

**CITY OF WIXOM
ZONING BOARD OF APPEALS MEETING
49045 PONTIAC TRAIL
MONDAY, JULY 9, 2018**

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 and Tom Marcucci
ABSENT: None
OTHERS: 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 June 11, 2018 Zoning Board of Appeals Meeting Minutes:

MOTION and seconded by Boardmembers Schira and Barts to approve the June 11, 2018 Zoning Board of Appeals Meeting Minutes.

VOTE:

MOTION CARRIED

Correspondence:

City Manager Update – June 12, 2018
City Manager Update – June 26, 2018

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 VARIANCE #005-18: GREG ULMER, 2661 LAKERIDGE AVENUE, WIXOM, MI, 48393:** The applicant is seeking variances to allow 4-foot side yard setbacks from the east and west property lines, when a minimum setback of 10 feet on one side and 6 feet on the other, for a total of 16 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 zoned R-3, One Family Residential, where single family residential uses are permitted in that district. The parcel number is 17-29-213-002.

Chairman Caplan informed the applicant that it will need a majority vote, which equates to four Boardmembers, in order to secure the relief they are seeking.

Greg Ulmer, 2771 Gadwall, Wolverine Lake. He would like a variance to build on a lot on Loon Lake. He lived in the house next to the empty lot up until three weeks ago. Then he sold it. He would like to build on this lot. He needs a variance to build within 4 feet of the east and west sides of the lot. His

hardship is that to build a comparable home, it would have to be very long and skinny. Also, it could block the lake view of two of his neighbors. He built the house at 2665 Lakeridge about 15 years ago and applied for the same variance for that parcel. The two lots are identical. When he bought this lot 4 years ago, the ZBA granted a variance even though it lasted only 1 year.

Chairman Caplan noted the applicant will be building a narrow, deep house with almost the exact same footprint and that he had very tentative plans drawn up. The house that the applicant wants to build is no bigger than the one he built 15 years ago. He anticipates the footprint will be a little narrower; however, the architect is drawing bumpouts but he was told that would count. Chairman Caplan confirmed with the applicant that his proposed home will line up with the other two homes. Boardmember Marcucci asked how big the applicant's proposed home will be. The applicant said it will be two stories and 2,800 square feet with a walkout basement. It drops from 932 feet in elevation to 913 feet.

Boardmember Berry confirmed with the applicant that the floor plans call for 2,800 square feet. Boardmember Berry asked what the total vertical height will be. The applicant said that he does not know but that it will be less than the two houses on either side. He does not currently have detailed plans. The lot is so pitched and steep it varies by 12 feet. The new house would be less than the peaks on either side. Boardmember Berry noted that the lot is only 8,613 square feet. Based on R3 requirements of 30 percent coverage, the applicant would be 300 feet over. Does the Zoning Board of Appeals (ZBA) need to grant the applicant a variance based on the square footage? Chairman Caplan said the ZBA will have to assume that the applicant will work within the Ordinance for height and square footage unless he wants to come back in the future. He does not know whether the ZBA will have to see what the applicant would do on a preliminary plan.

The applicant noted that he only recently learned about the Fire Code and window and wall sizes. If he gets to less than 5 feet from the lot line then the building materials have to be fire rated on the side and it can only be a certain percentage of windows. If he can get approval on what is allowed, he will work with the Building Department on the rest of it.

Chairman Caplan said that the ZBA does not need to address each item which could crop up. Boardmember Marcucci suggested focusing on the variance which is in front of them at this point. Chairman Caplan said that the ZBA could add the 300 square feet as an addendum to the motion. Boardmember Berry noted that he brought it up since it is part of the Zoning Ordinance. He noted that the applicant can deal with the side yard variances and then they can table this portion of the discussion and decide whether they want to do that or not. Chairman Caplan suggested addressing what the applicant is requesting and assuming that he will work within the Ordinance and do an addendum.

