across the northern boundary of the 2 lots. There is no cul-de-sac. The road and water and sewer would need to be extended. The road will need to be private where she intends to build.

The house next door at 10498 Brookview did not receive a variance to build within the setback. The easement does not appear to have been considered a private street 20 years ago, therefore, the setback for 10498 Brookview was likely not measured from the easement, but from the property line.

The problem of standing water was brought to the attention of the Board. When asked if she was aware of the water problem, Ms. Luth stated that she was not aware of a drainage problem.

They further inquired if she intended to have a basement. She replied that it would depend on the water table.

The Board's discussion was then directed to the proposed 20-foot driveway. They would also like to see a turnaround on the property so that they are not backing out onto someone else's property, which is what

is happening with the property at 10498 Brookview. They would like to see the house identified easily in case of an emergency. There was discussion of how fire trucks would access the property. Mr. Broersma stated that from working with the fire chief in the past, he believed the fire chief would agree to using the intersection of 105th Avenue and Brookview Drive as a turnaround rather than requiring a cul-de-sac to be installed.

The Board asked how the property is being maintained at this time. Ms. Luth replied that she has an agreement with someone to mow the lawn in the summer.

Mr. Broersma received email comments and provided them to the Board Members. Mr. Brent Boverhof of 3261 104th Avenue has concerns with the drainage issues. Lora Boone of 10498 Brookview Drive also submitted an email with concerns about the flooding issues.

In the audience to speak to this request was Lance Kornoelje of 10465 Brookview Drive. He presented pictures of the flooding issue. He stated that there are no practical difficulties and that raising the site to build on this parcel would push the water somewhere else off the property. He fears it would go onto the adjacent properties making their flooding issues even worse. The ground is mainly clay, the water has nowhere to go. It would be detrimental to the surrounding properties. He also had concerns with the aesthetics of the proposed building area being closer to the road right of way. The variance should not be granted just to follow what the other house did. He further stated that a 77% variance of the front setback is not within the spirit of the ordinance. The property owner at 10498 Brookview already backs out onto his grass.

Also present in the audience was Jarvis Hoffman of 10521 Brookview Drive. He too had concerns about the issue of standing water. The property being built up with fill to take care of the standing water would create issues of run off to adjacent properties.

Pat Hoffman of 10521 Brookview was also in the audience and commented that they believe this to be a private road as Mr. Hoffman does most of the snow plowing. She further stated that if the county does plow, the snow is pushed where Lora's driveway is because there is nowhere else to go with it.

Also present was Noah Vereeke of 10485 Riley Street. He had concerns with the flooding issues. He already has a sump pump running with five garden hoses, it throws every 45 seconds. He also has a backup sump pump and a generator. He has alarms on them to alert him when they are not working. He cannot have any further flooding on his property. One of the pictures presented was taken from his back deck. The only time there is not standing water on the property is in the heat of the summer. They need something in place to address this issue.

Mr. Boersma explained to the applicant that a unanimous vote would be necessary for a variance to pass as there are only three Zoning Board members present at tonight's meeting, making a quorum. He asked whether Ms. Luth wanted to continue with the hearing or wait until next month, at which time there may be more members present? The applicant chose to continue with the request.

It was moved by Vander Meulen and supported by Ross De Vries to close the hearing. Motion carried.

There was discussion among the Board Members about the standing water and getting the Water Resource Commissioner's input on a solution.

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 property is land locked. But there is no practical difficulty or unique characteristic or condition of the land.

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 property is land locked and the existing easement along the northern property line creates a really small building envelope.

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 a property right to put a building there. You could build a 15-foot-wide building and make it a usable property. The easement is a reality, and the lot may not get developed.

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

The water issue exists. The water problem may only get worse for the surrounding neighbors once a house is built on the property. It will create run off to the adjacent properties. The problem has been recognized and it has to be dealt with.

The neighboring house was built there with no variance.

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

The owner bought the property 20 years ago.

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.*

If you look at just the variance request, the neighbor's house has been there with no issue for 20 years.

There was further discussion with Staff about getting the Ottawa County Water Resources Commissioner involved to provide some information on drainage in the area and whether there may be solution for the flooding issue. Mr. Broersma replied that the Water Resource Commissioner could determine that the drainage issue is a private matter for the neighbors to meet to resolve if there is no public drainage

infrastructure in the area.

