

ZONING BOARD OF APPEALS
Regular Meeting
July 28, 2020

Present: Chairman Steve Haberkorn, Vice-Chair Russ Boersma, Elliott Church, Ross DeVries and Robert (Bob) DeVries. Also present were Assistant Community Development Director Corey Broersma and Recording Secretary Laurie Slater.

Absent: Jack Vander Meulen

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

** It was moved by Mr. Boersma and supported by Mr. DeVries that the Minutes of June 23, 2020 be approved as written. Motion carried.

Chairman Haberkorn explained the Public Hearing process to the audience.

**** It was moved and seconded to remove the petition from table and to open the public hearing to consider** a petition for extension of a nonconforming use submitted by Jim Cook on behalf of Tushar Patel for extension of a nonconforming use for property located at 2888 West Shore Drive, known more specifically as parcel number 70-16-16-181-009. The petitioner is requesting an extension of a nonconforming use for the reconstruction and restoration of a detached canopy adjacent to an existing commercial building (Best Western Plus) that does not meet the required front yard setback.

Applicant Jim Cook of James Cook Builders was present to speak to this request. He indicated that structural improvements are needed to the canopy at this hotel, including replacing the wood columns with concrete and steel. The location and height of the canopy will remain the same; they will just be improved.

Questions from Zoning Board members included confirmation that the canopy will be the same size as before, that the structure will be in the same location with four columns, and that the canopy structure was built in the 1990's. It was confirmed that the canopy's original approval in this location was an oversight during review of building plans, as it does not meet the 50' setback.

Tim Cepek, of the management company for this hotel, was present, but had no comments on this request.

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

The Board went over the standards to review for an extension of a nonconforming use.

1. Whether the extension, enlargement, alteration, remodeling or modernization will substantially extend the probable duration of the nonconforming structure, building or use.

The proposed change consists of renovation of the nonconforming canopy, and therefore extending its duration, although without increasing the non-conformity in any way. The hotel will continue with or without the canopy.

- 2. Whether the extension, enlargement, alteration, remodeling or modernization of the non-conforming structure, building or use will interfere with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this ordinance.*

The canopy is in the same location, so there is no adverse effect.

- 3. The effect of the nonconforming structure, building or use and such extension, enlargement, alteration, remodeling or modernization thereof on adjoining lands in the surrounding neighborhood.*

The proposed improvements will not have an adverse effect, and will help maintain the area's appearance.

** It was moved by Mr. Boersma and supported by Mr. DeVries to approve the request as presented. Roll call vote. Motion carried unanimously.

Hearing declared open to consider a petition for a nonuse variance submitted by Sundowner of Holland LLC/LJ Ver Plank for property located at 993 Butternut Drive, known more specifically as parcel number 70-16-07-360-015. Petitioner is requesting a variance of 33.5 feet from the required 50-foot front yard setback; resulting in a front setback of 16.5 feet, for a proposed bus stop shelter for the MAX Bus Service. The subject property is zoned C-2 Community Commercial.

Present for this request was Brian Vander Hulst of MAX Transit.

He explained that the bus stop is in an important location with Family Fare and Pine Creek Apartments nearby, so the bus shelter would get a lot of use. There's a paved pull-off area for buses so that passengers can safely load or unload from busses. The shelter area will be about 5' x 10' and will take up only two parking spaces. The roofed shelter will have an aluminum frame with clear glass sides for visibility towards all directions.

Questions from Zoning Board members confirmed that the front will have two openings and no doors, that the shelter will have a cement floor, and that there will be bollards on the outside corners to protect the shelter from vehicles. It was also confirmed that the shelter will not have lighting, but the parking lot lights and street lights will provide a good lighting level. Mr. Vander Hoff indicated that they may put in a solar-powered light. He also noted that this will be the 20th shelter installed in the Holland region.

Further discussion confirmed that the property owner approves of the shelter, and that there is very little, if any, parking in that area so that those two spaces will not be missed. Mr. (Bob) DeVries confirmed with the applicant that any graffiti on the shelter would be cleaned up promptly after reported to MAX. Further comments were made concerning lighting and possible graffiti. It was also confirmed that the hours for this bus route are 6 am to 7 pm.

There was no one from the public to speak to this request.

