

**CITY OF WIXOM  
49045 PONTIAC TRAIL  
ZONING BOARD OF APPEALS MEETING  
MONDAY, SEPTEMBER 12, 2016**

Approved  
11/14/16

The meeting was called to order by Chairman Caplan of the Zoning Board of Appeals at 7:30 p.m. at which time allegiance was pledged to the American flag.

**PRESENT:** Jeff Caplan (Chairman), Peter Behrmann, Joe Barts, Dave Berry, Tom Marcucci, Steve Winters and Michael Schira (8:12 p.m.)

**ABSENT:** None

**OTHERS:** Carmine Avantini (CIB Planning), Debra Barker (Economic and Community Development Director) and Nancy Fisher (Recording Secretary)

**Determination of a Quorum:**

A quorum of the Board of Zoning Appeals was present for this meeting.

**Agenda:**

There were no changes made to the agenda.

**Approval of the July 11, 2016 Zoning Board of Appeals Meeting Minutes:**

**MOTION** and seconded by Boardmembers Behrmann and Winters to approve the July 11, 2016 Zoning Board of Appeals Minutes.

**VOTE:**

**MOTION CARRIED**

**Correspondence:**

City Manager's Update – August 9, 2016

City Manager's Update – August 23, 2016

**Call to the Public:**

There were no comments made by the public.

**Unfinished Business:**

There was no unfinished business listed on the agenda for this meeting.

**New Business:**

Chairman Caplan advised the applicants that they would need to receive a vote of 4 of the 6 boardmembers present in order to receive approval for their variance request.

- 1. PUBLIC HEARING FOR ZBA CASE #006-16: SANDRA EVANS, 2967 & 2959 MAGANSER DRIVE, WIXOM, MI 48393:** The applicant is requesting a variance from **Section 18.13.050, Fences and Walls**, to allow a chain link fence in the exterior side yard that is taller than 3-1/2 feet in height and not decorative in nature. The Wixom Municipal Code requires approval of dimensional variances from the Zoning Board of Appeals when it can be shown that Ordinance standards have been met. The property is zoned R-3, One-Family Residential District and the parcel number is 17-29-333-023 and 17-29-333-005.

Sandra Evans, 2967 Maganser Drive, Wixom. She has lived at this address for the last 50 years. She provided them with a diagram showing the new fence and the split-rail fence. She recently adopted a 6-year old, 110-lb. rescue dog and she needs a fence to secure him. She failed to contact the City to secure approval since she was just released from the hospital. She provided the Boardmembers pictures of her yard and some of her neighbors' yards in Birch Park, which also do not meet the requirements.

Chairman Caplan confirmed with the applicant that her original fence was installed 20 years ago. Boardmember Behrmann asked Mr. Avantini when the Ordinance was changed requiring the fences to be decorative in nature. Mr. Avantini is not certain but believes it was at least as far back as 2001 and possibly before that. Boardmember Behrmann asked how old the other nonconforming fences in her neighborhood are. She said that some of them are new. Boardmember Barts inquired whether the new fences are located on a corner lot. The applicant said that one is on a corner lot which has two front yards. The fence is on the side lot on Flamingo. If that constitutes a front yard, what is the variance for the front yard? Mr. Avantini said it would be 35 feet. The applicant noted that the lot is 50 feet wide. Chairman Caplan noted that the lot may be nonconforming and that the Board deals with that occasionally. The applicant said that she could understand if the fence was situated at the corner but it is not. Chairman Caplan said they examine cases on a case-by-case basis and that they need to look at the height. The applicant said that she believes all chain-link fences are 4 feet high. Boardmember Marcucci said that he has seen 6-foot high chain-link fences. In response to Chairman Caplan's question about who installed her fence, the applicant said that her son did it.

Mr. Avantini noted that his recommendation was due to the fact that the applicant's application did not give a lot of information. It was not that she did not meet the criteria. The burden of proof is always on the applicant. The Board's job is to listen to the facts at a public hearing. Chairman Caplan said that they must determine her potential hardship. She is on a corner lot. This is a chain-link fence and not stockade style. Is that why? The applicant said she did not want a fence which completely blocked her yard. She wants to confine her dog and protect her property. Boardmember Barts inquired whether the split-rail fence which is there is within the proper side setback. The applicant said that it is on the property line. Boardmember Barts noted that the plot shows two fences which are 10 feet from the split-rail fence.

