

**CITY OF WIXOM  
ZONING BOARD OF APPEALS MEETING  
49045 PONTIAC TRAIL  
MONDAY, JULY 17, 2017**

Approved  
8/14/17

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, Joe Barts, Michael Schira, Steve Winters, Peter Behrmann, Ray Konchel and Tom Marcucci (7:02 p.m.)

**ABSENT:** None

**OTHERS:** Carmine Avantini (CIB Planning), Carol Rosati (City Attorney) 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 Zoning Board of Appeals Meeting Minutes:**

There were no minutes to be approved.

**Correspondence:**

There was no correspondence to be reviewed.

**Call to the Public:**

Erick Leskinen, 2713 Loon Lake Road, Wixom. He lives across the street and down from the applicant. His picture window faces the applicant's property. He was astonished when the applicant erected a 6-foot fence in violation of the 4-foot fence variance which was granted by the Zoning Board of Appeals (ZBA). The applicant's fence does not enclose the whole front yard. Some of it is 6 feet tall and some of it is 4 feet tall. It looks hodge podge. He does not understand how it will solve the special needs of the applicant's daughter. He thought the 4-foot tall fence was fine. However, then the applicant went ahead and installed a 6-foot tall fence. The applicant does not speak to his neighbors. The President of the subdivision's homeowner's association wrote an email about this. The applicant never got approval from the homeowner's association either. He does not understand how the ZBA could allow a variance.

**Unfinished Business:**

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

**New Business:**

1. **CLOSED SESSION.** A closed session will be held with the City Attorney to discuss attorney-client privileged information.

Ms. Rosati asked which ZBA boardmembers were present and voted for the original hearing on this matter. Boardmembers Schira, Winters and Barts said that they were not present for the original hearing.

**MOTION** and second by Boardmembers Behrmann and Schira to adjourn the meeting to a closed session to discuss attorney-client privileged information, under New Business Item No. 1 on the agenda.

**ROLL CALL VOTE:**

Yays: Caplan, Berry, Barts, Schira, Winters, Behrmann, Konchel and Marcucci  
Nays: None  
Absent: None

The Zoning Board of Appeals went into Closed Session at 7:05 p.m. for the purpose of discussing attorney- client privileged information. They rose from the Closed Session at 7:49 p.m.

- 2. **ZBA CASE #001-17, RANDY T. MICHAEL, 2744 LOON LAKE ROAD, WIXOM, MI 48393:** The case is being re-heard by the Board, at the request of the applicant, for consideration to allow a six (6) foot high screen fence in the front yard where a four (4) foot fence was approved by the Board. The basis for said request is compliance with the Americans With Disabilities Act.

Chairman Caplan read an email from Sandy Legal, the President of the Hickory Hills subdivision Homeowners Association which voiced concerns about the appearance of the applicant’s current fence, characterizing it as an ‘eyesore’.

Randy T. Michael, 2744 Loon Lake Road, Wixom. His current proposal is to fully enclose the fence which would address his neighbors’ concerns. He referred the ZBA Boardmembers to the hand drawn sketch which he distributed prior to tonight’s meeting. He plans to enclose the area around the house and not go the whole of Loon Lake Road. What he constructed to date was only temporary. If he stands at the front door of his home, he can see the double yellow lines of Loon Lake Road. After about seven steps, he can see what is going on along the shoulder of the road. The shadow box fence allows you to see figures behind the fence. That provides a barrier for protection and allows him to see behind the fence. He thinks that his neighbors would be pleased with the fence once it is completed. There is a 10-foot berm there. It is a small house. If he takes his eyes off his daughter for 30 seconds, someone could grab her. His concerns are around visibility and proximity. His daughter is helpless and does not even understand what is going on tonight at this hearing. She is pretty good about staying in the front area. He is more concerned about strangers approaching her.

