

**CITY OF SOUTH LYON  
ZONING BOARD OF APPEALS  
May 19, 2016**

Chairman Weipert called the meeting to order at 7:03 p.m.

**ROLL CALL:**

**PRESENT:** Chairman Phil Weipert and Commissioners Brian Dunn, Ron Morelli, Joe Rzyzi, Frank Fogarty and Steve Mosier. Also present Carmine Avanti (Planning Commission) and Tim Wilhelm (City Attorney).

**ABSENT:** Michael Joseph - Excused.

**ZBA 05-19-16 MEMBER ABSENCE**

Motion by Rzyzi, supported by Dunn

To excuse Michael Joseph's absence from the meeting.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Chairman Weipert led the committee into the Pledge of Allegiance.

**APPROVAL OF AGENDA**

**ZBA 05-19-16 APPROVAL OF AGENDA**

Motion by Dunn, supported by Morelli

To approve the agenda for tonight.

**APPROVAL OF MINUTES:**

**ZBA 05-19-16 APPROVAL OF MINUTES**

Motion by Morelli, supported by Fogarty

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To approve the minutes of March 17, 2016 with one correction – page 3, 13th paragraph, the sentence should read: Commissioner Morelli noted that the requirement is **12'** (not 2').

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

### **NEW BUSINESS**

#### **ZBA Case 2016:002 – Superb Fabricating – 330 Reese St.**

*Request: Chapter 102 Zoning, Section 102-456 Schedule Limiting Bulk, Density and Area by Zoning Districts, Minimum Side Yard Setbacks, requires a 40 foot yard setback in the R-1 Light Industrial District*

*The applicant is proposing a 15 foot front yard setback from Donovan Street, requiring a 25 foot front yard setback variance.*

*Chapter 102 Zoning, Section 102-456 (i) Schedule Limiting Bulk, Density and Area by Zoning Districts, Minimum Side Yard Setbacks, requires that no off-street parking shall be permitted closer than 40 feet to any side or rear lot line adjacent to a residential district.*

*The applicant is proposing off-street parking 12 feet from a lot line adjacent to a residential district. A 28 foot off-street parking setback is required.*

Chairman Weipert called the applicants to come up and to state their name and address for the record and what his practical difficulty is.

Mr. Avantini noted that prior to hearing the case and since we are short board members and even though I have recommended approval on both variance requests, we need to give the applicant the opportunity to table the case if they prefer a full board. Also that board members know some of the applicants or their consultants.

Board members noted how some knew of the applicants but felt they could judge the case fairly.

Chairman Weipert noted that this is a small town. You would have to have a financial interest in the outcome of the case. He also noted that we have to have a super majority to overturn the decision of the building inspector.

Jeff Hanson representing Superb Fabricating. We are a small manufacturing facility and we do laser cutting and bending. The reason we are here tonight is about two years ago we put a small addition on and was granted a variance at that time. Now, we need a variance to put a new building up since our envelope is very limited. This will be about 7,000 sq. ft. of manufacturing space and 3,000 sq. ft. of office space. The offices will be upstairs.

Chairman Weipert clarified that what the board is asking for is what is unique about the property making it difficult for you to comply with the ordinance.

Mr. Jack Zelazny of 347 Rosemary St., Dearborn Heights, MI introduced himself as the architect of records for the project. We have a unique situation because it is a triangular parcel and it has two front yard setback requirements. We have a situation where we have to do an extensive amount of on-site storm retention because of the nature of the shallowness of the storm lines on Able St. so we worked closely with the Engineering Department on this and come to find out what we had to do to get the natural flow across the driveway and into the storm retention pond which is about 25% of the property. We thought between these particular issues the triangular site, the two front yard setbacks and the fact that we separately need an interchange between two buildings that are in-line with each other we were hoping we could continue the situation of a setback that we were granted to build an addition a few years back. We brought samples of what things looked like going to the new building and what things look like at the existing building which seems to be working very nicely. I think all the neighborhood is happy with what the company has done there. The setback issue is not proposed to the street and they are maintaining a clean landscaped site.

Commissioner Morelli addressed the audience and questioned if any neighbors were here.

Kent Lester of 300 Donovan Street stated I think they have a good plan, they are cleaning out the dead trees and landscaping. I have no reservations at this point. I have no issues.

Commissioner Morelli added that the planning commission at one time recommended to City Council that the entire area be rezoned multiple residential to make all these places conforming so this would not happen. Walkers could keep his garage there as long as he wanted to. The planning commission's plans for 40-100 years down the road. They wanted to see residential over there. Now it seems like we are going in the opposite direction. I know you take care of the site and it looks nice but it seems like you are trying to put 20 lbs. in a 10 lb. sack. That is why I was curious as to what the neighbors thought.

Mr. Hanson replied that he spoke with all the neighbors and showed them the plans and I also spoke with Mike on Reese Street.

Commissioner Morelli noted that on the plan it states Proposed where you wanted to come down to the point of the triangle which is directly across the street from you.