Jeff Adams, 2969 Maganser Drive, Wixom. Mr. Adams said that the issue with the City is that they were told the neighbors had to be able to see through the fence. Boardmember Barts asked whether this is true even though they have a regular residential lot next to them. Mr. Adams said that it was turned down by the Zoning Board of Appeals since it would obstruct their neighbors' view. Boardmember Barts noticed that because of the existing split-rail fence with the decorative landscaping around it, it serves as nice screening. The chain-link is very bright since it is new. He wondered whether the decorative fence required by the City would be permitted on a corner lot. Mr. Avantini said that it would but not as tall.

Boardmember Barts noted that people have done things like this with wrought-iron and a material he termed similar to chicken wire. The applicant said that it would not work with her dog. Mr. Avantini said that it would have to be shorter. The reason for this regulation is for purposes of aesthetics. A 6-foot wood stockade fence would be the worst case scenario. A better solution would be chain-link and even better solution would be wrought-iron. Some of it is screened from Flamingo. The ZBA can allow it to stay with additional plantings to minimize its impact.

Boardmember Behrmann asked the applicant if they do not allow the chain-link fence to stay and request a decorative fence, is it all right as long as it is higher? The applicant said that it would not be strong enough for her dog who is 110 lbs., is very strong and is nicknamed 'Tank'.

Mr. Adams noted that their neighborhood has had a lot of break-ins so it is also for security purposes. He keeps a \$5,000 yard tractor in his shed.

Boardmember Winters confirmed the Board is looking at a 6-inch variance on height and the style of fence. The applicant does not think a decorative fence was ever discussed and that the discussion revolved around its height. Mr. Adams said when he talked to the Zoning Officer, they said it was in the side yard. Nothing was said about a decorative fence during that conversation. The applicant asked whether it would make it acceptable if she plants flowers along the fence. Chairman Caplan said that sounds good to him. Boardmember Marcucci asked whether any of the applicant's neighbors were present tonight.

Joanne Burke, 1500 Nightingale, Wixom. She lives directly across the street from the applicant. The fencing is not offensive and the applicant has beautiful flowers all over. None of the neighbors she has spoken to have any objections.

Boardmember Behrmann is fine with the height. He does not see them getting around the decorative fencing requirement. Chairman Caplan suggested that the applicant can dress it up, perhaps with flowers or arborvitae. Boardmember Barts noted that this is an older, established neighborhood. Her lot is very, very large. The character of the neighborhood says something about the strict interpretation of the Ordinance. The existing split-rail fence is a nice looking touch other than the fact that it is shiny. Boardmember Marcucci does not have a problem with it and he thinks it will go with the rest of the neighborhood.

Boardmember Berry noted that the applicant needs to install the fence for her dog. There also appear to be some safety concerns. He does not think the height makes a difference. If it is a corner lot, there should be some visibility. Boardmember Barts said that if a stockade privacy fence was considered to be decorative, then he would argue with that. Mr. Avantini noted that examples of decorative fences would be white picket or wrought-iron. He would be more concerned if it were solid wood and 6 feet high instead of 4 feet tall. Those are mitigating factors. If she puts a burning bush shrub there, it might break it up and help to minimize its impact. Boardmember Behrmann noted that there was substantial landscaping on the side yard and only 50 feet that is not yet landscaped. Mr. Adams noted that there is a man gate on the side and an auto gate on the front.

Chairman Caplan feels the hardship was shown. Boardmember Barts noted that some would argue that the dog is self-created. Boardmember Winters mentioned the applicant's safety concerns. Mr. Adams noted that insurance companies are now requiring a 4-foot fence for people with large dogs. Boardmember Berry noted that the applicant's hardship is that she has two frontages. The applicant noted that the neighborhood has had so many thefts.

Mr. Avantini said that they can consider the character of the neighborhood, its impact on the abutting properties, the extent of the variance being requested and that it is an odd-shaped lot.