Boardmember Marcucci asked the applicant whether he intends to tie the fence into the garage along Royalton. The applicant said no. He would leave it open since that is not a danger area. There is also access to the house at that point. He does not think that would be necessary since someone could not approach quickly from that side of the house. She has not strayed from that area thus far (3 years’ time). Also, the elevation along Royalton is not so high. His only concern would be bad visibility like with Loon Lake Road.

Boardmember Behrmann noted that at the last hearing the applicant did not request a fence across the entire front part with the bushes. Why is he changing his plans? The applicant said that it was not a big concern for safety; however, the neighbors have aesthetic concerns. He put 6 foot high sections up in the critical areas. He would rather have an enclosed consistent fence all the same style and height. Boardmember Behrmann asked the applicant whether he would agree to screen a 6-foot fence, if approved, with arborvitae. The applicant said that the fence is on the edge and that he would have to plant the arborvitae at an angle. He is proposing to put a 30-inch section behind it. Boardmember Behrmann asked the applicant whether he can move the fence back 3 feet in order to plant the arborvitae

in front of the fence. The applicant noted that it would take a lot of trees to cover that area. Boardmember Schira said that the only way that he will support a 6-foot fence is if it is screened from public view.

Boardmember Barts noted that a contiguous fence would be better than the current hodge podge appearance. However, the applicants' neighbors will be seeing a wall of wood rather than trees and lawn. The applicant said that he does have a 24-foot section of trees. Boardmember Barts noted that it is an 80-foot section. The applicant said that it is 10 feet off the road. Boardmember Barts noted that front yard fences are not the norm and he cannot support an 80-foot fence with no screening.

Boardmember Marcucci asked the applicant whether he has added any fencing since the last ZBA meeting. Was the 6-foot fence always there? The applicant said he does not think so. Boardmember Behrmann noted that at the time of the ZBA's first meeting, only the fence posts were installed. After the ZBA approved a 4-foot fence, the 6-foot sections were erected. Boardmember Marcucci asked the applicant why he did that. The applicant said that he is terrified of the situation. Boardmember Winters asked about the gap between the garage and the fence. The applicant said that he is worried that someone is going to get in.

Chairman Caplan confirmed with the applicant that he is more concerned with someone grabbing his daughter. Boardmember Winters noted that everyone has to worry about this. He does not believe that a stockade fence is reasonable. Chairman Caplan said that he would be concerned about her getting into the road. The applicant said that he has no visibility and cannot see 5 feet. Chairman Caplan said that one of the concerns is that the fence will appear even taller than it is since it will be located on a berm.

Boardmember Behrmann asked the applicant if he had two choices, which would he choose: 1) keep the 4-foot high fence variance; or 2) have a 6-foot fence completely screened by arborvitae? The applicant said the second one is the only solution since his daughter's situation will not change. She will never become a normal 17-year old who can scream for him or call 911 herself. He plans to stay in this home. He does not believe that a future owner of this home would remove the fence if the home did change hands.

Mr. Avantini noted that the ZBA is looking at this differently because of other applicable laws and information provided by the applicant. The ZBA's focus needs to be on the solution rather than questioning the reason for needing the fence. They need to ask 'What is the best way to provide the relief that is sought?' and how to minimize the impact on the abutting properties.

Ms. Rosati told the applicant that if the ZBA were approaching it from trying to provide reasonable accommodation due to a disability, she would understand if part of the treatment would be an attempt to put his daughter in different experiences; i.e., go outside and experience sensory things that might give rise to certain needs. However, if she is hearing the applicant correctly tonight, his biggest concern is that because of his daughter's disability she will be unable to protect herself. The focus is not to provide his daughter with experiences similar to what another child might experience. The applicant said it is about his fear of something happening to her. She plays outside all day. That is what she enjoys and knows. He does not have so much a fear that she will run out into the street. She understands her boundaries but does not understand strangers approaching her within her boundaries. Ms. Rosati said that the applicant is asking the ZBA to provide some accommodation that will provide some feeling that his daughter is out in the yard and cannot be easily approached. The applicant said that he wants a 6-foot fence. Ms. Rosati asked whether a 6-foot fence is the only way to accomplish that. How about some kind of screening that would give him a warning? What about a continuous 4-foot fence with arborvitae screening? That would provide a block with the arborvitae providing some visual softening. She is not convinced that a 6-foot fence is the only answer. The ZBA has to consider everything and figure out how to accommodate it.

