

**CITY OF WIXOM
ZONING BOARD OF APPEALS MEETING
49045 PONTIAC TRAIL
MONDAY, MARCH 13, 2017**

Approved
4/10/17

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), David Berry, Peter Behrmann, Ray Konchel and Tom Marcucci
ABSENT: Joe Barts (Excused), Michael Schira and Steve Winters
OTHERS: Carol Maise (on behalf of Carmine Avantini) [CIB Planning], Deb Barker (Economic and Community Development Director) 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 November 14, 2016 Zoning Board of Appeals Meeting Minutes:

MOTION and seconded by Boardmembers Konchel and Behrmann to approve the November 14, 2016 Zoning Board of Appeals Meeting Minutes.

VOTE:

MOTION CARRIED

Correspondence:

City Manager's Update – February 14, 2017

City Manager's Update – February 28, 2017

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 #001-17: RANDY T. MICHAEL, 2744 LOON LAKE ROAD, WIXOM, MI 48393:** The applicant is requesting a variance from **Section 18.13.050, Fences and walls**, to allow a fence to be located in the required front yard when it is not permitted under Ordinance requirements. 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 17-29-203-004.

Chairman Caplan advised the applicants that they will need to secure four of the five votes in order to be granted a variance. He noted that they could postpone the hearing of their matter if they so desired.

Randy Michael, 2744 Loon Lake Road, Wixom. He would like to erect a standard 6-foot privacy fence. He noted this is a difficult situation since he has a 17-year old daughter who is severely cognitively impaired. His front yard has a 10-foot drop off. He wants to make sure that his daughter will always be visible to him from inside his home. He noted that his daughter is nonverbal and cannot fend for herself. She spends her time outside. He needs a fence in a strategic area. The fence would be split into three sections with noncontiguous trees. Chairman Caplan confirmed with the applicant that he would also have arborvitae shrubs.

Boardmember Berry asked the applicant whether his request is based on a hardship regarding his family and whether he has an issue with her using the backyard due to his daughter's condition. The applicant said that if his daughter was willing to avoid the front of the house, that would be okay; however, she will not. He noted that when the home was constructed in the 1950's, Loon Lake Road probably did not have much traffic. However, now cars are moving fast down that road. Boardmember Berry confirmed with the applicant that the issue lies with the fact that his lot is fairly well sloped.

Boardmember Behrmann asked the applicant why he cannot use a more decorative fence and why it needs to be on a main street. The applicant said that his proposed fence will be decorative. It will be constructed of Western Red Cedar with a shadow box style. Boardmember Behrmann asked the applicant whether it would enhance the neighborhood. The applicant noted that it needs to be functional and that it will not be ugly since he is a wood craftsman. Boardmember Behrmann asked the applicant what standard he is asking the Zoning Board of Appeals (ZBA) to apply. The applicant said that he described the situation in his letter. He cannot safely contain his daughter in his yard without the fence in that one area. This way, she would always be between him and something solid as opposed to being between him and the busy road. He noted that he already set the posts in anticipation of installing the fence but then stopped when he realized he needed permission to do so.

Chairman Caplan wondered whether there is still potential for the applicant's daughter to get past the fence. The applicant said that he would be able to see whether she was that far from the house. Chairman Caplan asked the applicant whether he had ever considered a chain link fence. The applicant said he would do a chain link fence if one is needed on the back of the property.

Boardmember Marcucci asked the applicant whether he would consider a 4-foot high wrought iron fence. The applicant said that it would not work since his daughter is a lot taller than the fence. People driving past in cars have actually stopped to talk with her, not realizing the situation and thinking they were trying to help her. Sometimes, they mistakenly believe she is lost. Boardmember Marcucci asked whether there would still be an opening with the arborvitae. He does not think that a 6-foot wood fence in front of the house looks good.

Boardmember Behrmann is concerned about the location of the fence based on the position of the posts and he questioned whether it will block the view of motorists. The applicant said that he had considered this too but that is not the case.

