

ZONING BOARD OF APPEALS
Regular Meeting (held via Zoom)
February 23, 2021

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

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

Absent: None

It was moved by Mr. Vander Meulen and supported by Mr. DeVries to approve the November 24, 2020 minutes as written. Motion Carried.

It was moved by Mr. Vander Meulen and supported by Mr. DeVries to approve the December 15, 2020 minutes with one correction. Motion carried.

Public Comment – None.

Chairman Boersma explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for a nonuse variance submitted by Start Space L.L.C. for property located at 11363 E. Lakewood Blvd., known more specifically as 70-16-22-200-059. Petitioner is requesting variances for outdoor storage setback requirements, and for traffic visibility clear vision triangle. The subject property is zoned I-1 Light Industrial.

Present for this request was Joel Bouwens of Start Space L.L.C.

Mr. Bouwens explained that they had gone before the Planning Commission to obtain a Special Use permit for outdoor storage. The request was approved with fence materials to be approved by Staff and the items stored cannot be any taller than the fence. They would like to be granted a variance for the placement of the enclosed outdoor storage, as it is currently in the easement for the access road. Holland Small Engine Repair has been at this location for three years with outdoor storage without any complaints from the neighboring businesses.

The property is long and narrow. Because of the designated easement and the Township Ordinance, as interpreted by Staff, that makes the side yard of this property a second front yard, subject to front yard setbacks in an I-1 Light Industrial Zoning District – 50 feet. . With the 33-foot easement and the 50-foot setback, they would need to be 83 feet from the center of the easement. The building is set back 80 feet which takes away all the use of the side yard property (second front yard). They are asking for reasonable use of the side yard of the property.

Mr. Bouwens explained that a copy of the easement agreement was included with the application and the only building granted use of this easement was the one rear property occupied by Liquid Industrial Waste. There is no access from the north because of the railroad.

Staff addressed Mr. Bouwens remarks.

The easement is treated as road as it is 66 feet wide and provides access and frontage to another lot, so the setbacks apply to this property as a corner lot.

The applicant has had the outdoor storage there without approval. The violation was brought to the attention of the Township Staff 18 months ago.

The approval of the Special Use Permit for outdoor storage was a separate process reviewed by the Planning Commission, and as such, this should not be considered by the Zoning Board of Appeals in making their decision for the non-use variances requested.

The Board asked Staff what the setback would be if this was considered a side yard instead of a second front yard. The setback would be 15 feet if it were considered a side yard. It is considered a corner lot because of the designated easement that serves three lots and the easement is 66 feet wide.

Mr. Vander Meulen, the Zoning Board of Appeals member that is also on the Planning Commission commented that the size of the fenced in area has grown in size since it was presented to the Planning Commission. He further commented that the Planning Commission was swayed by the information that this outdoor storage is for overflow and a seasonal function. It looks like a storage junk yard. There are items there that appear to have been there for years. This is not in the spirit of which the Planning Commission approved the Special Use Permit for the outdoor storage. Holland Small Engine Repair has had at least four months to clean it up and the winter has been mild.

Curt Scholten, owner of Holland Small Engine Repair replied that that is not true. They do not keep junk materials/equipment around any longer than a year. The engines/equipment are processed (parts taken off) within two to three weeks and the remains are disposed of, with the exception of the pallet rack.

Mr. Scholten further commented that the storage area will all be taken care of as soon as the weather clears.

There was further discussion about the location and size of the proposed enclosed storage area in regards to what was presented to the Planning Commission and what is being presented to the ZBA.

Mr. Bouwens stated that he disputes that the easement serves several properties. It does not. The only property that has easement benefits is Liquid Industrial Waste. The easement is 780 feet long, with 83 feet of it being affected by this variance request. There is a hardship that the Township can alleviate without harm to the Township.

There was discussion about the clear vision triangle.

Mr. Scholten stated that he is not asking for more than what is needed. He just wants to run his business and will work with the Township to resolve within reason.

Mr. Bouwens stated that they would put up a sign that says "Stop, crossing traffic does not stop, on the edge of the fence 24 feet from the edge of the road.

The Board had questions about how much room the applicant occupied within the building and if there was any additional open space that the applicant could lease.

The applicant occupies an indoor area of approximately 3,300 square feet. The remainder of the building is leased out. The other building on the easement is also entirely leased. There is no vacant space in either of the buildings.

Mr. Scholten explained that there is currently stuff outside of the fence thus the reason for requesting a larger fenced in area. Mr. Scholten does not want anything outside of the enclosed, fenced in area. He guarantees that nothing will be outside of the fence overnight.

There was further discussion about the dimensions of the proposed fenced in area. It was presented to the Planning Commission as 45'2" east to west and 91'10" north to south.

The Board asked about pallet racking inside the building for storage of products. Mr. Scholten replied that what he works on is not easily stacked.

There was no one on the line to speak to this request.

It was moved by Mr. Vander Meulen and supported by Mr. Bob DeVries 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.***

The practical difficulty is due to the type of business, not the conditions of the land.

The easement makes this a corner lot with two front yards.

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 issue is the type of business. Everyone else is in the covered roof area. This applicant moved outside. He is a victim of his own success.

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.***

He has had the outdoor storage for three years, however, he needs to get permission for the outdoor storage and a variance to continue using this storage area. Others in the building are using what they have without outdoor storage.

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

Others would not be hurt by the outdoor storage. It has been there for three years without any complaints. The clear vision triangle area has operated this way for quite some time.

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

The problem is self-created. One wants to be busy, and the applicant is busier in the Summer, which creates more stuff sitting around. Nothing has changed in the year and a half since talks started with Township Staff to clean up the storage area.

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.

In regards to the clear vision triangle, if what has been presented is modified to make it safer for all who use the easement. It must be safe, not probably safe. Corners are a traffic hazard. Accidents must be prevented at corner properties. There are a number of trucks shown on the aerial of this area. The clear vision triangle requirement is 20 feet.

** It was moved by Mr. Church and supported by Mr. DeVries to approve the request for the fenced in storage area with a setback of 0 feet rather than the required 50 feet subject to the following conditions:

- The applicant shall obtain Staff approval for the fence materials to comply with applicable requirements.
- Dimensions are not to exceed the area of the Special Use granted by the Planning Commission; north to south will be no longer than 91'10", and east to west will be no longer than 45'2" – except that carved out area that will be a vision triangle. The SE corner of that area will comply with the clear vision triangle of 20' on both sides with a corresponding hypotenuse.
- The southern edge of that area we defined will line up with the front edge of the existing building.
- Materials/equipment must remain within the storage area and shall not exceed the height of the fence. There is to be no other outside storage.
- The applicant shall install signage, including a stop sign and a sign saying "cross traffic does not stop", and whatever else is necessary for a safe exit. This is to the discretion of the Community Development team.
- The storage area is to be cleaned up 60 days from February 23, 2021, which would be April 24, 2021.

Motion carried.

Applicant withdrew the request for a variance from the traffic visibility clear vision triangle.

Other business: Mr. Said commented that the training that just took place with Ron Bultje was excellent. Mr. Said will be sending out the summary materials to the members of the Planning Commission and the ZBA. Mr. Said further informed the Board that there are other trainings for Planning Commission and Zoning Board of Appeals available and if they wish to go, please let him know.

There are currently three items for the March 23 meeting.

Meeting Adjourned at 7:02 p.m.

Respectfully Submitted,

Laurie Slater
Recording Secretary