Boardmember Schira noted that Ms. Rosati has raised concerns and suggested tabling this matter until the next ZBA meeting. What about utilizing security cameras? The applicant asked how that would give him a head start. Ms. Rosati suggested talking a bit more during the interim and that everyone can think of other options. Chairman Caplan said that up until today, the Boardmembers thought the applicant’s concerns were safety related. The applicant said he is concerned that people can drive up and down Loon Lake Road and study her behavior which is what predators do. That kind of thing can happen in Wixom too. The fence that he proposed solves all of that since she would not be seen or even be approachable.

Chairman Caplan said that the ZBA looks at cases on an individual basis. You do not see many tall fences in front yards which means they have to examine everyone’s concerns. Boardmember Behrmann supports tabling this matter in order to come up with other solutions. He completely understands the applicant’s concerns. However, he also understands the applicant’s neighbors’ concerns and arguments. It may be extremely beneficial to have some conversations with his neighbors to see what they will support that will also accommodate his family.

**MOTION** and second by Boardmembers Schira and Behrmann to table until the next scheduled ZBA hearing re-consideration of ZBA Case #001-17, Randy T. Michael’s request to allow a six (6) foot high screen fence in the front yard where a four (4) foot fence was approved by the Board. The property is located at 2744 Loon Lake Road, Wixom, Michigan 48393.

**ROLL CALL VOTE:**

Yays: Barts, Schira, Winter and Behrmann  
Nays: Caplan, Berry, Marcucci  
Absent: None

**VOTE:**

**MOTION CARRIED**

**Call to the Public:**

Erick Leskinen, 2713 Loon Lake Road, Wixom. He does not recall the prior ZBA meeting regarding tonight’s case including concerns by the applicant about kidnapping and does not know of many such cases. He would like to see some statistics at the next meeting regarding that. A 6-foot fence on a berm is like a 20-foot fence. It is ugly. Although arborvitae may help, it will still be an eyesore. The Ordinance says if the fence is in the front yard, it needs to be somewhat transparent. However, this is a wood fence. He would be more open to an iron rail 4-foot high fence. He does not think someone could climb over a 4-foot high fence to grab a child. Most neighbors are aware of what is going on in the neighborhood.

**Staff Comments:**

There were no comments made by the staff.

**Board Comments:**

Chairman Caplan confirmed that tonight’s case has been tabled until the ZBA meeting on Monday, August 14, 2017 at 7:30 p.m. No notice for public hearing will be required.

Boardmember Barts reviewed old meeting minutes and sought to confirm that Boardmembers are only to respond to Ms. Gallo’s emails if they are not able to attend the ZBA meetings. The other Boardmembers agreed that this is the case. Mr. Avantini said that it is great to have Boardmember Konchel since he is such a dedicated alternate ZBA Boardmember.

Boardmember Berry understands the City's Ordinance. However, he believes the ZBA has to take into consideration the applicant's situation, how he is trying to protect his family and run his household. The fence he is requesting represents security so that he does not have to worry about his daughter 100 percent of the time, keeping a constant vigil and wondering where she is. Even though our community is very safe, there are always people who will do harm. He referenced the recent freeway shooter who was found to be living in Wixom. The ZBA needs to look at the applicant's request and accommodate him the best that they can.

**Adjournment:**

This meeting of the Zoning Board of Appeals was motioned and adjourned at 8:30 p.m.

Nancy Fisher  
Recording Secretary