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## ZONING BOARD OF APPEALS

Regular Meeting

April 22, 2025

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

Present: Chairman Russ Boersma, Members Ross DeVries, Jack Vander Meulen, Elliott Church and Alternate Member Steve Haberkorn. Also present were Community Development Director Corey Broersma, Assistant Planner/Zoning Administrator Kate White, and Recording Secretary Laurie Slater.

Absent: Bob DeVries

There were no public comments.

\*\* It was moved Haberkorn and supported by Ross De Vries to approve the minutes from the February 25, 2025 meeting as presented. Motion carried by roll call vote of 4 Yes, 0 No and 1 Abstained.

Chairman Boersma explained the Public Hearing process to the audience.

**Hearing declared open** to consider a petition for a Nonuse Variance Request submitted by Montell Construction on behalf of Patrick Gryzen for property located at 3862 Bent Pine Drive, known specifically as Parcel Number 70-16-07-115-001. Petitioner is requesting a variance of 3.5 feet from the minimum required 7-foot side yard setback, resulting in a side setback of 3.5 feet for an attached deck. The subject property is zoned R-2 Moderate Density Residential.

Present for this request was Chad McNew, President of Montell Construction.

Mr. McNew explained to the Board that the designer met with the homeowner and made plans to remove the existing deck and replace it with a deck of the same size. When the building permit was applied for, it was denied because the deck was in the side yard setback. The homeowner and designer agreed to replace the boards and railing only, for which a permit would not be needed. When the installers arrived to do the work, they mistakenly demolished the entire deck and rebuilt it based on the original contract. They did not look at all the paperwork. There was a signed neon yellow change order form in the folder. When the materials were ordered, the production manager sent the materials out without looking at the order change as well.

Mr. McNew noted there is a six-foot slider door there that needs to have an egress. If the variance is denied, they could put stairs to the side and pour a concrete patio.

There was further discussion about the new posts and whether they were bigger than the old ones and in the same location as the previous ones. Mr. McNew stated that the new posts were moved further in on the deck from the previous deck build, but the size remains the same.

Board asked Staff to clarify as to why there was no permit sought when the deck was originally built in 1996. Mr. Broersma replied that on the original plan, there was a simple pencil line, no details, but the application for the dwelling did include the word deck. The plans that were submitted in the 90's were not to the level that is expected now. Now they ask for setbacks and dimensions to be indicated on the plans. The Board asked how long the current owner has lived at the property. Mr. McNew answered that he believed the current owner has owned the property for six to eight years.

Member Vander Meulen noted how the boards would need to be replaced because of the dripping of water off the roof onto the deck. It has had 26 years of dampness. When the 4 x 4 posts in the ground need to be replaced, it has to be done right. There needs to be a permit and inspections.

Mr. McNew agreed 100% that this mistake was their fault. His company has implemented changes because of this. They are working so this does not happen again. This is the first time anything like this has happened. It was an honest mistake.

Member Church asked if any neighbors have provided comments about the deck and variance. Ms. White noted that no written comments were received, but the property owner to the south came in to the Township Office and asked about the variance. The southern property owner noted no concern with the deck.

Chair Boersma opened the floor for public comment. There was no one in the audience to speak to this request. Board Member, Robert De Vries emailed Staff with his comments on this request. Mr. Broersma read the email to everyone present. Mr. Robert De Vries was opposed to it comparing it to a previous variance request by Ms. Elida Hernandez.

Member Vander Meulen commented that this is the only house with a deck on the side in the neighborhood. It is a corner lot with technically two front yards with setbacks of 35 feet each. Chair Boersma asked Staff whether a rear deck would be an option; Mr. Broersma noted there would be room for a deck off the back.

**\*\* It was moved by Vander Meulen and supported by Ross De Vries to close the hearing. Motion carried unanimously with a voice vote.**

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 Board noted that the option for stairs and a patio off the side of the house may be an option, but the grade on the side of the house would not make it realistic. This makes a practical difficulty to install egress off of the existing side slider door.

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 Board stated the unusual circumstance is they are the only house in this area with a slider door on the side of the house. There needs to be a way to get out. The house is pushed to the south because of being on a corner lot with two front yards with a setback of 35 feet for each.

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 Board stated there may be other ways to get an egress, like steps coming out and down to a cement patio; however, there is a slope in the side yard. The existing deck would be the simplest way to get the egress.

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

The Board stated there is not substantial detriment to adjacent properties. The previous deck had been there for almost 30 years with no complaints or concerns. The adjacent landowners had the opportunity to voice their opinions. No one attended the meeting or submitted letters.

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

The Board stated the applicant did not create the problem for which the variance is being sought. It was a mistake made by Montell Construction based on miscommunication.

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.***

Member Vander Meulen stated that Staff questioned whether this would be a fire issue. Vander Meulen looked up the fire code, and there was nothing about a deck being built within 5 feet of another structure. It only referred to walls.