Boardmember Konchel noted that the applicant moved to his current home in 2014 and that his daughter is now 17 years old. Was this not an issue when he moved in and if not, why not? The applicant said that it is hard to explain. He did not think that it would be a problem to construct a fence and did not believe that he would need one anyway. The best Ph.D's have examined his daughter and cannot explain her behaviors. Chairman Caplan said that he understands the issue but is concerned with a large wood fence. He believes it would be a beautiful fence but noted that large fences are unique in this neighborhood.

Eric Leskinen, 2713 Loon Lake Road, Wixom. He lives with his mother who is 88 years old. He referred to the photograph of the area and the applicant's home that he distributed to the Boardmembers. His parents built their home in 1969 and his mother loves the neighborhood and the way it is maintained. The fence that the applicant wants is in violation of the City's Ordinance and he and his mother are opposed to it. He does not like the appearance of the proposed fence. He noted that Groton is a deadend street and that trucks and the Department of Public Works (DPW) snow plows back from that street onto Loon Lake Road. A fence on that corner would block visibility and create a hazard. The applicant's property is 144 feet by 110 feet, one of the biggest lots. He does not see the need for a front yard fence in the applicant's yard. He sent the Boardmembers an aerial map.

Mike Hunt, 2056 Royalton, Wixom. He lives two homes down from the applicant. He supports the applicant's request and often sees the applicant's daughter in the front yard. He understands the applicant's situation and is careful himself when he sees her out front. He would not like to see a privacy fence but would favor a more decorative fence, perhaps wrought iron or white picket. There is no issue with visibility even with a privacy fence.

Boardmember Konchel noted that the City recommended that if the fence is approved that it be conditioned upon adding more shrubs or trees to hide the fence.

Chairman Caplan read emails from the applicant's neighbors, Elizabeth Whister, Jim Sandefur, and Sandie LeGallee opposing the applicant's request into the record.

Boardmember Berry thinks that the applicant has the right to exercise use of his property as best fits his family's use. Ordinances are written to address hardships. The ZBA is supposed to deal with these on a case-by-case basis. He thinks that the applicant has the right to ask them to do this and thinks he is within his rights to have any type of fence that he needs.

Boardmember Marcucci said that he does not have a problem with the fence except for the fact that it is 6 feet tall and wood. Boardmember Konchel noted that the applicant has the right to request this fence. However, he and the other Boardmembers were led to believe that the neighbors were not opposed to it.

Chairman Caplan noted that the applicant's property is a corner lot with two front yards. This is a tough situation. It is close to the road and has a steep grade in front of the house. He sees a hardship. Perhaps the applicant would be willing to consider landscaping. The issue with the fence might be its type and size. Perhaps there is a compromise. One hardship is that he needs it to safeguard his child.

Boardmember Behrmann would support a variance if the fence does not exceed 4 feet in height and has some kind of visibility through it; i.e., wrought iron, white picket or something decorative, but nothing to disturb the neighborhood. The applicant noted that you would be able to see through the shadow box style fence that he has proposed.

Boardmember Konchel agrees with Boardmember Behrmann on the 4-foot high fence but would like to see shrubs. Boardmember Berry asked the applicant whether his daughter can get over a 4-foot high fence. The applicant said yes since she is 5 feet, 7 inches tall.

Boardmember Marcucci asked the applicant why the fence cannot be put on the backside of the house. The applicant said that there is no elevation or safety issue in the backyard and that is not where his daughter spends her time.

Boardmember Behrmann asked the applicant whether he would support a 4-foot tall fence. The applicant suggested letting him plant more trees where there is not fencing. He noted it is not contiguous and that it would not be a big stockade fence. Boardmember Marcucci wondered why the applicant’s daughter could not walk through a gap in the bushes. Boardmember Behrmann noted that the applicant said that he does not want a 4-foot fence so there is no point in granting him one.

The applicant asked whether the neighbors are concerned only with aesthetics. He noted that the fence would be an improvement in aesthetics. Ms. Maise confirmed with the applicant that the grade varies about 10 feet. She noted that a 6-foot high fence might sound high but wondered where would that be in terms of the front of the house? Chairman Caplan thinks that with the grade it would almost make the house look taller. Ms. Maise questioned whether the colored photo submitted by Mr. Leskinen depicting the house is to scale and accurate.