Than Tran, 2683 Lakeridge, Wixom. He moved to his home 3 years ago. He noted that the applicant has been a good neighbor. However, he would like to maintain his property the way it is. He would like the applicant to meet the requirement of 6 feet on one side and 10 feet on the other. He asks that the applicant's new home be built to those requirements. He referenced five different requirements that the applicant must meet including extraordinary circumstances. He does not think that any of those five requirements apply to the applicant. Allowing this variance will impact his home. He believes this is a self-created problem of the applicant. He would like as wide a gap as possible between the two homes instead of being 4 feet apart. Boardmember Marcucci asked Mr. Tran whether his home is to the east or west of the applicant's lot. Mr. Tran said that he is situated to the west of the applicant on a double lot.

Boardmember Behrmann noted that there is 6 feet until the empty lot and 10 feet on the other side currently. Would it be okay if it were 6 feet? Mr. Tran said that 10 feet would be better but that he can do 6 feet. Boardmember Barts confirmed with Chairman Caplan that it is 10 feet on one side and 6 feet on the other. Chairman Caplan noted that it is only a 24 foot difference. Mr. Tran noted that he and his

wife would like to maintain that openness. If you go to the east, it is very tight. If you go toward the west, it opens up. They fell in love with their property because of its openness.

The applicant noted that they are talking about 2 feet. He can probably live with 6 feet on one side if the ZBA grants the variance on the east side so he can go to 4 feet. A compromise would be if he goes 4 feet from the other house, the Building Department tells him to worry about fire issues. If he is 5 feet and 5 feet, he does not have those issues. It will probably be 6 feet on his side. There are two variance requests tonight: 1) go from 6 feet to 4 feet on the east side; 2) go from 10 feet to 4 feet on the west side. If his neighbor is okay being on the 6 foot side, in theory he could do 10 feet on the other side to comply.

Boardmember Behrmann noted that the people next to the applicant's home which he sold is aware of the issue and that they asked where the new house would be. The Ordinance says that it could be 70 feet closer to the lake. It only has to be 35 feet off the lake. The applicant noted that he agreed with new owners of his prior home that the home he built would not go any further toward the lake than the house they bought which preserves their lake view. Boardmember Behrmann asked whether the neighbor would prefer a house that is closer to him or one that would block more view of the lake. He could be 70 feet closer to the lake. Chairman Caplan noted that he would be okay if he gave them 6 feet on the west or 4 feet on the east. The applicant noted that 5 feet and 5 feet works better due to the fire safety regulations. Having a 30-foot footprint is kind of where he is at. He would like 32 feet but will compromise. Boardmember Barts asked whether 5 feet and 5 feet is permitted when the applicant formally requested something other. Chairman Caplan said that they have done this in the past.

Mr. Sprague said that the Boardmembers should examine whether a lesser variance works for this property. If they find that there is a lesser variance would do justice to the property owner and the neighbors, the Boardmembers can recommend it and approve it.

Mr. Tran noted that the requirements say that it should be 10 feet and 6 feet. He is willing to compromise but he wants to maintain the 6 feet. He is okay with 4 feet on the other side.

Chairman Caplan asked Mr. Tran when his home was built. Mr. Tran said that he moved into his home in 2015. Chairman Caplan confirmed with Mr. Tran that he was unaware of the applicant's existing variance.

Boardmember Schira said that he would support 6 feet on the west and 4 feet on the east and that that represents a compromise. The rules allow for that. Boardmembers Barts and Marcucci agreed. The fire safety requirements are easy enough to deal with via the architect. The neighbor has a valid point.

Mr. Sprague noted that the City has recommended approval. The thing of biggest concern was the narrow lots. They agree with the Building Department that they would like to see 10-foot widths between structures in the event of fire. The Building Department said that as long as the owner can build within current Michigan Code at the time of construction, the Building Department told the applicant he would have to have additional fire rating and windows if he were closer.

