

ZONING BOARD OF APPEALS

Regular Meeting

December 18, 2018

Present: Vice-Chairman Russ Boersma, Members Elliott Church, Bob Swartz, Jack Vander Meulen and Ross DeVries. Also present were Community Development Director John D. Said, Assistant Community Development Director Corey Broersma, and Recording Secretary Laurie Slater.

Absent: Chairman Steve Haberkorn

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

The Minutes of November 27, 2018 were approved as written.

Vice-Chairman Boersma explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for nonuse variances submitted by William Sikkel on behalf of Kathleen A. Piers Trust for property located at 11037 Paw Paw Drive, known more specifically as parcel number 70-16-23-300-069. Petitioner is requesting the following variances for a Mini-Warehouse/Self-Storage facility: 1) A variance of 0.9 acres from the required 2 acre minimum for the stated use; resulting in a lot area of 1.1 acres; 2) A variance of 68 feet from the required 200 feet of frontage on a public road for the stated use; resulting in a frontage of 142 feet; 3) A variance of 25 feet from the required 75 foot front setback; resulting in a front setback of 50 feet; 4) A variance of 5 feet from the required 20 foot side setback; resulting in a side setback of 15 feet; 5) A variance to the requirement for screening of the accessory outdoor storage area by on-site buildings, resulting in a 5-foot tall vegetative screening buffer along segments of the east and west property lines, and; 6) A variance of 18 trees and 158 shrubs from the required 20 trees and 158 shrubs required for front yards and property line buffers; resulting in 2 trees in the front yard. The subject property is zoned C-2, Community Commercial District.

Present for this request was Bill Sikkel on behalf of Kathleen A. Piers Trust.

Mr. Sikkel explained to the Board that this property has been used for RV trailer storage for more than 25 years. Camp America used it in this capacity since 1992. The property was sold to the Piers in 2009 and they have used it for the same purpose. The applicant was surprised that the property was not approved for this use as it is a long-standing use. They want to do whatever is required to make them compliant with the Township.

Mr. Broersma explained to the Board that the applicant went before the Planning Commission and received a Special Use Permit with the stipulation that they come before the ZBA and get the necessary variances. In particular using buildings to screen the outdoor storage, as there are not multiple buildings on the property and there is no room for them.

Mr. Sikkel pointed out on the map that being in compliance with the side yard and front yard setbacks would create a problem in the fact that there would not be enough room for the trailers to back into the storage space. They will pave the driveway, which is now dirt. They will also put down gravel where the trailers park; that area is dirt at the present time.

The Board asked what size the parking spaces for the trailers are. They are 12.5 feet wide and approximately 34 feet deep. They store motor homes, fifth wheels and traditional RV's. When asked how they would keep the trailers out of the side yard setback area, Mr. Sikkel stated that the gravel only goes so far back and they would have to keep the trailers on the graveled area.

Mr. Sikkel further explained that the ordinance for outdoor storage calls for buildings around the property lines to screen the storage area in the middle. The property is smaller than what ordinance calls for (2 acres) and they do not have the room for additional buildings. There are buildings on the adjacent properties that aid in the screening of the storage area.

Buffering is also required by ordinance. The applicant is proposing buffering on the front sides of the property to the east and west. To the east there is a building on the adjacent property. That building has no windows facing this parcel. So, they are proposing to install arborvitaes up to the south corner of that building. They would prefer to not have trees because of the dropping leaves on the trailers. Also, this neighbor has had problems with poison ivy in the area between the storm water retention area and the property line. For that reason, the neighbor has asked that the arborvitaes be planted close to the storm water retention area. Beyond that building is a fence along the property line which runs across the north end of the parcel. There is also another building on the adjacent property which that fence surrounds, which helps to screen the outdoor storage area.

Neighbors to the west have requested that no solid fence be placed on the lot line, which runs along a commercial driveway. The applicants are proposing that the arborvitaes be planted 5 feet to the east of the west property line up to the south corner of their existing building.

The applicant is proposing to plant two trees along the front of the property. One on each side of the driveway. The applicant has not had any problems on his property with theft. He credits that to the property not being screened. It is visible from the road. For this reason, he is hesitant to screen along the front of the property. They currently have two motion-activated lights on the existing building and do not intend on putting in any other lighting at this time.

The applicant has spoke with all the surrounding property owners and they support his proposed screening and buffering. (Letters in packet)

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

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

The Board went over the standards to review when considering the 6 nonuse variance requests.

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.

Concerning spatial requirements and outdoor storage, given the existing lot size and layout limitations, these requirements would be not possible to meet absent the acquisition of additional adjacent land (which is already developed and occupied). Concerning the landscape buffer, there are no conditions that would prevent this requirement from being met in the highlighted area.

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

The changes proposed would upgrade the lot as well as the neighborhood on a whole. There are a number of small lots that can't meet all the requirements of the screening and landscaping.