The Board stated that this request is different than the request that Robert De Vries referred to as the other applicant was building something new. There is no change to the deck, it is in the same footprint, just new materials and it is aesthetically appealing. Looks the same as before, it is not any bigger.

The homeowner followed the rules by submitting the change order to not structurally alter/rebuild the deck, but the contractor made the mistake.

Member Haberkorn struggles with the fact that the work was done without a permit as this is contrary to the spirit of the ordinance to get proper permits and build in compliance with zoning.

\*\* It was moved by Church and supported by Ross De Vries to approve the request for a variance of 3.5 feet from the minimum required 7-foot side yard setback, resulting in a side setback of 3.5 feet for an attached deck. Motion carried unanimously with a roll call vote.

**Hearing declared open** to consider a petition for Nonuse Variance submitted by Sam Nichols of RDV Corporation on behalf of MSA Lakeshore Center LLC for property located at 12429 Ransom Street, known specifically as Parcel Number 70-16-04-100-008. Petitioner is requesting a variance of 8 feet from the maximum permitted height of 8 feet for a non-residential fence, resulting in an overall fence height of 16 feet. The variance is being requested for a fence backstop associated with proposed outdoor sports fields. The subject property is zoned C-2 Community Commercial.

Present for this request was John Whitten of Spark 43 Architects, 924 W Fulton Street, Grand Rapids, Michigan.

Mr. Whitten started off by stating that they have not yet received the Special Land Use for this project as the Planning Commission meeting was cancelled due to not having a quorum. They are on the agenda for the May 13, 2025, Planning Commission meeting.

Mr. Whitten noted that Michigan Sports Academies has experienced incredible growth. The existing facility programming has exploded. They do not have a big enough facility to meet the demand.

Mr. Whitten stated they would like to add an indoor athletic court, an indoor turf field and a full-sized outdoor soccer field to their existing facility on Ransom Street with additional parking. They are asking for a variance on the height of the fencing on the soccer fields. They want to place backstops behind each of the six goals. Two each along the east and west sides of the field and one at either end. The property is long and narrow. To the east is 124<sup>th</sup> Avenue, a proposed parking lot to the south and wetlands and a creek to the west and north.

Mr. Whitten noted the proposed backstops would prevent soccer balls from leaving the field. It would be for the safety of the athletes and staff. They would not be chasing the ball into traffic on 124<sup>th</sup> Avenue or into the parking lot or into the creek.

Mr. Whitten stated the proposed fencing would be black chain-link fencing so it would not stand out, it would blend. It would be 16 feet above grade. The fence height of 16 feet would be 30 feet both directions off center of each soccer goal. The fencing would then use 8 feet on either side to transition back to the allowable fence height around the perimeter of the fields.

Mr. Whitten further explained that there are not many athletic fields like this within the Township and that most of the athletic fields with backstops are either school owned or Township Parks. This type of fencing for a recreational facility is not addressed in the ordinance.

Board Member Church asked Mr. Whitten if there would be any signage on the fences. He replied that he did not know, perhaps identifying signs so the athletes would know which field to be on. Mr. Church was more concerned with signage that would be advertising.

When asked where the games would be observed from, Mr. Whitten stated that there are good locations for observers at each field. They bring their own bag chairs. There will not be any grandstands. There is plenty of room on the sidelines.

Chair Boersma opened the floor for public comment. There was no one present in the audience to speak to this request.

\*\* It was moved by Haberkorn and supported by Ross DeVries to close the hearing. Motion carried unanimously with a voice vote.

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 Board acknowledged the zoning of the property is unique in that it is restricted to two uses. The practical difficulties are the lot is long and narrow. There is no space between adjoining lots. There is a creek to the north and west and 124<sup>th</sup> Avenue to the east.

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 Board stated, as noted under Standard #1, the conditional zoning of the property is unique and limits the property's use to two uses. Additionally, commercial outdoor recreation facilities, especially ones consisting of sports fields where backstops may traditionally be used, are a unique occurrence in the Township.

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 Board stated the variance is important for the safety of the athletes, staff and spectators for the proposed use.

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

The Board stated that granting this variance will not be of substantial detriment to adjacent or nearby land uses and properties. The fence will keep people off the surrounding properties because they will not be retrieving the ball from adjacent lands.

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

The Board stated the applicant did not create the problem. The fence is a necessary safety feature for the proposed use.

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 Board stated the granting of the variance will not be contrary to the public interest and will be in the spirit of the ordinance given the fence backstop serves as an important safety feature for users as well as neighboring properties, as long as the fencing is not used for advertising.

\*\* It was moved by Vander Meulen and supported by Church to approve the variance of 8 feet from the maximum permitted height of 8 feet for a non-residential fence, resulting in an overall fence height of 16 feet contingent on securing the Special Land Use Permit from the Planning Commission, complying with any conditions associated with that Special Land Use approval, and signage complies with Township Zoning Ordinance requirements. Motion carried with a unanimous roll call vote.

There was no other business.

The meeting adjourned at 6:32 pm.

Respectfully submitted,

Laurie Slater

Recording Secretary