** It was moved by Mr. Church and supported by Mr. Boersma 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.*

Compliance with the Ordinance with a 50' setback of the shelter is not practice. The proposed location is appropriate for bus passengers, and will not adversely impact the parking lot.

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.***

Placement of the shelter 50' back from the property line is not practical.

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 is not an applicable standard for this request.

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

There will be no adverse effect, as long as MAX keeps the facility clean; they say they will clean it at least monthly.

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

The location for the MAX bus stop is an appropriate one, resulting in a very limited option for location of the bus shelter.

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 actually provide a public service.

** It was moved by Mr. Church and supported by Mr. Boersma to approve the request as presented. Roll call vote. Motion carried unanimously.

Hearing declared open to consider a petition for a nonuse variance submitted by Joshua Novak for extension of a nonconforming use consisting of a home addition and deck connected to an existing single-family home that does not meet the required front yard setback, and on a lot that does not meet the minimum lot size, at 468 Pinecrest., known more specifically as 70-16-30-176-007. The subject property is zoned R-1 Residential.

Present for this request was Joshua Novak.

Mr. Novak explained that his home was built in 1988 and needs remodeling, and that the deck was in very bad condition. He wants to add a 24.5' x 24' addition to the side of the home. The north and south property setbacks will be 7 feet, which is acceptable for side yards, if Orchard Hill is abandoned.

Mr. Broersma explained how the Orchard Hill abandonment will impact the yards and setbacks of the subject property. He also noted that the Orchard Hill abandonment process has been ongoing since late 2017. Final documentation is being assembled, and it is anticipated that the Township will be able to approve the abandonment in the near future. After abandonment, the Pinecrest frontage will remain a front yard with less than a 1-foot encroachment and the west side setback will be the rear yard setback, and that will be a noncompliant setback.

Questions from Zoning Board members confirmed the existing and proposed locations and setbacks for the property, and the support for the abandonment. Board members and Staff confirmed that the abandonment will likely come before the Township Board at their August 6 meeting, then will go on to the Road Commission for final action.

A few Zoning Board members expressed hesitation to take action prior to the road right-of-way abandonment. However, Mr. Novak indicated his interest in beginning the project soon to take advantage of the season. Mr. Haberkorn offered that the approval could be conditioned on the abandonment, and it was noted that nothing could be done until approvals are met.

Upon a request for public comment, Mr. Bryan Huffman, of 516 Howard, indicated that he had no objections to the request.

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

The Board went over the standards to review when considering an extension of a nonconforming use request.

1. ***Whether the extension, enlargement, alteration, remodeling or modernization will substantially extend the probable duration of the nonconforming structure, building or use.***

The only remaining significant nonconformity, after the right-of-way is abandoned, will be the rear setback of the home, and that the probable duration will not necessarily be extended.

2. ***Whether the extension, enlargement, alteration, remodeling or modernization of the nonconforming structure, building or use will interfere with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this ordinance.***

The improvements to the structure will not interfere with adjoining lands or uses.

3. ***The effect of the nonconforming structure, building or use and such extension, enlargement, alteration, remodeling or modernization thereof on adjoining lands in the surrounding neighborhood.***

The proposed improvements will not have an adverse effect.

** It was moved by Mr. Church and supported by Mr. Boersma to approve the request as presented, subject to the condition that no work may begin until all conditions and approvals are completed by all agencies for abandonment of the Orchard Hill right-of-way. Roll call vote. Motion carried unanimously.

Hearing declared open to consider a petition for a nonuse variance submitted by Bryan and Stacy Huffman for the following variances:

- (a) To allow a third detached accessory building on the subject property; and
- (b) An area variance of 1,020 square feet from the maximum allowed 480 square feet, for a total accessory building size of 1,500 square feet.

The subject property is located at 516 Howard Ave., known more specifically as parcel number 70-16-30-176-013, and is zoned R-1 Low Density Residential.

Present for this request was Bryan Huffman.

Mr. Huffman provided background concerning his history with the property, and indicated he wanted the outbuilding to continue property updates. The two main issues are more space and bigger space. He indicated that he has two existing accessory buildings, a pump house (near the lake shore) and a pool house, that are exempt from zoning requirements. He said he cannot add to his home, cannot add to his garage, and that his only remedy is the additional building. He wants additional work space and storage space, not living space. He said that there were other buildings in the area larger than what he proposes.

