

**SOUTH LYON
ZONING BOARD OF APPEALS
August 16, 2012**

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

PRESENT: Chairman Phil Weipert and Commissioners Bill Rodman, T.J. Connolly, James Herman, Joe Rzyzi and Frank Fogarty. Also present Charles Boulard, Building Inspector and Carmine Avantini, CIP Planning Consultant

Chairman Weipert – Any phone calls from anyone?

Recorder Jamison – Anne in the building department informed me (after the meeting) that Keith Bradley had called in.

Keith Bradley – Excused absence.

ZBA 08-16-12 APPROVAL OF ABSENCES

Motion by Rodman, supported by Connolly

APPROVAL OF MINUTES:

ZBA 08-16-12 APPROVAL OF MINUTES – June 21, 2012

Motion by Herman, supported by Connolly

To approve the minutes of June 21, 2012.

VOTE: **MOTION CARRIED UNANIMOUSLY**

Chairman Weipert – On the agenda today we have 4 items.

OLD BUSINESS

Darin & Megan Dudek – 1132 Polo Drive – Lot 273

Chairman Weipert – The applicant can come up to the microphone. State your name, address, what your application is about and tell us your practical difficulty. You have the right to have your case heard by a full board. If anyone wants to adjourn and wait for a full board let us know when your case comes up.

This is a continuation of the Dudek's case which was tabled at our June 21, 2012 meeting.

We adjourned your case last time since we did not have the plans and that they were over in the Novi office. We wanted more information before we made a decision. It was tabled until July but you were out of town so we are here tonight to continue the discussion.

Mr. Dudek approached the board and handed out large plans to each member.

Chairman Weipert – As a refresher, you asked for a variance for the side yard.

Mr. Dudek – I have a total of 40' of back yard and my patio is 18' deep. I want to build a roof over my patio. According to code I have to have 40' from my setback to the roof line. I am asking for an 18' variance. It sounds like the board agreed that I would be allowed 10' but I was requesting 18'. My house is situated 10' further back than my neighbors; therefore, my back yard is more shallow than theirs.

Chairman Weipert – So, you are saying your practical difficulty is your lot is different than the others in the neighborhood since your house sits back.

Mr. Dudek – My overall lot size is not but my back yard is. I do have a medium sized lot.

Commissioner Herman – Shetland Drive is on an angle if it were straight, he could get 50' more.

Mr. Dudek – My original address was Shetland Drive. I question if initially Lots 272 and 273 were originally one lot.

Chairman Weipert – A few of the lots in that sub are configured differently than the rest of the lots.

Commissioner Rodman – The house as it sits on the property meets all our ordinances. Every one of them.

Commissioner Herman – It is the way Shetland Drive lays.

Commissioner Rodman – It is still a large variance; 50% over what is required on the lot. It is substantially higher than any variance we have ever given.

Commissioner Fogarty – Did you receive any feedback from your neighbors from the north, east and west?

Mr. Dudek – Yes. One of my neighbors was supposed to be here tonight.

Commissioner Rodman – The residential property that would be impacted the most is up for sale (directly behind you – it abuts your property line). The garage sits 8’ from the property line.

Mr. Dudek – No, they are not selling.

Chairman Weipert – Do you have a practical difficulty; something that is unique about your lot that makes it different than the others. You state that your back yard is shallow and you cannot use your property as others can.

Mr. Dudek – Yes.

Commissioner Rzyzi – How many houses have similar types of yards as you with setbacks?

Mr. Dudek - My corner lot is actually larger than both of the other corner lots in that area. It is not the overall size of the lot; it is where my house is built.

Commissioner Rzyzi – Are there any other houses that have the setback?

Mr. Dudek – Mine is the only one in the sub.

Commissioner Rodman – There is less than 8’ from the property line to the neighbors.

Chairman Weipert – Your plans will put you right next at the neighbor’s yard.

