CITY OF WIXOM
ZONING BOARD OF APPEALS MEETING
49045 PONTIAC TRAIL
MONDAY, NOVEMBER 14, 2016

Approved
3/13/17

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.

BOARD: Jeff Caplan (Chairman), Joe Barts, Michael Schira, Steve Winters, Peter Behrman and Ray Konchel
ABSENT: David Berry (Excused) and Tom Marcucci (Excused)
OTHERS: Justin Sprague [on behalf of Carmine Avantini] (CIB Planning) and Nancy Fisher (Recording Secretary)

Determination of a Quorum:
A quorum of the Zoning Board of Appeals was present for this meeting.

Agenda:
No additions or changes were made to the agenda.

Approval of the September 12, 2016 Zoning Board of Appeals Meeting Minutes:
MOTION and seconded by Boardmembers Behrmann and Winters to approve the September 12, 2016 Zoning Board of Appeals Meeting Minutes.
VOTE: **MOTION CARRIED**

Correspondence:
City Manager's Update – September 13, 2016
City Manager's Update – September 27, 2016
City Manager's Update – October 11, 2016
City Manager's Update – October 25, 2016
City Manager's Update – November 9, 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:

1. **PUBLIC HEARING FOR ZBA CASE #008-16: YOUSIF P. YOUSIF, 2550 LOON LAKE ROAD, WIXOM, MI 48393:** The applicant is requesting a variance from **Section 18.20.040, Nonconforming buildings and structures,** to allow the construction of an addition to a residential structure that is nonconforming since two (2) principal structures are located on one (1) lot. 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, is located at 2550 Loon Lake Road and 2552 Loon Lake Road and the tax identification number is 96-17-29-276-002.

Chairman Caplan informed the applicants that they would need to get at least 4 of the 6 votes in order to gain approval at tonight's meeting.

Yousif Yousif, 2570 Loon Lake Road, Wixom. He has lived there since 2009. He loves the City and wants to remain here. He sponsored his in-laws to come to this country and live with he and his wife. His father-in-law has since become blind. He had to sell his property and move in with him and his wife. The home is too small for two families and they all require privacy. When his next door neighbor listed their home, he made them an offer. He approached the City three times to make sure that the two homes were legal. The larger home is too small and he would like to add on to it while his in-laws would live in the smaller home. The City said there would be no problem with this plan and that he could apply for a permit. However, the permit was rejected since there are two homes on the same property. He was instructed to apply for a variance to build an additional room to make it more livable for them. The neighbors have no problems with his proposed plans.

Chairman Caplan asked whether the second home is a rental home. The applicant said that it is not. A member of the previous homeowner's family lived there but they moved into a nursing home. She could not afford to keep up with the property and it was put up for auction. It is currently titled in his and his mother-in-law's names. His in-laws will live in the smaller home and he and his wife will live in the larger home. His wife will be the caretaker and it is not reasonable for her to have to travel every day to do so. This plan is the perfect solution. Chairman Caplan asked whether the second home is vacant. The applicant said that it is not and is occupied by a relative of the owner. They allowed her time to find a new home. There is more than enough space for the addition. The only reason that the City did not grant permission was because it had two units even though he got advance approval from the City.

Chairman Caplan said the problem is that it is already nonconforming. The applicant said that he spoke with another person in a different agency who said that he should have talked to him before choosing to do anything. The City said they did not see any problem and that he could apply for a permit. Now, he is stuck with a situation he does not know what to do. Chairman Caplan confirmed with the applicant that he does not live in either property. The applicant said that he lives next door. They will both move out when he moves in and they will sell their current home. Chairman Caplan asked whether he will build the addition himself. The applicant said that he would and that he is an engineer.

Boardmember Konchel noted that it says there are two structures on one lot. The applicant said the addresses are 2550 and 2552 Loon Lake Road. Chairman Caplan clarified that the applicant lives at 2570 Loon Lake and he has purchased 2550 Loon Lake Road. 2552 is the one next door. The applicant said that the property he bought surrounds his house.

Boardmember Behrmann asked the applicant whether he could combine the two homes. The applicant said that each family needs its privacy. His father-in-law was a doctor and has his pride. He is blind. The applicant wants to increase the living space of the bigger unit. That would work if they were one family. Boardmember Behrmann suggested putting an addition off the back and connecting the two homes with the addition so it would be one structure. The applicant said that his father-in-law would not accept it. He worked his whole life and feels he is a burden to them. Also, it would block the windows.