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 would be impossible to use the property for the use that has been there for over 25 years if the current requirements for lot size, setbacks and screening were enforced.

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

Given that all of the requests for relief are for the existing operation, it would not appear that there would be substantial detriment to nearby uses beyond any existing conditions or impacts. There are letters of support from the neighbors.

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

The property was being used for the same purpose when the applicant purchased it in 2009. Camp America had used the property in this way since 1992.

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 applicant asked the surrounding neighbors about what they thought. They had no objections. The Planning Commission approved the Special Use.

The Board considered each variance as a single request when making their motions:

Lot area variance of 0.9 acres from the required 2 acre minimum for the stated use, resulting in a lot area of 1.1 acres.

** It was moved by Mr. Vander Meulen and supported by Mr. Church to approve the lot area variance of 0.9 acres. Motion Carried.

Lot width variance of 68 feet from the required 200 feet of frontage on a public road for the stated use, resulting in a frontage of 142 feet.

** It was moved by Mr. Vander Meulen and supported by Mr. Church to approve the lot width variance request of 68 feet. Motion carried.

Front yard setback variance of 25 feet from the required 75-foot front setback, resulting in a front setback of 50 feet.

** It was moved by Mr. Vander Meulen and supported by Mr. Church to approve the front yard setback variance of 25 feet. Motion carried.

Side yard setback variance of 5 feet from the required 20-foot side setback, resulting in a side yard setback of 15 feet.

** It was moved by Mr. Vander Meulen and supported by Mr. Church to approve the side yard setback variance request of 5 feet. Motion carried.

Variance to the requirement for screening of the accessory outdoor storage area by on-site buildings, resulting in a 5-foot tall vegetative screening buffer along segments of the east and west property lines.

** Because vegetative screening will be addressed in a later variance request. It was moved by Mr. Vander Meulen and supported by Mr. Church to approve the request for no use of buildings as screening as they do not have the acreage to add buildings for the purpose of screening the outdoor storage. Motion carried.

Landscape buffer variance of 18 trees and 158 shrubs from the required 20 trees and 158 shrubs required for front yards and property line buffers, resulting in 2 trees in the front yard.

** It was moved by Mr. Vander Meulen and supported by Mr. Church that the applicant will meet the Township Ordinance for buffering along the East and West property lines as far north as their existing building on the west, and as far north as the adjacent property's building to the east. The front yard buffering is to meet the Township Ordinance. Motion carried.

Hearing declared open to consider a petition for a nonuse variance submitted by Robert and Pam Molenhouse for property located on Howard Avenue (unaddressed parcel), known more specifically as parcel number 70-16-30-150-033. In order to proceed with a land division within a recorded plat, the Petitioner is requesting a nonuse variance of 273 feet from the maximum allowed depth of 256 feet for a lot with a width of 64 feet; resulting in a total depth of 529 feet. The subject property is zoned R-2, Moderate Density Residential District.

Present for this request was Rick Pulaski, Planner / Engineer for Nederveld of Holland on behalf of Robert and Pam Molenhouse.

Mr. Pulaski explained to the Board that this is the last piece of property that runs from Howard Avenue to Lake Macatawa zoned R-2 with no development on it. There is an unbuildable area at the west end of the property where it falls sharply to the lake. The property is 1.9 acres in size. They would like to create two lots out of the property. One for themselves and one for a family member. They are in full compliance with the R-2/R-1 land area requirements.

There are neighboring properties that have already been developed that do not meet the ordinance as far as the one to four ratio for property depth. The applicant wants the same property rights as his neighbors whose property is already developed.

He could develop his property into five to nine units. He wishes to only have two – one for him and one for a family member. What they are asking for is not out of line. They are not asking for a duplex. They are keeping with the integrity of the neighborhood.

Staff asked why they moved the lakefront lots driveway to the other side of the parcel. Mr. Pulaski replied to keep possible backyard noise from the proposed Howard Avenue lot away from the four existing houses.

There was further discussion of the lot split.

Mr. Church asked why wouldn't they split the lot all the way across and provide a 66' private access/utility easement to the flag lot being created by the split. There would be no need for a variance in this situation.

Mr. Pulaski consulted with the applicants and they would be agreeable to that solution.

It was suggested by the Board that rather than withdraw the request, table it until they have explored the situation further and are sure they won't need the variance.

** It was moved by Mr. Vander Meulen and supported by Mr. Swartz to table this item. Motion carried.

** It was moved by Mr. Church and supported by Mr. Vander Meulen that the slate of officers continue as is with Mr. Haberkorn as the Chairman, Russ Boersma as the Vice-Chairman and Elliott Church as the Secretary. Motion carried.

There were no public comments.

The meeting adjourned at 6:34 p.m.

Respectfully submitted,

Laurie Slater

Recording Secretary