Commissioner Rodman – Ordinances are put in place to protect the current and future homeowners in the City of South Lyon. I have no problem with the looks of the structure. As the original homeowner of the house, you never took any thought into the shallowness of your back yard when they were building your house?

Mr. Dudek – I have three small children and if you drive though that sub you want to be in that sub because the lively activity of the neighborhood.

Commissioner Rodman – I live in that sub. This board may or may not approve something now and we have to look at the future when everyone else wants a variance. You are asking for a huge overage on your lot.

Chairman Weipert – The pine trees are a nice screen but they might not always be there.

Commissioner Rodman – We would be setting a precedent. We have precise guidelines in order to approve something. What you are asking for is way out of boundary and it sits very close to the neighbor.

Chairman Weipert – The house does sit back. We maybe could offer some relief but 18' is too much.

Mr. Dudek – A 12' variance would make me happy.

Commissioner Connolly – How big is your patio?

Mr. Dudek – The roof covers the patio, it would be the same size.

Commissioner Herman – Could you go wider?

Mr. Dudek – It is about as wide as my house now and there is a window there.

Commissioner Rodman – If we give this variance to you, now the next person comes in front of us and they want the same thing too. That is why we have precise guidelines on how and why we should approve this. The practical difficulty you are asking for is way outside of the boundaries that we can do. It is almost 50% over. It is not just Trotter's Pointe sub; this applies to anyone in the City of South Lyon.

Mr. Dudek – I could do 10'; I can change the plans.

VOTE:

MOTION CARRIED UNANIMOUSLY

ZBA 08-16-12– DARIN DUDEK – 1132 POLO DRIVE – LOT 273

Motion by Connolly, supported by Weipert

Motion to grant the applicant Mr. Dudek for a variance of Section 102-456 City code that requires a 40' rear setback in an R-2 zoning district. The applicant is seeking 18'. We will grant a variance of 10' for the rear yard setback to construct a deck 32'-11". Based on the authorization of such a variance, that it will not be a substantial detriment to the adjacent property and will not materially impair the intent and the purpose of this chapter or the public health, safety and general welfare of the community. For the preservation and

enjoyment of a substantial property right, similar to that possessed by other properties in the same zoning district.

Chairman Weipert – Any more discussion?

VOTE:

5 YEAS, 1 NAY

Inspector Boulard – The City will need revised plans.

Commissioner Rodman – Submit the new plans to the Trotter's Pointe Association also.

Pamela Mills – 411 Dorothy

Chairman Weipert – State your name, tell us about your case and your practical difficulty and why your property is unique. She is requesting a 35' rear yard setback in R-2 zoning. She is seeking a 25' variance in the rear yard setback to construct a garage 10' from the lot line.

Ms. Mills – I live at 411 Dorothy Street and I want to erect a garage. I currently own that home and the house behind it. The house on Dorothy Street sets back to the lot line. The fence in the back is my fence since I own two properties (one on Jean Street). I would like to put up a garage to this structures roof line. My hardship is how I sit on the property, it is an old sub. I may sell my home and move into the smaller home. I want a garage with a breeze way so in future years I can have easy access from the garage to the house. (Reviews photos taken with the board members).

Commissioner Herman – Is there a utility line back there, some type of easement?

Chairman Weipert – Are there any poles on the property?

Ms. Mills – On the corner of the property.
(Reviews plans with board members).

Chairman Weipert – Are there any other houses in your neighborhood where the garage is by the property line?

Ms. Mills - That area is a kind of a hodge podge of assorted homes down through there. When those homes were built back in the day there were fewer ordinances that were enforced and some people put things close to lot lines and it is what it is.

Chairman Weipert – Inspector Boulard, you have been down Jean, Ada and Dorothy Streets and see that there is a mix of houses.

Inspector Boulard – If you are asking me if there is a pattern, no. There are a fair number of those houses that are set way back.

Chairman Weipert – Real deep lots.

Commissioner Connolly – The home was built 3'-4" to the fence. The garage where you would like it would be 11'-10" from the rear yard lot line.