Mr. Broersma verified that the other residential accessory buildings are smaller than what he proposes, and that any larger buildings in the area are in industrial or commercial districts.

Mr. Broersma then provided background and corrections to Mr. Hoffman's indications that the two existing buildings on the property would be exempt. In order for a building to be considered a "pump house" it must be no more than 15 square feet nor 3 feet in height. The building near the lake exceeds both of these standards. Further, Mr. Broersma indicated a "pool house" is not exempt by Section 8.11 as this section refers to access structures such as decks for above-ground pools.

During further discussion and questions, Zoning Board members discussed the pump house and pool house, and confirmed that Staff's interpretations that the claimed exemptions do not apply for this property, and that the existing "pump house" is actually a detached accessory building.

Further discussion focused on the building elevations, energy codes, concerns about possible future usage of the proposed building as a guest house (which would be prohibited), and whether a smaller building or addition could be feasible. Mr. Huffman repeated his claim that there's no means to expand the house. Other possible options were also discussed, including possible zoning relief that may be needed.

Public comments came from Bill Paarlberg at 522 Howard, and Tom Bos at 514 Howard, both of whom support the request.

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

The Board went over the standards to review when considering a nonuse variance request, in this instance for both of the 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:***
 - e. ***Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
 - f. ***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.***
 - g. ***Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
 - h. ***Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

There are no practical difficulties or other exceptional circumstances associated with this request.

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.***

There are no unusual conditions on this lot.

- 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 does not apply, as the property did not come with rights to build an accessory structure of this size.

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

While neighbors spoke in support, this variance would set a poor precedent for future requests of this kind.

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

The applicant created the problem for which this variance is being sought.

- 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 request goes against the spirit of the Ordinance. The Zoning Board will consider variances based on needs, not desires. The large scale of this request is not in keeping with the spirit and intent of the Ordinance.

** It was moved by Mr. Church and supported by Mr. Boersma to deny the request for the 1,500 square foot accessory building. Roll call vote. Motion carried unanimously.

** It was moved by Mr. Church and supported by Mr. Boersma to deny the request for the third accessory building. Roll call vote. Motion carried unanimously.

Hearing declared open to consider a petition for a nonuse variance submitted by Daris DeGroot/DLM Ventures for an extension of a nonconforming use consisting of an enlarged pylon sign, at 11269 Lakewood, known more specifically as 70-16-22-200-016. The subject property is zoned C-2 Community Commercial.

The applicant's change consists of installing a new sign on an existing (albeit shortened pole) with an overall height of approximately 17 feet in height. The new sign itself has an area of approximately 76.5 square feet.

The applicant previously had a pylon sign of about the same height, but which contained about 20 square feet, or 56.5 square feet less than the new sign. Most importantly, after removal of the original sign and prior to the new sign's installation, the applicant was informed by Township Staff that the proposed pylon sign was not permitted and a ground sign was required; however, the applicant chose to install the new sign anyway, and now seeks Township approval after-the-fact.

Mr. Broersma indicated that the applicant requested that the matter be tabled, as he could not participate in the meeting.

Zoning Board members indicated that perhaps the existing sign can be reused as a ground sign, and that they have questions for the applicant on this matter.

Mr. Broersma read an email from Jim Ondersma, who owns 11283 Chicago Drive, indicating that he had no objection to the request.

There was no one else from the public to speak to this request.

The Zoning Board and Staff further discussed the sign. It was confirmed that space is available to install a ground sign., and that there's no reason why a ground sign cannot be installed. Discussion also took place regarding existing legal nonconforming signs and the potential repairs to them.

** It was moved by Boersma and supported by Mr. Church to close the public hearing. Roll call vote. Motion carried unanimously.

** It was moved by Mr. Church and supported by Mr. Boersma to table this request. Roll call vote. Motion carried unanimously.

Chairman Haberkorn asked if there were any general public comments; Mr. Huffman made further comments about his property. He expressed concerns about how zoning requirements limit his options and the options for use of his land. Mr. Church indicated that Mr. Huffman can discuss his concerns with Staff.

The meeting adjourned at 7:20 p.m.

Respectfully submitted,

John D. Said, AICP, Director of Community Development