

ZONING BOARD OF APPEALS
Regular Meeting
March 26, 2019

Present: Chairman Steve Haberkorn, Vice-Chairman Russ Boersma, Members 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: Bob Swartz and Elliott Church

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

** It was moved by Mr. Vander Meulen and supported by Mr. DeVries to approve the Minutes of February 26, 2019 as written. Motion carried unanimously.

Mr. DeVries, being a member of Community Reformed Church, recused himself from the variance request for Community Reformed Church and left the Boardroom.

Chairman Haberkorn explained the Public Hearing process to the audience. Despite the absence of two members and Mr. DeVries recusing himself, the Board still had a quorum. Mr. Haberkorn explained to the applicant that all three members must vote in favor of the request or it would be denied and asked if they wished to continue. The applicant indicated that they wished to proceed with the request at this meeting.

Hearing declared open to consider multiple nonuse variance petitions submitted by Brian Lamar on behalf of Community Reformed Church for property located at 10376 Felch Street, known more specifically as parcel number 70-16-13-300-055. Petitioner is requesting: 1) A variance of 20 feet from the required 30 foot wide landscape buffer necessary for a non-residential use abutting the R-2 Moderate Density Residential zoning district; resulting in a 10 foot wide landscape buffer; and 2) A variance of 3 evergreen trees from the required 3 evergreen trees within a landscape buffer necessary for a non-residential use abutting the R-2 Moderate Density Residential zoning district, resulting in a landscape buffer containing 0 evergreen trees. The purpose of the variances is for the construction of a new entry drive and parking lot expansion. The subject property is zoned R-2 Moderate Density Residential.

Present for this request was Brian Lamar on behalf of Community Reformed Church.

Mr. Lamar explained that the church would like to purchase the empty lot to create a new driveway that would enter to the rear of the parking lot. The current driveways enter into the area of the covered drop off and where people cross to enter the church creating conflict on a Sunday morning. They would take out the current driveway that is farthest to the south.

The lot is a narrow lot between two lots with houses on them. They are asking for a 10-foot-wide landscape buffer instead of the required 30-foot buffer. The lot is not wide enough for the required buffer on both sides and the driveway. They are asking for the buffering width to be the same as it is on the south side of the property along the Post property. Applicant indicated they would be able to provide a type C landscape with 3 evergreen trees per 40 feet in the reduced buffer area.

The Board questioned the need to consider the landscape variance any further. The applicant withdrew the second variance asking for 0 evergreen trees. The applicant indicated that they would meet the required landscaping, including putting in the evergreen trees.

The Board asked if the buffers were to be elevated to further block headlights and traffic noise. Mr. Lamar stated that they would elevate them as much as they could, they only have 10 feet to work with.

Through further discussion with the Board and Staff it was determined that one and a half feet was as elevated as the landscaping could be due to space and water runoff.

There were two letters submitted to the ZBA the first from Darla Teague of 2736 104th Avenue (property owner to the north) stating that she agrees to the 10-foot buffer of trees and shrubs as promised by the Church. The second from Jim Post of 2686 104th Avenue (property to the south) stating that he too agrees to the 10-foot buffer of trees and shrubs as promised by the Church.

In the audience to speak to this request was Neil Ruffner of 10268 Church Hill Ct. He was in favor of the request.

Also present was Michael Lyon of 12055 Strawberry Lane. He stated that the Church did a nice job of screening on the east side of the property and was wondering how the screening was going to be done for this section of the property.

It would be done similar to how it was on the south property line along the Post property.

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

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

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:

**Exceptional narrowness of the width or depth of a lot of record, or irregular shape.
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.**

Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.

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

The narrowness of the lot does not allow for a buffer of 30 feet on the north and south sides and a driveway. The Church is attempting to make a safer traffic flow. They have a good record for trying to get along with their neighbors. Because of the existing houses on either side of the proposed lot, they cannot get any more land.

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.

There is a limited availability of space.

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 standard does not apply.

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

No, granting of the variance would not be of substantial detriment to adjacent or nearby land uses and properties as the landscaping will screen the traffic from the two properties on either side. The two neighbors had no objections to the request as long as the landscaping was as the Church said it would be.

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

It's a successful Church. The lot can't get any bigger.

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 would increase public safety. There is no opposition from neighbors.

** It was moved by Mr. Boersma and supported by Mr. Vander Meulen to approve the variance request for 10 foot buffers instead of 30 foot buffers as presented. Carried unanimously.

Mr. De Vries returned to the Board.

** It was moved by Mr. Vander Meulen and supported by Mr. De Vries to remove from the table a petition for nonuse variances submitted by Adam Potter for property located at 168 Aniline Avenue, known more specifically as parcel number 70-16-19-300-036. Petitioner is requesting the following: A variance of 33 feet from the required 66-foot wide residential private street easement, resulting in a 33-foot wide residential private street easement; The subject property is zoned R-1 Low Density Residential and AG Agricultural, with a pending rezoning petition for a portion of the AG Agricultural land to rezoned R-1 Low Density Residential. This item was tabled at the February 26, 2019 meeting.

Present for this request was Adam Potter.

Mr. Potter explained that he got a Turning Performance Analysis for Emergency Vehicles from Nederveld. Mr. Potter further explained that he modified the easement slightly putting in a hammerhead turn around and the emergency vehicles should have no problem making the turns and staying on the paved easement according to the calculations of the Turning Performance Analysis.

The Board went over the standards to review for the nonuse variance request of a 33 foot wide easement.

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:

**Exceptional narrowness of the width or depth of a lot of record, or irregular shape.
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.**

Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.

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

The topography of the lots and how they are split reduce the flexibility of building space on the lots. The additional space from a 33-foot easement instead of a 66-foot easement makes for a larger buildable area as the lots slope off.

There have been similar easements granted in Holland Charter Township for 1 additional lot. 10593 James Street with a 40-foot easement and 571 Hayes Street at 27-foot easement.

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.

It would be hard to find other lots similar to this one in Holland Charter Township. Without the easement the property is landlocked.

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.

Easement Width: The narrowed easement is not necessary for the preservation of a property right; such can be achieved with the appropriate easement width.

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

The granting of this variance would not be of substantial detriment to adjacent and nearby land uses and properties.

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

Yes, the situation is self-created.

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 public safety issue was worked out. The applicant has shown that fire trucks can access the properties if need be. There is no adverse effect to other property owners in the district.

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

** It was moved by Mr. Vander Meulen and supported by Mr. DeVries to approve the request of 33 feet from the required 66-foot wide residential private street easement, resulting in a 33-foot wide residential private street easement as presented. Motion carried unanimously.

The meeting adjourned at 6:09 p.m.

Respectfully submitted,

Laurie Slater
Recording Secretary