**MOTION** and second by Commissioners Barts and Berry to approve ZBA Case #006-16, Sandra Evans' request for a variance from Section 18.13.050 to allow a chain link fence at a 4-foot height versus the 3 feet, 6 inches required by the City. A chain-link fence will be acceptable in lieu of a decorative fence called for in the Ordinance; hardship being the applicant's lot is a corner lot which presents challenges of safety and security and the applicant's choice of fence was to be consistent with the character of her neighborhood and subdivision. The property is located at 2967 & 2959 Maganser Drive, is zoned R-3, Light Industrial District and the parcel numbers are 17-29-333-023 and 17-29-333-005.

**ROLL CALL VOTE:**

Yays: Caplan, Barts, Berry, Marcucci and Winters  
Nays: Behrmann

Absent: None

**MOTION CARRIED**

2. **PUBLIC HEARING FOR ZBA CASE #007-16: MIRON, LLC (GMT LOGISTIC), 50706 VARSITY COURT, WIXOM, MI 48393.** The applicant is seeking a variance from **Section 18.09040(F), Specific Sign Standards**, to allow outdoor storage of trailers ten (10) feet from the side and rear property lines when a setback of twenty (20) feet is required. The Wixom Municipal Code requires approval of a dimensional variance from the Zoning Board of Appeals when it can be shown that Ordinance standards have been met. The property is located at 50706 Varsity Court, and is zoned M-1, Light Industrial District and the parcel number is 22-06-101-050.

Mr. Avantini noted that this has already gone before the Planning Commission for site plan and special land use which was approved conditioned upon the ZBA's acceptance of the variance request.

Gus Abro, 500 S. Old Woodward, Second Floor, Suite 200, Birmingham. He is the attorney representing the applicant. Also present with him tonight is Inessa, the applicant's owner and Alex Alexandrovich, the company's Safety Manager. They are here tonight requesting a dimensional variance under the setback rules. The minimum yard setback is 20 feet from the property line to the outdoor storage area. They are requesting that the setback be approved at 10 feet as opposed to 20 feet for outdoor storage only on the rear and sides. They have scoured the area to find an appropriate location for their full-service logistics company. This site is ideal and the building is almost perfect. The plan is well thought out although there are some setback challenges. The site is not large. With trucks and trailers, the space is limited. They will utilize appropriate screening as depicted in the landscaping plan. They will work with the City and their landscaping designer on this. It will not negatively impact their neighbors since they are in an industrial area. It is tucked away and the rear of the property faces the park. It will not affect any residences. All the neighbors have semi's which are used for deliveries. If the requested variance is not approved, the impact will be dramatic and will jeopardize the entire project. There is a new driveway proposed on the east to separate the employee traffic from the semi traffic since there are safety concerns. If the variance is not granted, it would shrink or move the driveway closer to the building. There is also a very large, beautiful tree depicted on the diagram which Inessa wants to keep.

Inessa Gnatishina, 3771 Stoneridge Court, Commerce Township. She is the 100 percent owner of the company which was established in 2009. She likes the community and would like to remain in Wixom for many years. Her company employs people and they also support local businesses (restaurants, hotels, etc.). They have a stellar safety record.

Alex Alexandrovich, 29445 Beck Road, Suite A202, Wixom. He is the company's Service and Safety Manager. Safety is one of the company's top priorities including the storage of trailers, employing the use of 2-way drives, etc. They will screen the property. The back is a big parking area. Their equipment is new and consists of 2014 and 2016 semi-trailers.

Mr. Abro mentioned that the applicant's company is very well operated and managed. She has received several safety awards by maintaining a high safety rating. This property will serve as the company's headquarters. Parking will be for trucks and trailers. Their architect has maximized the space to use the property as effectively and as safely as possible. If you take away 10 feet on all sides, it will shrink the distance between the building and the rear and will preclude use of this site.

Chairman Caplan asked whether there will be any storage of materials inside the trailers. Mr. Abro said that at no point will the trailers contain any waste product or hazardous materials. They haul dry goods. The majority of their freight is dispatched nationally, in all 48 contiguous states. The drivers are only

there for the night or the next day. They will never be at full capacity. Ms. Gnatishina said that the drivers never stay in the truck overnight on the property. Chairman Caplan asked whether the trucks refuel onsite.

Mr. Alexandrovich said they are not permitted to. Chairman Caplan noted that if they do not grant the variance, the trucks will not be able to make the necessary turn. Mr. Abro noted that the angle has been increased from 30 to 35 feet.