** It was moved by Boersma and supported by Vander Meulen to table the request and direct staff to reach out to the Water Resources Commissioner to weigh in on the issue of the standing water. Motion carried with a unanimous roll call vote.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Postema Signs & Graphics on behalf of Coldquest Property, LLC for property located at 13125 Ransom Street, known more specifically as Parcel Number 70-16-05-200-022. Petitioner is requesting a variance of 6 square feet from the maximum 4 square feet permitted for one internal site signs, resulting in one internal site sign at 10 square feet. Variance is being requested to improve trucking directions at the facility. The subject property is zoned I-2 General Industrial.

Present to speak to this request was Austin Pierce of MOD Signs.

Mr. Pierce explained they would like larger trucking signage with larger text. This is in an industrial park with no residential. They would like larger signage to prevent trucks from having to turn around. There are approximately 17 loading docks on the property. This is a heavily used industrial area. They have received complaints from the truck drivers.

The location of the proposed signage is not an issue, it is out of the clear vision triangle. This would be one sign in one spot.

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

It was moved by Vander Meulen and supported by De Vries 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 nothing unique or exceptional about the property. This is a big piece of property in a heavy industrial 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.***

Signage of this size would not be appropriate at a car wash. However, in the Industrial Zoning District with truck traffic, it does seem more appropriate. Perhaps the ordinance needs to be looked at in terms internal site signage regulations per zoning district rather than Township wide.

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 increased financial return. The signage would be directing trucks into the facility.

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

The granting of the variance would not interfere with adjacent or nearby properties.

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

If the problem is determined to be visibility from a truck cab, then the problem is not self-created and perhaps a zoning text amendment is appropriate.

Staff noted since a 2015 variance authorizing 3 directional signs measuring 10 square feet was granted (18 square feet was requested) for Loves Travel Center, Staff is not aware of any other directional signage requests for loading docks.

- 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 request would be in the spirit of this ordinance. It would allow trucks to move in and out of the property as efficiently as possible.

** It was moved by Vander Meulen and supported by Boersma to approve this request for 1 sign for reason being this is a large industrial property which sees a significant volume of truck traffic. Motion carried with a unanimous roll call vote.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Postema Signs & Graphics on behalf of RCP Request Foods Inc. for property located at 13044 Quincy Street, known more specifically as Parcel Number 70-16-08-200-056. Petitioner is requesting a variance of 6 square feet from the maximum 4 square feet permitted for three internal site signs, resulting in three internal site signs at 10 square feet. Variance is being requested to improve trucking directions at the facility. The subject property is zoned I-2 General Industrial.

Present to speak to this request was Austin Pierce of MOD Signs.

Mr. Pierce explained that this is a new and larger facility for Request Foods. This facility has three access points to the building. The traffic on Quincy Street travels at a higher rate of speed and larger signs on Quincy would help direct trucks more easily from a highly trafficked road. The three signs would all be along roadways. One at the entrance off of John F Donnelly Drive and one at each of the two entrances on the north side off of Quincy Street. The two on the north side access the same area. There are 12 shipping docks at this facility. The signage would be out of the clear vision triangles. They are requesting the signage to move trucks in and out of the facility in an efficient manner.

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

It was moved by Vander Meulen and supported by De Vries 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.***

It is a busy site on the corner lot of Quincy Street, which is a busy street.

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.***

With the Industrial Zoning District with truck traffic, it does seem more appropriate. Perhaps the ordinance needs to be looked at in terms internal site signage regulations per zoning district rather than Township wide.

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 variance is not necessary for the preservation and enjoyment of a substantial property right. Commercial and Industrial properties are subject to the same regulations for internal site signs.

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 be of substantial detriment to adjacent and nearby land uses and properties. It would help direct traffic in and out of the facility more efficiently.

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

If the problem is determined to be visibility from a truck cab, then the problem is not self-created and perhaps a zoning text amendment is appropriate.

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 could help with the traffic flow. This is a reasonable sign size for the Industrial Zoning District.

** It was moved by De Vries and supported by Vander Meulen to grant the request as presented. Motions carried with a unanimous roll call vote.

Other Business: Jack Vander Meulen noted the zoning ordinance has reached its 5-year anniversary. He asked the Board to think about if there are any areas of the zoning ordinance that need to be looked at. It is not a redo of all the ordinances, but just a few areas that keep coming before the Planning Commission and the Zoning Board of Appeals, such as landscape buffers and directional signage.

The meeting adjourned at 6:58 pm

Respectfully submitted,

Laurie Slater
Recording Secretary