Mr. Young (builder) – We looked at moving it up farther but thought the attached breezeway looked better. She is hoping to get as much of a 2 car garage that she can built there. Because of this door you would only have so much space on either side of the door.

Chairman Weipert – Is it a covered breezeway?

Mr. Young – Yes, the covered breezeway is there because she has a sewer line that comes out at the side of her house so the place where we have the decking we will have an access just for the clean out right there. We figured 4' for it to be wheel chair accessible.

Commissioner Rodman – The problem I have is it is so close to the lot line and the other garage is right on the lot line too and if one of them catches on fire, it is real easy for that fire to jump over 2'.

Chairman Weipert – It will be 1'-6" from the property line.

Commissioner Connolly – Mr. Young, what is the typical width of a 2 car garage?

Mr. Young – Between 22'-24'.

Commissioner Connolly – So, this is like a 1-3/4 car garage?

Mr. Young – Yes, that house is built on a slab there is no basement or a garage.

Commissioner Connolly – Your home is to the south of Jean Street.

Ms. Mills – Yes.

Commissioner Connolly – On the photo it shows you have a roof distance between the home and the fence of about 4'? I am trying to look at the overall – you have 8' to the east and you are looking for 1' centered down the property.

(Board reviews plans again).

Commissioner Rzyzi – The precedent is that the other houses are there but I am not comfortable with having it so close to the other lot lines being 18’ would you consider making it 16’ so it is not so close to the other lot line?

Mr. Young – My only concern is the reason for pushing it over would be access. I figured someone would be concerned about the gas line. We could move the whole thing over and not have any breezeway. We can make adjustments.

Commissioner Herman – You can’t build over a gas line.

Commissioner Rodman – I have a question for the City Inspector. I know you are not a lawyer but is the City exonerated from all liability when we grant a variance to our ordinance?

Inspector Boulard – There are in the building codes, standards for exterior rating on those walls when you get close to the property line. For example, if you are building a new house nowadays, as you get closer to the property line there is lesser percentage of windows and openings and type of drywall used in the construction. In terms of the building construction there are parameters in the building code to cover those. You are not going to create something that has not been done before.

Chairman Weipert – You have 8’ on the one side.

Commissioner Connolly – Cut that garage back a little bit off the western side of your lot.

Mr. Young – They make the doors in 6’, 9’, 12’ and 15’. She would be happy with a 12’ door.

Ms. Mills – So scale down size of the garage.

Commissioner Rodman – You want 8’ so you would cut the garage down 7’-6” and you would have an 18’ garage there. (A 1-1/2 car garage measurement discussed).

Ms. Mills – We have a little bit of everything in that neighborhood.

Chairman Weipert – That is the issue with that neighborhood.

Commissioner Rodman – It is 8’ from the property line. It would be cut down 6’-6” and make it an 11’-6” garage plus the breezeway that is 15’-6” off the house.

We are granting the entire rear yard setback. The ordinance side yard setback is 6’ and they were asking for 10’ so we are granting a 4’ variance to the side yard. The ordinance states that you have to be 6’ from your side yard lot line. You have requested a 10’ variance to the side yard and we are granting you a 4’ variance. Will that still work out?

Inspector Boulard – The only condition would be that you say that you allow the attached garage to extend the new setback a minimum of 7’ to the property line on the side of the house.

ZBA 08-16-12– PAMELA MILLS – 411 DOROTHY STREET

Motion by Connolly, supported by

Allow the variance to Section 102-456 of the City Code for a 35’ rear yard setback in a R-2 Zoning District to allow 15’-6” total variance from the house.

Commissioner Rodman – I would like to make a motion to amend the motion. Instead of giving them a number, just state no less than 7’ from the side yard lot. That way they can build out anyway they want. It actually gives them a little more room.

Inspector Boulard – That means you are chopping 5’-6” off. Your intent is they can fill in the breezeway.....