Mr. Zelazny responded that they are not over building the site and I take exception to the Council comment. We are conforming with the lot coverage, the parking requirements and landscaping requirements pending the final review. This zoning is industrial. We have worked very closely with the planning consultant into making the building a bit more interesting to the residential occupants across the street. They have incurred a lot of money in putting natural stones and things like that which would not be ordinarily seen in an industrial complex. That was one of the mandates the planning consultant put upon us that we would make the building look interesting for the surrounding area. The owners put a lot of money into it. We want it to look nice also.

Commissioner Morelli added that when the cell tower was requested almost everyone was opposed.

Chairman Weipert suggested the committee go through Mr. Avantini's findings to see what the practical difficulty is.

- a. The need for the requested variance.

The subject property has frontage on two streets, is triangular in shape at the southeast corner of the site, it sits opposite residential properties to the east and abuts a railroad track to the south. The railroad creates an artificial flood zone.

- b. That the need for the requested variance is not the result of actions of the property owner or previous property owners.

The requested variance is needed due to the triangular shape of the lot and related ordinance requirements, not the actions of the current or previous property owners.

- c. The strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonable prevent the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

The unique shape and being a through-lot prevents the property owner from reasonable using the property.

- d. That the requested variance is the minimum necessary to do substantial justice to the applicant as well as to the other property owners in the district.

The proposed addition is the minimum necessary to accommodate the expansion without being too close to Donovan Street.

- e. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

The proposed improvements should have a positive impact on the surrounding neighborhood because it will create a neat and orderly look to the site, with an attractive building and paved parking lot.

Carmine did the fact finding for us.

Mr. Avantini added one additional point. When they came in a few years ago for the first addition, there was a lot more residential involvement. The applicants went to great lengths to find materials and combinations that were acceptable to the residents who lived there. They were comfortable with those improvements, so what they did this time with the proposed building is to match that. Providing consistency between the buildings but also providing the same look that was requested and desired by the governing body. That probably has a lot to do with not a lot of people being here tonight.

Chairman Weipert inquired if there were any more questions.

Attorney Willhelm offered that the board should identify the variance and hit the factors for each one of them.

Grant the variance for a front yard setback variance for 25' to construct a 9,557 sq. ft. manufactured office building along with associated site clean-up. A 15' building setback is being provided along Donovan St. when a 40' setback was required. For the reasons as follows: the strict performance of regulations governing area setback, finish, height, bulk, density or other dimensional requirements that unreasonably prevent the property for the permitted use.

Purpose – will render conformity with those regulations that are unnecessarily burdensome.

The need for the requested variance is due to the unique circumstances or physical conditions of the property involved such as: narrowness, shallowness, shape, water, topography and is not due to the applicant's personal or economic difficulty.

The requested variance is the minimum variance necessary to do substantial justice, to the applicant as well as the other property owners in the district and the requested variance will not cause an adverse impact on surrounding properties or property values in the neighborhood or zoning district.

**ZBA CASE 2016:002 – SUPERB FABRICATING – 330 REESE STREET**

Motion by Fogarty, supported by Mosier

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**ZBA Case 2016:003 – Pullum Windows – 415 N. Lafayette**

Request: Chapter 102 Zoning, Section 102-456 (k) Schedule Limiting Bulk, Density and Area by Zoning Districts, Minimum Side Yard Setbacks, requires that building walls facing a residential District shall provide a yard setback at least equal to a ratio of five feet of horizontal setback for each foot of vertical height.

The applicant is proposing a setback of 25 feet from the adjacent residential district property. A 70 foot setback variance is required.

Chairman Weipert offered the applicant the opportunity to table the case if they prefer a full board.

Don Beagle of 1089 Chestnut Lane introduced himself as the Consultant for Mr. Pullum. They are looking to rebuild the building that was burned down. It was totally destroyed and rebuilding it requires site plan approval and bringing the site up to current zoning standards and in doing so, it calculates out to have a 95' setback on the rear yard since this facility is adjacent to residential. The green building is the location of the current foundation that remained after the fire. The yellow building is the one with the 95' setback. If we were to do that it would be 45' between the buildings which would not allow truck maneuvering or loading docks. What it requires is a complete modification of the site that has been there and functioned for many

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years. We would have to bring a road around the building where it is required to be located per the ordinance. In order to get truck maneuvering, we would be introducing truck traffic noise and activity where it is currently not located.

What we are asking for is to be able fulfill the original location of the building and not have to have the 95' setback. We are asking for the variance; 1) it allows us to use the existing foundation 2) it allows us to use the existing pavement and would reduce the amount of pavement that would be required. It would severely hamper the operations ability by moving a building into the middle of the site.

Commissioner Morelli questioned if there were anyone from the public present?

(No residents present)

Commissioner Morelli replied that it is my understanding that you are going to go right over the same place as the original building.

Mr. Pullum noted that the proposed building will be shorter.

Commissioner Morelli inquired of the green space and trees behind it is that your property or school property?

Mr. Pullum responded it is the school's property and there will be no storage of hazardous by-products or materials there. Just windows and glass.

Chairman Weipert inquired about the history of this location from Carmine.