Boardmember Behrmann asked how many feet are between the two homes. The applicant said that the two homes are corner to corner. They are not attached and there is perhaps 5-6 feet between them. If he builds from the east side, it would block the bedroom windows completely. If he builds from the north side, it will block the other windows. His in-laws want their own property and it is important for them to have their independence. He cannot force someone to live with him in his own home.

Chairman Caplan suggested that the connection between the two structures could be a breezeway. The applicant said that if he knew this beforehand, he would not have purchased the property. Boardmember Behrmann does not know how they can grant this variance. How about a covered walkway with a connection? The applicant said that this home was a cottage built out of blocks and the rest of the home was built around it. The other main reason for the addition is to give the home curb appeal. It is finished and there is no entrance from Loon Lake.

Boardmember Barts noted that both the City Planner and the Development Director referenced the homes' current zoning and their noncomformance. There is a good case in writing why it should not happen. Does the applicant understand that he is asking the Zoning Board of Appeals (ZBA) to go against everything in the City's rule book? There is no guarantee that this property would not change hands and transition into rental properties. However, it is so old. To grant an addition to an incorrect situation encourages others to ask for similar things. The consensus is that it is completely nonconforming with current standards. The applicant has some options through the use of unique design construction. The applicant said that he is being punished for a mistake that was not his. If they do not grant this, what about someone else he could sell it to? He came to the City three times and explained that there were two families. He even provided his mother-in-law's driver's license at the City staff's request.

Chairman Caplan said if the applicant does not put on an addition, he can use it as a noncomforming structure. The problem is the addition is doing something else that is nonconforming. The applicant said that this house will look completely different where now it looks like a warehouse. If he cannot do this, why is he on Loon Lake? No one knows it is Loon Lake Road. Boardmember Behrmann said that he thinks the applicant is trying to enhance his primary home and make it look nicer. He understands that the City told him that the homes were fine; however, the applicant cannot make it bigger without solving the problem. Although the applicant wants to keep the two homes internally separate, if he can do a breezeway or walkway, he will get what he wants. The applicant said that he came to the City with a plan. The Building Inspector looked at the layout and said that he did not see a problem.

Boardmember Barts noted that Boardmember Behrmann said that connecting the two structures would render it as one. Mr. Sprague said that a physical connection would make it one structure even if it is a covered porch; i.e., a roof, where the structures are physically tied together. They can then proceed with the addition as depicted on his plans. Boardmember Schira asked whether a driveway could be considered a structure in some Ordinances. Does that include something flat on the ground? Mr. Sprague said that the applicant could do a covered walkway. Chairman Caplan said that this could be a pretty good compromise. The applicant would have to work with the City in terms of how to make it one structure. Mr. Sprague said that it would be up to the ZBA's interpretation of what 'structure' means, whether that is the location on the ground or attachment to something. Boardmember Winters asked if it is attached and goes to one home, does it go to the other home? Boardmember Schira noted that it would be one tax identification number because it would be one structure. The applicant said that 2552 Loon Lake is not even in the contract. It is one tax identification number. He said that he can pour a nice walkway by the back entrance and can put a cover on it.

Chairman Caplan suggested phrasing the motion to show that the applicant will connect the homes per the City Ordinance. Mr. Sprague said that the applicant would still require a variance and that the walls would probably have to tie into each other which would remove the need for the variance if the applicant brings the plans into the City demonstrating this. Chairman Caplan noted that if the ZBA denied the applicant's request, then the City would work out a compromise. Mr. Sprague suggested that instead the ZBA postpone the decision until the City determines a solution. That way, the applicant can come back to the ZBA if need be. Chairman Caplan said the applicant's request for a variance could be tabled while he tries to work it out with the City. The applicant said that sounds perfect except he will run out of time

since temperatures will reach freezing within the next couple weeks and he will then lose six months' time due to pouring concrete. Chairman Caplan noted that if a covered sidewalk is deemed acceptable by the City, it would have to be tied in. It may just be a sidewalk but the City will have to decide that. The applicant said that he needs a sidewalk from his house to his in-law's home.

