

**CITY OF SOUTH LYON  
ZONING BOARD OF APPEALS  
June 15, 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, Steve Mosier and Brian Dunn. Also present Tim Wilhelm (City Attorney), Kelly McIntyre and Megan Blaha (Planning Commission). One vacancy on the board.

**EXCUSED ABSENCE** - Commissioner Joe Rzyzi

Chairman Weipert led the committee into the Pledge of Allegiance.

**APPROVAL OF AGENDA**

**ZBA 6-15-17 APPROVAL OF AGENDA**

Motion by Morelli, supported by Dunn

To approve the agenda.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**ZBA 6-15-17 TABLE MAY 18, 2017 MEETING MINUTES**

Motion by Fogarty, supported by Morelli

To table the May 18, 2017 minutes of our last meeting for our next meeting for the purpose of reconsideration of the appeal of Mr. Van Oyen. To reconsider the reasons for denial.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Attorney Wilhelm stated that the motion is to reconsider the motion to deny the variance on Case #17-003. You can discuss that and take a vote and bring a motion back as if it were currently pending before the board.

**ZBA 6-15-17 MOTION TO RECONSIDER DENIAL MOTION – CASE #2017-003**

Motion by Fogarty, supported by Morelli

Motion to reconsider the motion of denial on ZBA Case # 2017-003 on May 18, 2017.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Attorney Wilhelm clarified that the motion is as it states, so review your minutes and that is the motion that is currently pending as if no vote was taken. I would suggest a motion to amend that motion and stand it with the rest of the factors where practical difficulty with an explanation supporting the decision. If you have your binder with you, there are samples of blank motions to grant a denial.

**ZBA 6-15-17 MOTION TO RECONSIDER MOTION FOR DENIAL – CASE #2017-003**

Motion by Fogarty, supported by Morelli

In regards to Mr. Van Oyen – ZBA Case #2017-003 on May 18, 2017 I move that we deny the variance in that case for the following reasons: subject property is similar to other properties in the neighborhood with no physical attributes. The applicant has not provided information as to why the ordinance cannot be met. The information that the applicant provided does not indicate that it will serve the intent and purpose of the required curbing. No information regarding storm water management is provided therefore it could impact the surrounding properties. The proposed motion to amend.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Attorney Wilhelm noted the board has three options; 1) you can amend the pending motion that was made on the 18<sup>th</sup> of May 2) you can withdraw that motion and make a new motion or 3) you can vote on a motion that was made on May 18 and presumably if it fails then you could address the issue and it would require a new motion.

Chairman Weipert clarified to make a motion and then amend the motion.

Attorney Wilhelm stated that you have a motion made without a second yet to amend the pending motion. You need a second and the opportunity to discuss and then vote on whether it was amended as proposed and then take a vote on the pending motion.

Chairman Weipert summed up a motion to amend a motion.

The motion to amend is now amended.

Attorney Wilhelm suggested the person making the motion be receptive to include amending the motion yet again to make a reference to the May 18, 2017 CIB Planning report.

It would be helpful and good practice for this board to rely on the Planner's review and to reference that in the motion. If there is a concrete statement that is exactly what you are looking for.

**ZBA 6-15-17 MOTION TO AMEND MOTION FOR DENIAL – CASE #2017-003**

Motion by Fogarty, supported by Morelli

The motion to amend is withdrawn. Motion to amend the motion for reasons for denial in Case # 2017-003 to include the following; I make a motion to amend Commissioner Morelli's motion regarding Case # 2017-003 on May 18, 2017 to include the following reasons to reference the CIB letter to the board which includes subject property similar to other properties in the neighborhood and physical attributes. The applicant has not provided information as to why the ordinance cannot be met. Information has not been provided to indicate that it would serve the intent and purposes of the required concrete curbing. No information regarding storm water management is provided therefore we are not able to determine the run off to the attached properties. Most recently stated in the CIB Planning letter of May 18, 2017.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**APPROVAL OF MINUTES:**

**ZBA 6-15-17 APPROVAL OF MINUTES**

Motion by Rzyzi, supported by Morelli

To approve the minutes of the May 18, 2017 meeting with the above amended motions for Case # 2017-003.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**NEW BUSINESS**

**ZBA Case 2017:004-Anna Lawley – Vacant Parcel, W. McHattie St.**

*Request: The applicant is requesting a variance from the City of South Lyon Code or Ordinances, Article VII "Supplementary District Regulations", Division 2 "Height, Bulk, Density and Area Limitation", Section 102-456 "Schedule Limiting height, bulk, density and area by zoning district". In Zoning District RM-2, Maximum percent of lot area covered by all buildings is 25%. The applicant is requesting a variance of 10.9% on the lot coverage.*

*The applicant is requesting a variance from the City of South Lyon Code of Ordinances, Article VII "Supplementary District Regulations", Division 2 "Height, Bulk, Density and Area Limitation", Section 102-456 "Schedule Limiting height, bulk, density and area by zoning district". In Zoning District RM-2, at least one side yard setback should be 25 feet. The total of the two side yard setbacks should be 50 feet. The applicant is requesting a variance of 36 ft.*

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

Anna Lawley introduced herself and stated her address as 5542 Lancaster Ln., Commerce Twp., MI. What I would like to do is to build a duplex similar to the existing duplexes in the area and now the set backs are such that I would not be able to build what I wanted and I am requesting a variance of side yard and lot coverage.

Chairman Weipert noted it is a custom of this board that we allow the applicant to ask us to adjourn it or move it until there is a full board. We are willing to do that. Someone may be absent this time or next time, but we offer the applicant the option to wait for a full board.

Attorney Wilhelm added because of the Zoning Enabling Act, the board has to pass with a majority, so with the current 7 members you would need 4 votes in favor of your variance regardless of the number of members here.