The applicant said that the only thing holding the fence to the posts are wooden screws. If the fence turns out badly, he will take the fence down. Boardmember Berry asked the Boardmembers to consider the applicant’s situation and the potential financial burden of a more decorative fence. He noted that the applicant has the right to protect his daughter and keep her within his property boundaries. He asked the applicant whether he would fence off the whole front of the yard where the arborvitaes are. The applicant said perhaps although the fence would be more attractive than that. Boardmember Berry asked the applicant whether he was going to start building the fence immediately. The applicant said yes since his daughter is outside all day.

MOTION and second by Boardmembers Behrmann and Marcucci to grant ZBA Case #001-17, Randy T. Michael’s request for a variance from Section 18.13.050, Fences and walls, to allow a fence, not to exceed 48 inches in height with proper aesthetics to be located in the required front yard, to be administratively approved. The property is located at 2744 Loon Lake Road, Wixom, Michigan 48393, is zoned R-3, One-Family Residential District and the parcel number is 17-29-203-004.

ROLL CALL VOTE

Yays: Caplan, Behrmann, Marcucci and Konchel
Nays: Berry
Absent: Barts, Schira and Winters

MOTION CARRIED

- 2. **STINGERS BAR & GRILL ZBA CASE #004-15: 49050 GRAND RIVER AVE., WIXOM, MI 48393:** The applicant is requesting a second extension for a Temporary Use that was approved for the gravel parking lot on the abutting parcel. The request is being made so the applicant can finalize court proceedings to obtain a small piece of frontage land on Grand River Avenue that borders both properties. The property is zoned B-3, General Business District, and the parcel number is 22-08-376-037.

Tracy Campbell, 7836 Birkenstock, Brighton. He started a Court proceeding a couple months after he last appeared before the ZBA. This proceeding is still in Court. He referred to the diagrams contained as part of the Boardmembers’ packets. He noted that he owns the parcel outlined in red. When Twelve Mile Road was redone, they curved it and abandoned that property. He got the State to sign off and will also need the City of Novi and the County Road Commission to sign off. He is currently working on locating the descendants of the man whose name was on the deed. He cannot move his approach over and it would cost \$400,000 to redo that lot. He needs that in order to partner up with someone else. That piece of property is important and he needs it. He hopes to have that within 6 months.

Boardmember Behrmann asked about the gravel parking lot. The applicant said that it goes almost to the end and is the same width; however, it is 75 feet longer now. He is looking to develop the whole piece with another possible building next to it. Boardmember Behrmann noted that the variance was for a gravel parking lot only. He confirmed with Ms. Maise that the variance would extend it for only 1 year. The applicant noted that he is requesting a variance to not do anything since it is tied up in Court. Boardmember Behrmann noted that cars would park all over the grass like they used to. The applicant noted that he has invested thousands of dollars with the engineering firm for site plans. Chairman Caplan noted that the applicant has had it for 2 years and has maintained it well. Boardmembers Behrmann and Marcucci support the applicant's request. Boardmember Behrmann confirmed with Ms. Maise that the motion should extend it from the original anniversary date.

MOTION and second by Boardmembers Berry and Marcucci to grant ZBA Case #004-15, Stingers Bar & Grill's request for a second extension for a Temporary Use that was approved for the gravel parking lot on the abutting parcel. This second extension will expire April 11, 2018. The property is located at 49050 Grand River Avenue, Wixom, Michigan 48393, is zoned B-3, General Business District and the parcel number is 22-08-376-037.

VOTE:

MOTION CARRIED

Call to the Public:

There were no comments made by the public.

Staff Comments:

There were no staff comments.

Board Comments:

Boardmember Konchel noted that he only saw three Boardmembers respond to the email that Ms. Gallo sent out regarding attendance for tonight's meeting. That is why it is important to always use the 'reply all' function so he as the alternate, will know whether to come or not. Boardmember Behrmann noted that Boardmember Konchel should always attend the meetings since the Board should always have 7 members present for each meeting.

Adjournment:

This meeting of the Zoning Board of Appeals was motioned and adjourned at 8:37 p.m.

Nancy Fisher
Recording Secretary