Commissioner Rodman – If it meets all zoning and ordinances; yes.

Mr. Young – The breezeway will have the same garage roof over it, attached to the house.

ZBA 08-16-12– PAMELA MILLS – 411 DOROTHY STREET

Motion by Rodman, supported by Herman

I make a motion to approve the variance Section 102-456 per City Code which requires a 35’ rear yard setback. We are granting the applicant a variance of 25’ to the rear yard and a variance to the side yard which will state that the structure will be no less than 7’ from the side yard lot line based on practical difficulty of placement of house and sizing of the overall layout of the lot.

Chairman Weipert – Any more discussion?

VOTE:

MOTION CARRIED UNANIMOUSLY

Superb Fabricating – 330 Reese St.

Chairman Weipert – Come up, state your name and tell us what your practical difficulty is.

Mr. Hantz – My name is Jeff Hantz and I am representing Superb Fabricating and we are looking for a 25' variance to erect a 60 x 40 storage facility on the existing building. I would like to introduce Jack.

Mr. Zelazny – My name is Jack Zelazny I am a consultant architect for Superb Fabricating – 347 Rosemary Street, Dearborn, MI.

Chairman Weipert – Before we start, Jeff is my next door neighbor and I know Superb but I have no financial gains to obtain. I don't believe there is a conflict if I hear this case.

Commissioner Rodman – How do you live in this City and not know somebody.

Mr. Hantz – It is not just one hardship but multiple hardships. The first is that we are growing so fast we need more room and number two; looking at Phase II future. The topography of the property is all over the place. We also have a low wooded area that holds water and a railroad right-of-way to the south.

Mr. Zelazny – To support Mr. Hantz's position, I have walked the site on numerous occasions and there are offices planned for that area. I think the uniqueness of the building is one that addresses the railroad crossing. The owner asked me to come up with some type of a concept for the railroad so we introduced the field stone for the main entrance to the proposed office building. As an architect I wanted to be sure that we created enough interest in the building and to create a buffer to the higher portion of the existing building so that the proposed Phase I edition is cold storage. They have a lot of parts and pieces that are lying around everywhere and it is counterproductive to their flow. They really need to reorganize in the sense of start to finish production. So in the Phase I operation they take the raw material and turn it into the finished product going out the other end. I think it is an asset to the neighborhood. We introduced some buffer there from an architectural stand point and a landscaping stand point for the residents across the street. I think this plan flows freely so their stock is now readily handled in their production area. The reason we are here today is unfortunately, it introduces itself into a front yard setback where the variance would be different on the two streets. We are asking for some relief on the front yard setback to accommodate the flow of the

production area. The company is happy where they are at and want to try to make it work.

Mr. Hantz – Our ultimate goal is to have minimum impact on the surrounding area. We had some neighbors from Donovan Street and actually gave one of them a tour of the facility.

Commissioner Herman – Is there a lot of noise?

Mr. Hantz – No it is a laser and sanding facility and they use an air grinder from time to time but most of the time it is quiet. By doing this we keep it indoors. We have palettes and bring steel in every day just to operate. By doing this we can bring everything into one building, clean up the site and make it more appealing.

Chairman Weipert – What are the plans for Phase II?

Mr. Hantz – It would be a five year production or it could be sooner.

Mr. Zelazny – It is a very clean operation, very precise.

Mr. Hantz - We donated 80 flag pole holders to the City through the VFW Hall and we also donated key chains for South Lyon and South Lyon East for their all night party event.

Mr. Zelazny – There will be buffer screening on Donovan Street and the weeds will be cleaned out of it.

Chairman Weipert – Carmine you wrote a nice memo would you like to speak on it?

Mr. Carmine Avantini – I am currently the City planner. Kristen, Andy and myself met two times and went through all the issues; making it barrier free, the building being enclosed, improving the parking area and what they are doing now is paving the lot and once the offices go in there it will be paved parking. We are dealing with the unusual shaped site and there is nothing like it in the area. We have examined all the possibilities and where best to put it on the site. You have basically two front yards which is essentially the sides of the building and it faces the railroad tracks. We meet all the criteria for a practical difficulty. Most importantly is they are going to clean up the outside storage and it will be inside. Without the expansion, they really would not be able to continue in that location.