Boardmember Behrman asked what is behind the property and whether that is vacant land. Mr. Abro said that it is Lyon Oaks Park and he showed that on the large depiction. Boardmember Behrman asked whether the Lyon Oaks' officials are opposed to it. Mr. Abro does not know. They just recently met with the adjacent property owner. He does not think that anyone will have an issue with this.

Mr. Avantini noted that the main reason that there is a 20-foot setback is that it covers all outdoor storage which can include things like cranes and stacks of pallets, some of which are highly visible. He likes that the trucks do not match what is normally considered outdoor storage. It is screened from Varsity Court. Lyon Oaks is to the south which is highly wooded. You can still use 10 feet to get the plantings in there. They really wanted a separate drive for the trucks. If you shift it over, it will not work and they would have to lose the large oak tree they would like to maintain. He has been working with the applicant for over 1 year. The trucks can be hidden behind the building.

Chairman Caplan likes the layout and thinks it is well thought out. Boardmember Behrman has no issues with the plan. He noted that the Notice says there is a 10-foot variance for storage with trailers in the back. It does not mention the 10-foot variance on the side. Mr. Avantini said it is side and rear. They have always considered commercial vehicles to fall under outdoor storage which has been reviewed by the Planning Commission for years. Boardmember Behrman said if they are giving 10 feet for the rear and side, what is to prevent them from lining up trucks in the driveway where they will not be screened? Mr. Avantini said that this could be made a condition of approval. Mr. Abro noted that outdoor storage has been approved for the rear and that they will never park on the driveway.

Boardmember Berry asked about why this was referred to the ZBA from the Planning Commission. Mr. Avantini said that it was just the way that it progressed. Boardmember Berry noted that it talks about the variance at the side and rear setback on three sides, parking within 10 feet of what would be normally 20 feet of the building and a driveway within the normal 20-foot setback. Chairman Caplan noted that if they granted two side yard and rear yard variances, that becomes moot since they would have full access.

Boardmember Berry asked Mr. Avantini if the applicant is granted 10 feet on both sides and the rear yard, is it okay to build the driveway on the new 10-foot easement? Mr. Avantini said that for the side yards, it is 10 feet for parking and drives. The special land use increases the setback for outdoor storage only to 20 feet but does not apply to the drives coming in. The issue is not so much the drive but whether the setback is enough not to negatively impact things. The site plan shows it as just a drive and not for parking. This would apply to future owners and they could be cited for violations.

Boardmember Barts asked whether the variance runs with the land or the current owner. Mr. Avantini said it runs with the land. Boardmember Barts noted that the notes are very specific on land use and specifies that the driveway is 10 feet. The driveway does not permit storage of any kind. The general interpretation is for goods as opposed to trucks.

Boardmember Berry asked what the practical difficulty is. Chairman Caplan said it is the exit on the back of the property which does not allow the trucks to maneuver. Mr. Avantini said that with any logistics

company will require a certain amount of space. The applicant has had to store its trucks in a separate location from the office. It has been difficult to find a location which affords it everything they need. They cannot run their business without the 10 feet on the side. In this case, you cannot separate the practical difficulty which relates to the property from that of a logistics company. Mr. Abro noted that the property is currently vacant.

**MOTION** and second by Boardmembers Schira and Winters to approve Case #007-16, Miron, LLC (GMT Logistic's), request for a variance from Section 18.09040(F), Specific Sign Standards, to allow outdoor storage of trailers ten (10) feet from the side and rear property lines when a setback of twenty (20) feet is required for the reasons set forth in Mr. Avantini's August 18, 2016 review letter. There will be no parking allowed in the driveway. The property is located at 50706 Varsity Court, is zoned M-1, Light Industrial District and the parcel number is 22-06-101-050.

**VOTE:**

**MOTION CARRIED**

**Call to the Public:**

There were no comments made by the public.

**Staff Comments:**

Mr. Avantini has an item on which he would like to get the Board's determination. It is a request from Meijer's who is replacing all 13 signs on its building. There were only two signs above the entryway saying "Fresh" and "Home". He could have sent this to them for a variance; however, they are not identification signs and are more directional. The Board concurred.

**Commission Comments:**

There were no comments made by the Board.

**ADJOURNMENT:**

This meeting of the Zoning Board of Appeals was motioned and adjourned at 8:53 p.m.

Nancy Fisher  
Recording Secretary