Chairman Weipert noted that we normally have a 7 member board but currently there is a vacancy and we do have one absent.

Ms. Lawley decided to continue with the current board. I just need a lot coverage variance (10.9%) since the variances were different at that time. Right now I need a side yard set-back variance of 36'. I would like to build it like the others currently there, 2 bedrooms and 1 bathroom.

Commissioner Morelli questioned if the set-backs were the same as what you are asking for.

Ms. Lawley replied yes. They are not any different and mine may be pushed back more.

Chairman Weipert asked if the set-backs on the parcels to the west are the same.

Ms. Lawley stated yes and the Planner was okay with it.

Chairman Weipert gave an example to the applicant of a practical difficulty. We need to hear from you facts why the current make-up of the zoning ordinance as to your property or something about your property, or circumstances about your property that make it a practical difficulty for you to use your property. You told us the set-backs of the parcels to the left that are duplexes are essentially the same. So you have this property that you want to use in a similar fashion. What else about your property that makes it unique or special that you need the variance.

Ms. Lawley responded that the lot size is very small. If I don't get the variance, I would not be able to build anything there at all. If I do get the variance it would enable me to build something there vs. an empty lot.

Commissioner Fogarty asked if she was the owner of Lots 6, 7, 8 or 9.

Ms. Lawley replied no she was not the owner of those lots.

Chairman Weipert noted that Lots 7, 8 and 9 are closer to the park.

Commissioner Fogarty also noted that there is a buffer between those and the parking lot.

Commissioner Dunn added that the aerial coverage (not sure the date of this plan) almost looks as if it is set up in rows so you can almost build other lots.

Planner Blaha stated she believed the lots were combined.

property, county tax rolls were checked and there is nothing to stop development on that piece of property.

Commissioner Morelli added that Steve is correct, that is if the other gentleman who built those first two houses had plans to build all three but did not complete it but had went through that process and I don't think they had to go through the ZBA at the time. If the first two met all the side yard, rear yard set-backs and lot coverage and planned on building three homes but did not build the third one, if the zoning got changed or the set-backs got changed it would now be a hardship.

Attorney Wilhelm replied that I think that goes with the factor whether this is a new circumstance or if it is self-created.

Commissioner Morelli noted that he certainly has no problem with this. I am not making the motion after the last one. If what she wants is exactly the same thing as the other two, which was approved at one time.

Attorney Wilhelm stated I think it is irrelevant. There is no information that this particular parcel had any type of approval even though the proposed duplex is similar to the others which would potentially create a vested right to build. We have no information that is correct.

Commissioner Morelli replied that we do know those two houses are on the same site plots, with the same size houses.

Attorney Wilhelm questioned Kelly if the other two duplex unit parcels are zoned and have the same zoning as this one.

Planner McIntyre replied that they do yes. I think those duplexes are older than 10 years and perhaps were built before 1995 and that was the boards last update. They were probably built under a different zoning ordinance that had different set-back standards and lot coverage standards. The RM-2 today was not developed to fit on property like this. This is a very small piece of property that is RM-2 and generally RM-2 properties are larger. The standards that we have for RM-2 could not fit onto the property.

Commissioner Morelli stated that the existing houses that are there right now could not be built today.

Planner McIntyre replied correct.

Commissioner Fogarty inquired when the applicant purchased the property.

Ms. Lawley replied less than a year ago.

Chairman Weipert replied the question is, is it self-created. You have property zoned RM-2 and you can only build a single family home and just to the east you have on Washington St. the Senior Housing and it is a transition from more concentrated to less. Our planner noted RM-2 district is intended for limited usage in areas where land use transition is desired, but where the existing pattern of platting is on small lots or parcels.

Commissioner Fogarty inquired of Kelly if the person who owns Lots 7, 8 and 9 will be building duplexes.

Planner McIntyre replied I believe it is for apartments. They met requirements without any variances at this point. There are no official plans.

Chairman Weipert summarized so far we have determined that the set-backs on the parcel makes it difficult for her to build a duplex since a lot of times the lots are very small and only single family homes can be built there being RM-2 zoning. There are currently duplexes on the same size lots next to this piece of property. It goes from more concentrated to use to the east. There are two separate variance requests 1) Lot coverage and 2) Set-backs.

Attorney Wilhelm stated that the publication mirrors the two separate items.

**ZBA CASE 2017:004 –ANNA LAWLEY – VACANT PARCEL W. MCHATTIE ST.**

Motion by Dunn, supported by Fogarty

To approve the ZBA Case #2017-004 for the following reasons; that the need for the requested variance is due to the unique circumstances of the property and is similar in size and the dimension of the lot with the current ordinances would not allow this property to be built. The need for the variance is not the result of the actions of the property owner, that strict compliance with the regulations because of the small lot would not allow multi residential property to be built. The requested variance will not have an adverse impact on the adjacent properties that we spoke of earlier and will have continuity with the neighborhood.

Chairman Weipert stated it is a motion to approve Case number, so it is to grant two variances and 1) is lot coverage and 2) is set-backs. You are saying you want to grant a motion for the lot coverage and a motion for the set-backs. For all those reasons detailed in CIB Planning letter dated June 7, 2017 in Case # 2017-004.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Chairman Weipert informed the applicant she needs to get a building permit.

**OLD BUSINESS**

None

**STAFF REPORTS**

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

Planner Blaha noted that we do not have anything coming up in July.

**ZBA 6/15/17 – ADJOURNMENT**

Motion by Morelli, supported by Fogarty

Motion to adjourn the meeting at 7:40 pm

**VOTE**

**MOTION CARRIED UNANIMOUSLY**

Respectfully Submitted,

  
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Phil Weipert, Chairman

  
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Marianne Jamison, Recording Secretary