Commissioner Connolly - Are any neighbors in the audience tonight?

Mr. Hantz – No, I don't believe so

Commissioner Connolly – Since you are upgrading the building are you anticipating any new hires?

Mr. Hantz – Yes, since they started in May of last year, they employed 10.

Commissioner Connolly – So the majority of the noise is from loading and unloading?

Mr. Hantz – Correct.

Commissioner Herman – Is the air compressor located in the back?

Mr. Hantz – Yes, there will be a compressor there.

Commissioner Rodman – Will this eliminate the need for outside storage?

Mr. Hantz – Our goal now is it will be used just for storage. That will clean up the area.

ZBA 08-16-12– SUPERB FABRICATING – 330 REESE STREET

Motion by Rodman, supported by Fogarty

I make a motion to grant a variance of 25' for Superb Fabricating, 330 Reese Street. The ordinance is based on Section 102-85 Sub-section 2 – paragraphs (a,b and d). Variance sought is for 25'.

Chairman Weipert – Any more discussion?

VOTE:

MOTION CARRIED UNANIMOUSLY

Sun Steel Treating, Inc. – 550 N. Mill Street

Chairman Weipert – Come up state your name, location for the request and your practical difficulty.

Mr. O'Leary – I am here to represent Sun Steel. We are looking to build an addition of 5,280 sq. ft. to our existing facility. This addition will require two variances; 1) for a variance of 58'-6" for the rear yard setback and 2) a height variance of 4'. The proposed addition is planned for the east side of the existing building which is in the rear of the lot. The east side of the site abuts residential zoning and per the current ordinance, any proposed building needs to have a height limit of 25' and a setback of 5' per every 1' of building height. We are proposing 29' which will be a 4' variance from 25'.

Commissioner Rodman – Can you access the drive from there?

Mr. O’Leary – Currently there is 80’ so we have plenty of room.

Commissioner Rodman – So it is not impeding into the berm?

Mr. O’Leary – No.

Commissioner Herman - Is the height of the roof below the vents?

Mr. O’Leary – Yes. Our main practical difficulty is the building was built in 1978, prior to the current zoning ordinance taking effect. This site is unique for this area because of the rear yard “walk out” nature of the lower level of the building. The topography of the east side of the site increases the existing building’s east elevation height by 9’. The topographic changes result in the abutting residential properties being at least 6’ above the finish floor of the lower level of the proposed addition.

Commissioner Herman – There are two floors?

Mr. O’Leary – The height of the addition is at the minimum height to make the main level usable. The existing building height is 35’. The ordinance now states 25’ which make that building 10’ above the ordinance today. As is, this parcel is difficult to develop. With the dense natural screen we have now, the adjacent property owners will not be aware of the height of the addition.

Commissioner Fogarty – Will there be any new trees?

Mr. O’Leary – The natural screen will remain untouched. The berm circles the building and there are 30’-35’ pine trees there. These will be left as is. The addition is beneficial by allowing the owner to store all existing material in the addition proposed. The reduction of overhead doors by half will reduce sound from the facility with the increased insulation of the exterior metal panels. Also, the dumpster will be moved indoors.

Commissioner Herman – Is this a 24 hour operation?

Mr. O’Leary – Yes, 24 hours per day, 7 days a week.

Chairman Weipert – This is a unique parcel to work with.

Mr. Avantini (of CIB Planning) – This addition will allow the company to remove materials from outside of the building and store them inside. The need for the variance is due to the unique circumstances of the property. The setback standard is unusual and excessive since a visual barrier is already in place and the addition will minimize noise from the existing overhead doors. As a result, the height and setback requirements are

unnecessarily burdensome for the site and prevent reasonable use of the property. We also looked at setback requirements from other communities in the area. With a range of 25' to 75', the average setback is 50'. The South Lyon ordinance requires a building setback of 145' an excessive standard compared to the community norm.

