

**CITY OF SOUTH LYON  
ZONING BOARD OF APPEALS  
May 18, 2017**

Chairman Weipert called the meeting to order at 7:04 p.m.

**ROLL CALL:**

**PRESENT:** Chairman Phil Weipert and Commissioners Ron Morelli, Frank Fogarty, Joe Rzyzi, Steve Mosier and Brian Dunn. Also present Kelly McIntyre and Megan Blaha (Planning Commission).

**EXCUSED ABSENCE** - Timothy Wilhelm (City Attorney).

Chairman Weipert led the committee into the Pledge of Allegiance.

**APPROVAL OF AGENDA**

**ZBA 5-18-17 APPROVAL OF AGENDA**

Motion by Rzyzi, supported by Morelli

To approve the agenda.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**APPROVAL OF MINUTES:**

**ZBA 5-18-17 APPROVAL OF MINUTES**

Motion by Rzyzi, supported by Morelli

To approve the minutes of the February 16, 2017 meeting with the following correction: Commissioner Rzyzi noted on Page 1 under Approval of Agenda the minutes reflect Chairman Wilhelm (corrected to Chairman **Weipert**).

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**NEW BUSINESS**

**ZBA Case 2017:003-Joe Van Oyen – 719 S. Lafayette**

*Request: The applicant is requesting a variance from the City of South Lyon Code or Ordinances, Sec. 102-477 (9). "Off-street parking space layout, standards, construction and maintenance"... Except for single-family residential uses, the perimeter of all hard surfaced parking areas and landscaped islands shall be constructed of concrete curbing. In those instances where a parking area is nonconforming with respect to paving, the expansion of the use of land or structure shall require the paving of such parking area in conformity with this section.*

*The applicant is requesting a variance to eliminate the concrete curbing in favor of doing a swale.*

Weipert then called up the applicant to state his name and address for the record and to tell the board members what his request and practical difficulty is.

Mr. Van Oyen introduced himself and stated his address as 719 S. Lafayette. We are requesting a variance to omit the curb for the parking lot. We will have a swale to control the storm water on our property. It will be small under 5,000 sq. ft. of concrete. Does anyone have anyone have any questions.

Chairman Weipert inquired as to the difficulty he is having with trying to conform with the ordinance. Did you get a chance to review the comments from CIB Planning.

Mr. Van Oyen replied yes and it is the shallowness and the very, very small parcel and I don't want to intrude on the neighbors while controlling all the storm water.

Commissioner Fogarty stated so these plans are not indicative of the proposed 10 parking spaces as they exist now.

Mr. Van Oyen noted that we can do the 6 spaces in the rear and that is less than 1/10 of an acre of concrete so with the Storm Water Management Act there is no need to have a detention pond in order to keep all the storm water in place.

Commissioner Morelli asked if the concrete curb has to be on the sides of the driveways, or does it have to be on all concrete not only the parking lot but on the drive on both sides.

Planner McIntyre agreed that the curbing has to be on all concrete.

Commissioner Morelli stated that is what he thought. I don't understand how you are going to control the water and keep it on your property when it looks like there is maybe 6" between the property lines. Up by the sidewalk you are about 4' higher than the back of the parking lot so the water will naturally run that way downhill. When it is raining that is fine but when it snows and we get 10" of snow and that snow has to go somewhere or that snow is pushed up into a pile and then melts quickly, it will be harder to be contained verses rainfall.

Mr. Van Oyen noted that the perimeter is about 8" higher than next to the building. Then we will have a swale in the center of the drive.

Commissioner Morelli again stated he does not see how he will contain the storm water. If you had 3' or 4' of space so anything that fell off that lot, then there would be room. You don't have that much room. The snow would go off your parking lot onto the lot next door and right now that lot is not developed but it does not mean in the future it will not be developed.

Mr. Van Oyen noted that both lots on either side of them are higher in elevation than his property. We also have a lot of mature trees along the perimeter and we are trying to keep the driveway inside of those trees. The curb will eat up an additional 6"-8" of each side of the driveway. Would more specific plans satisfy the board.

Commissioner Morelli noted he has been on the board since 1994 and I have been waiting 22 years for that piece of property to come before us and it finally has. You have done a phenomenal job and the house looks amazing. The drives will be narrow and the lot is very narrow. I personally don't see a practical difficulty, but I am only one vote.

Commissioner Fogarty added other than how small it is (after driving through there) I noticed you did a beautiful job but if you look down the drive way it looks like hell. Curbing would enhance it.

Chairman Wiepert agreed that the curbing would clean it up. It is on Pontiac Trail and we are looking to the future here and what we will have forever. If you get a variance we would not have a clean look of curbing.