Boardmember Behrmann noted that the other house is within 4 feet. The garage is virtually touching his old house. There are ways to address it. Chairman Caplan noted that the applicant could build closer to the lake. The applicant noted that he looked up the Ordinance regarding fire rating. It is not about how far out you are from the other house. It speaks from a lot line standpoint. If you get within 5 feet of your lot line, you are in a different category. Boardmember Behrmann asked the applicant whether he would prefer 4 feet and 6 feet or 5 feet and 5 feet. The applicant prefers 5 feet and 5 feet.

Boardmember Berry asked the applicant why he sold his previous home. The applicant said that he wanted to downsize and have a different floor plan as he ages. Boardmember Berry asked whether the applicant’s proposed new home will be his permanent residence. The applicant said that it is 30 feet by 50 feet for the main floor equating to 1,500 square feet plus 1,200 square feet for the second floor. It will have a full walkout and be about 2,700 square feet. He can probably adjust that footprint.

Boardmember Behrmann feels that it was already approved once. With some due diligence, the neighbor should have learned about the applicant’s existing variance. He sees no reason not to approve or change what the ZBA decided 4 years ago.

Boardmember Barts noted that the 5 feet by 5 feet is still 10 feet. However, the 6 feet and 4 feet solves the neighbor’s concerns. The neighbor would not have looked for a variance and does not expect that the City would have informed the neighbor of that. He does not think this is a case of lack of due diligence on the neighbor’s part. The 6 feet and 4 feet is a compromise. The neighbor has stated that 6 feet is fair. He would go with the 6 feet and 4 feet. Boardmembers Schira and Marcucci agreed. Boardmember Barts noted that in 2014 it was the petitioner for his own land. Boardmember Berry noted that they are only going to deal with the setbacks currently. The applicant should be told that he needs to tell the Planning Commission of the size house he intends to build since he will need a variance. Mr. Sprague noted that it would have to have under 30 percent coverage.

MOTION and second by Boardmembers Schira and Winters to approve Variance #005-18, Greg Ulmer’s request for a seeking variance to allow a 6-foot property setback on the west side and a 4-foot property setback on the east side for the reasons set forth in Mr. Avantini’s July 9, 2018 review letter. The property is located at 2661 Lakeridge Avenue, Wixom, Michigan 48393, is zoned R-3, One Family Residential and the parcel number is 17-29-213-002.

Roll Call Vote: 6 AYES: Caplan, Behrmann, Barts, Marcucci, Schira and Winter
1 NAY: Berry
0 ABSENT: None

MOTION CARRIED

Call to the Public:

None.

Staff Comments:

Mr. Sprague noted that there is a joint meeting next Monday between City Council and the Planning Commission to discuss the Master Plan.

Board Comments:

Boardmember Schira noted that there is a house on Potter Road just east of Wixom Road which is under construction. The second house is on the south side. It is now being bricked. Boardmember Barts noted that the pre-constructed one is set so far back. Mr. Sprague noted that it should have a 35-foot front yard setback from the property line. Boardmember Marcucci asked where the sidewalk is in relationship to that. Boardmember Berry said that he likes the idea that he was trying to preserve the back of that lot since there are nice trees there.

Boardmember Schira noted that there needs to be a ‘no left turn lane’ sign outside Culver’s so that people are not going southbound on Wixom Road.

Boardmember Behrmann noted that the hotel that came before the ZBA for the excessive number of dumpsters onsite has done nothing regarding the cleanup of the temporary containers. He asked whether it will be put on the ZBA's agenda next month. If so, he is willing to reconsider that and deny it. Mr. Sprague noted that the ZBA could revoke the applicant's permit. Chairman Caplan noted that the applicant said it is waiting on a permit from the City. Boardmember Marcucci agreed that the applicant has not done anything. Mr. Sprague noted that he will get answers regarding this on Wednesday and will send a letter. The Building Department will also address it.

Adjournment:

This meeting of the Zoning Board of Appeals was motioned and adjourned at 8:11 p.m.

Nancy Fisher
Recording Secretary