Chairman Weipert – Does anyone have anything else? This is the second time ever that we had the planner's memo on a variance issue.

Mr. Avantini – Briefly Mr. Chairman, when the applicant first came to us they stated that they had a lot of stacked material outside the building that we can bring indoors and had some issues with the measuring of the grade. That is why they have to have the height variance.

Chairman Weipert – Do you have an opinion on our ordinance?

Mr. Avantini – The main issue I am seeing now is the measurement of the grade which caused that and the slope of the site.

Chairman Weipert – What about our setback requirement?

Mr. Avantini – I have never seen anything like that before. In my opinion, there is not a real relationship between the standards and what we are looking to accomplish. I would ask the Planning Commission look at other communities and come in and give us ideas. I think it is an unusual standard; it is effective and there is no way the depth of this site could ever be a 145' setback.

Chairman Weipert – Do you think that is was because it is residential back there?

Mr. Avantini – I hate calculations in a zoning ordinance; where you have to calculate things. You have a number, a setback number with no reason why you have that. I don't see any directional basis for having the measurement. I don't understand why.

Commissioner Rodman – What I am hearing is basically a memo to the Planning Commission.

Mr. Avantini – We do have targeted updating by the zoning ordinance and that is one of the things we want to add to our list of items to address. We want to protect residents and protect residential property but we also want to be user friendly and be fair to everybody. It looks like they changed the ordinance after the development.

Mr. Chairman – Are there any more questions?

ZBA 08-16-12– SUN STEEL TREATING, INC. – 550 N. MILL STREET

Motion by Connolly, supported by Fogarty

I would like to grant both variances to Sun Steel Treating, Inc. at 550 N. Mill Street based on Section 102-457(k). Granting the variance with a height requirement of 25' for an overall height of 29'. Also the second variance for the rear yard setback of 58'-6" based on the dimensional variances of the zoning ordinance per Section 102-85 that exceptional circumstances of the property do not impair other properties.

VOTE:

MOTION CARRIED UNANIMOUSLY

Commissioner Connolly – I would like to get a copy of the zoning book. I don't have one.

Chairman Weipert – I can get you one. I am sorry about that.

Didn't we get an e-mail from someone that wants to speak with us?

Inspector Boulard – Yes, a discussion about interior window signs. The question was whether they put up interior signs or put them on the inside of the window if it would require a permit to be obtained.

The question is if an interior sign requires a permit?

Inspector Boulard – A sign is a sign.

Commissioner Rodman – Window signs need a permit and I think that is what the Planning Commission decided.

Chairman Weipert – Carmine, do you have any thoughts on this or are you not familiar with the issue?

Mr. Avantini – Mr. Chairman I am not familiar with the issue but as of yesterday I have been instructed to begin revising the sign ordinance for the City. So I will be going back to the Planning Commission shortly with a list of key issues and essential changes to it. Hopefully clearing up some of this. It is good to hear that this is something we need to deal with.

Commissioner Rodman – They were probably pretty liberal when they set up the sign ordinance last time. This is the third time in twelve years that they revisited it.

Mr. Avantini – In the sense of the community, just about every community I am working with right now, they are updating the sign regulations because there has been so many changes in the past year such as electronic message signs and there is so much going on right now. Within the past year or two a lot has changed so it is not unusual to be looking at the sign regulations.

Inspector Boulard – So you would concur if I responded that they would need a permit. I only received the memo nine minutes before I left to come here for the meeting.

STAFF REPORTS:

None.

ZBA 08-16-12 – ADJOURNMENT

Motion by Rzyzi, supported by Fogarty

To adjourn the meeting at 8:35 pm

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully Submitted,



Phil Weipert, Chairman



Marianne Jamison, Recording Secretary