Planner McIntyre explained I would expect and like to see curbing at the front of the property as it connects into Pontiac Trail and I don't think you can get away from that. The concern with the narrow drive way is that it will take up 6"-8" and it is already so small it does not meet ordinance. It is acceptable but not what we like to see as far as the width of the drive as you would be making it smaller. There is some merit but again the front of the property as far as the curbing would be a primary concern.

Commissioner Fogarty responded that if you go by the Auto Store that is clean and neat, then Family Video is clean and neat and both properties are in the City. The oil change next door also has a sidewalk. I can't understand why you would not want to keep up with the "Joneses" as well as the code as it exists going into the future.

Commissioner Rzyzi questioned what benefit does this do for the applicant's business?

Mr. Van Oyen replied it would be much easier to plow and we are controlling the storm water management and the shallowness so we are gaining width on those driveways coming in since they are very tight and there are branches I need to trim back there from the neighbors. The curbs on each side would reduce it 1'-1.5' off of that and you are narrowing it. Because of the shallowness and narrowness of the drive this would make it feel more open and we are controlling all our storm water and that is the primary objective of curbs along with esthetics.

Commissioner Morelli added that many years ago I plowed snow and I understand why it would be easier to plow the snow. If you can push it off the sides but if you push it off the sides, it will go onto your neighbors lot. So you are not keeping it on your property. If you had 5' and you pushed it over okay, but you don't. I would love to be able to help you but I don't see where you are showing any practical difficulties or how this ordinance is burdening you in some way where you can't conduct business. I don't think you meet the criteria to change a rule. I don't see where you have a case to do that. I am only one vote.

Mr. Van Oyen responded that the practical difficulty is actually the width having trouble getting in and out. It will take 1.5' - 2' out of each driveway bringing it down to 8'.

Commissioner Rzyzi asked about the width of the curbs and if any adjustments could be made there.

Planner McIntyre responded that the curbs are standard size. This property itself is almost non-conforming/existing non-conforming. They took all the façade off so there was no site plan review since the footprint did not change but when upgrading appearance we targeted other things like the parking lot.

Mr. Van Oyen replied when we remodeled the Building Department asked that we put in a sidewalk which we did but they did not say anything about a driveway or to bring up the entire property to conforming.

Commissioner Morelli noted that when you raise the roof then you have to bring the entire site into compliance. You did a good job on the building.

Mr. Van Oyen questioned if the board had the opportunity to look at the boundaries on the sides with the trees. My neighbors are concerned with those.

Chairman Weipert confirmed that the building size has remained the same.

**ZBA CASE 2017:003 –JOE VAN OYEN – 719 S. LAFAYETTE.**

Motion by Morelli, supported by Fogarty

To deny the request based on the failure to prove a practical difficulty.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Commissioner Rzyzi replied if there was some sort of compromise with the Building Department I would be willing to entertain that. What we have before us is not enough.

Commissioner Dunn questioned possibly tabling the case.

Commissioner Morelli – We have held all those other properties to those standards and they have done a nice job. You have done a great job and I would like to see that your property looks as well as the others surrounding it. I would like to see him treated like everyone else. Just because you want it does not mean you get it. You have to prove why you need it and why you cannot exist without it. Well you can exist, it will be tight and you will still have to control the water that is on the property and it will flow back to the wetland where it goes now. All that works how it is supposed to work. It will be tough plowing snow and keeping it all on your property. I love trees but they are removable resources. Then can be planted again. You need to do what you need to in order to move forward with your project. A lot of time, if concrete is laid for driveways, the tree roots will die anyway.

**OLD BUSINESS**

None

**STAFF REPORTS**

Chairman Weipert inquired if anything was coming up for the board?

Planner Blaha noted we do have something coming up in June. New duplexes on McHattie.

Planner McIntye added they are looking for side yard variance and lot coverage.

**ZBA 5/18/17 – ADJOURNMENT**

Motion by Morelli, supported by Fogarty

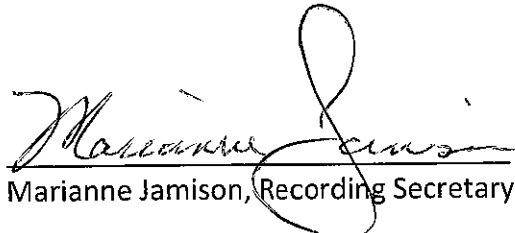
Motion to adjourn the meeting at 7:35 pm

**VOTE**

**MOTION CARRIED UNANIMOUSLY**

Respectfully Submitted,

  
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Phil Weipert, Chairman

  
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Marianne Jamison, Recording Secretary