Mr. Avantini replied the ordinance has some quirky standards the ordinance says when you are next to residential district (even though we don't have homes behind this) that 1' of height separates it. Most ordinances do not do that now. What they do is have a setback and then have buffer requirements. We are reviewing the ordinance through the Planning Commission right now. The old standard is tough to work with right now and if they were to put it in any other location it would hamper their operations on-site. It would do the opposite of what the ordinance is supposed to do; it would have a greater impact on the neighboring property and that is why we have standards in the first place so this does not happen. It is a unique situation and for the reasons mentioned in the letter.

Chairman Weipert added that they boarder school property and the school is zoned residential.

Mr. Beagle offered that they did receive site plan approval and they did speak with the schools (Chris Bollinger) and they have no plans to take out those trees and the buffer is to remain.

As to the screening issue, this area has to remain open where the power line is. The school has no plans to remove the vegetation. It is neutral colors and will not be an objectionable view even when the leaves are off the trees. It will be like a screened wall.

Chairman Weipert asked for any additional questions and noted that we do have all the comments from our planner. The standards are:

That the needs and requests are due to the unique or physical conditions of the property involved, it abuts the railroad, its triangular shape, it limits the ability to move the building further back, and unable them to move away from the west property line.

The requested variance is not the result of actions of the property owner or previous property owner. The need is due to the triangular shape of the lot and related ordinance requirements, not the actions of the current or business owners.

The strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unnecessarily prevent the property for a permitted purpose and our planner's response was the building, if moved, would go to the 90' setback and it would minimize the width of the lane between the buildings and drastically reduce the ability to access either building or parking and would be unnecessarily burdensome on this site and prevent reasonable use of the property like others in similar circumstances.

The requested variance is the minimum variance required to do substantial justice to the applicant as well as other property owners in the district. Our planner's response was that the proposed setback is the minimum necessary to re-construct the building and still provide reasonable access.

That the requested variance shall not cause an adverse impact on surrounding property, property values, the use and enjoyment of property in the neighborhood or zoning district. Our planner tells us that the building will be constructed at the same location as the previous building and provide no greater impact than before. There are no known problems with the previous building (we all did not know it was there) which backs up to the school property and will not visually impact structures.

Chairman Weipert offered that the board can phrase the motion and the fact that the request is a variance to Chapter 102. You say I make a motion to grant a variance to

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Chapter 102, Section 102- whatever it involves to grant the motion. This is the proper way to say it.

Mr. Avantini noted that you also have the ability to reference the planning letter dated April 30, 2016 and that we are in agreement with reasons identified and the items were discussed. That would also accomplish it.

I will make the motion to grant the variance to Chapter 102 Zoning, Section 102-456 for the reasons stated in the letter dated April 30, 2016. The variance is for a setback of 25' from the adjacent property where a 70' setback is required. With the restriction that the area not house hazardous material as defined by the Michigan Department of Environmental Quality.

**ZBA CASE 2016:003 – PULLUM WINDOWS – 415 N. LAFAYETTE**

Motion by Dunn, supported by Mosier

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**STAFF REPORTS**

Chairman Weipert noted that you can put reasonable conditions on variances.

Attorney Wilhelm offered that you can have an authority impose reasonable conditions on a variance approval and the term reasonable would be subject to a challenge so what you would be looking for is some nexus to the property and the variance that is requested. You want to have some tie to the condition and what the request for variance is.

Chairman Weipert added in this case we allowed this to be closer to other properties.

Attorney Wilhelm replied if you pull something out of the blue, you cannot be out on Tuesdays past 10:00 pm; you would have to have some connection to why that would be a reasonable condition to impose on the applicant.

Chairman Weipert announced no old or new business.

Mr. Avantini spoke of training for the ZBA members.

Attorney Wilhelm added that there are other seminar type settings where you can go to get training on ZBA and how to deal with some of the issues that typically come before a ZBA. Based on past conversations with the City Manager I believe there is a budget item to insure you are not dipping into your own pocket to go get training. We want to encourage any ZBA or Planning Commission members to go get that training. I am sure a request for reimbursement would be well received.

As a board you can set your agenda. Because of the turn-over in the planning director position and who is handling the meetings administratively, there seems to be some inconsistency due to that.

Mr. Avantini clarified the difference between the zoning board and the planning commission is the planning commission is more of a policy making board. This board needs to insure that the applicants meet the criteria.

Chairman Weipert noted that if there are is any public comment we will allow it.

Commissioner Rzyzi stated he assumed the car wash sign needs no variance, correct? It is my understanding it is now conforming.

Attorney Wilhelm agreed it was also his understanding. They are in violation to another provision of the sign ordinance. Off premises advertising. There is indication with the City Manager and will be looking at issuing several infraction violations for sign violations.

Commissioner Rzyzi noted that they won't come back before the ZBA.

Attorney Wilhelm replied not for the physical structure of the sign, no.

**ZBA 05/19/16 – ADJOURNMENT**

Motion by Mosier, supported by Fogarty

Motion to adjourn the meeting at 7:50 p.m.

**VOTE**

**MOTION CARRIED UNANIMOUSLY**

Respectfully Submitted,

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Phil Weipert, Chairman

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Marianne Jamison, Recording Secretary