MOTION and second by Boardmembers Schira and Winters to table #ZBA Case #008-16, Yousif P. Yousif's request for a variance from Section 18.20.040, Nonconforming buildings and structures, to allow the construction of an addition to a residential structure that is nonconforming until after the applicant has had time to work with the City Planner or until such time as the applicant comes back before the Zoning Board of Appeals. The property is located at 2550 Loon Lake Road and 2552 Loon Lake Road, Wixom, Michigan 48393, is zoned R-3, One-Family Residential District and the tax identification number is 96-17-29-276-002.

VOTE: MOTION CARRIED

2. **PUBLIC HEARING FOR ZBA CASE #009-16: ELIZABETH & MARK RAJDL, 1355 N. CREEK DRIVE, WIXOM, MI 48393:** The applicant is seeking a variance from **Section 18.03.050, Height and placement requirements,** to allow an enclosed deck to be located 26 feet from the rear property line when a minimum setback of 35 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 at1355 N. Creek Drive, Wixom, Michigan 48393, is zoned R-2, One-Family Residential District and the tax identification number is 96-17-29-429-001.

Elizabeth and Mark Rajdl, 1355 N. Creek Drive, Wixom. They purchased their home 7 year ago. The deck was original to the home which is 20 years old. They want to add a swimming pool with a covered patio. They started to tear down the deck but then discovered there was no permit. The deck was 26 feet from the property line. They want to rebuild the same size structure except it will be covered. The screened in porch enters into a carpeted area; however, she did not want children walking onto carpeting with wet feet from the pool. The neighbors are in favor of this plan. Theirs is a corner lot with the back of the house facing the side of their neighbor's home. There is currently 40 feet from the corner of the house. Chairman Caplan confirmed with the applicants that the deck will be screened and that it will be a 3-season room with no heat. He believes that they have a hardship due to the size and shape of their lot, considering that it is a corner lot.

Boardmember Konchel asked about the height of the deck from the ground. The applicants said that it is 2-1/2 feet, then two steps out of the back. It is 2-1/2 feet from the exit to the doorwall to the ground. The pool will be at an angle. It has not yet been installed since the deck needs to go in first. Boardmember Behrmann asked whether it is a 9-foot or a 14-foot variance since there is a reference to it being within 26 feet of the property line. Chairman Caplan thinks that it needs to be stated in feet and confirmed with Mr. Sprague that 35 feet is the required setback which would make it a 9-foot rear yard setback. The screened in porch does not require a variance.

MOTION and second by Boardmembers Berhmann and Konchel to approve ZBA CASE #009-16, ELIZABETH & MARK RAJDL's request for a 9-foot rear yard setback for a deck so that the deck will be located within 26 feet from the rear property line; hardship being the irregular lot shape and the fact that it is located on a corner lot. 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 at1355 N. Creek Drive, Wixom, Michigan 48393, is zoned R-2, One-Family Residential District and the tax identification number is 96-17-29-429-001.

VOTE: MOTION CARRIED

3. 2017 MEETING DATES

MOTION and second by Boardmembers Konchel and Schira to approve the proposed 2017 Zoning Board of Appeals meeting dates as published by the City staff.

VOTE: MOTION CARRIED

Call to the Public:
None.

Staff Comments:
Mr. Sprague introduced himself and said that he is standing in tonight on Mr. Avantini's behalf.

Boardmember Comments:
Boardmember Barts said that one of the things that struck him about the first case tonight is that it is almost as if it were being set up as a rental unit including the contiguous, flat surface and the structural tie in which is one reason not to tear it down. It is such a minimum requirement to have them connect it with a sidewalk. A breezeway is not in any way, shape or form a hardship. Boardmember Behrmann noted that the plan was misleading since it was not to scale. Boardmember Barts said that he just pictures big garages in the back with apartments upstairs. Chairman Caplan noted that the Boardmembers did not specify a sidewalk or structure and will let the City figure it out. Mr. Sprague said that Mr. Avantini and Mr. Smith will require a physical tie in to the structure. Boardmember Konchel noted that case involved one lot with one tax identification number but two structures. The closing statement on the agenda says that it is zoned R-3, One-Family Residential but it has two different addresses and one tax identification number. Is that a contradiction? Chairman Caplan said no because it is already nonconforming. Boardmember Schira said they could have a large family with kids with the rest of the family living in the other structure. He does not know the definition of 'Single Family' but does not want to create situations where two unrelated families are living under the same roof.

Adjournment:
This meeting of the Zoning Board of Appeals was motioned and adjourned at 8:29 p.m.

Nancy Fisher
Recording Secretary