

**CITY OF SOUTH LYON
ZONING BOARD OF APPEALS
September 21, 2017**

Chairman Weipert called the meeting to order at 7:00 p.m.

ROLL CALL:

PRESENT: Chairman Phil Weipert and Commissioners Ron Morelli, Frank Fogarty, Steve Mosier and Brian Dunn. Also present Planner Kelly McIntyre. There remains one vacancy on the board.

ABSENT - Commissioner Joe Rzyzi, City Attorney Tim Wilhelm and Planner Megan Blaha
Excused Absence

Chairman Weipert led the committee into the Pledge of Allegiance.

APPROVAL OF AGENDA

ZBA 9-21-17 APPROVAL OF AGENDA

Motion by Morelli, supported by Dunn

To approve the agenda.

VOTE:

MOTION CARRIED UNANIMOUSLY

APPROVAL OF MINUTES:

ZBA 9-21-17 APPROVAL OF MINUTES

Motion by Fogarty, supported by Morelli

To approve the minutes as amended below.

On Page Four, in the Motion Case 2017:006 the 3rd sentence should read as follows: It would also make it unreasonable and burdensome to follow the regulations because of the dimension and use of the property would not be **permitted**.

VOTE:

MOTION CARRIED UNANIMOUSLY

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Chairman Weipert asked if there were any comments from the public. No one came forward.

NEW BUSINESS

ZBA Case 2017:008-George Lukas- 220 N. Mill St.

Request: The applicant is requesting a variance from the City of South Lyon Code or Ordinances, Article VII "Supplementary District Regulations", Division 2, Sec. 102-457 "Notes to Schedule of Regulations," (K)...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 requesting a variance of 90 ft. for the east facing setback that faces RM-1 Residential district.

Chairman Weipert then called up the first applicant to state his name and address for the record and to tell the board members what his request is for, what is unique about the property, what his practical difficulty is and why the board should grant a variance.

Chairman Weipert noted it is a custom of this board to 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.

The applicant chose to have his case heard by the board members present tonight.

Chairman Weipert noted that the applicant had stopped by his office to ask him some questions but nothing pertaining to this case. I did not represent you in this case. I can abstain if needed but I have no vested interest.

The board members agreed.

Chairman Weipert inquired whether the applicant had received a copy of the Planner's comments?

Mr. Lukas noted he did not receive a copy.

Chairman Weipert noted that the Planner gives their opinion but does not tell us what to do. Each case is judged on itself. You are welcome to a copy and a few minutes to review it.

Planner McIntyre noted that it should be part of the process for the applicant to get a copy of the Planner's comments. It should be forwarded to the applicant. Not the entire packet just the Planner's review.

George Lukas introduced himself and stated his address as 10829 Cliff View Dr., South Lyon. I did read in there that the building I want to attach it to is non-compliant. I had no idea. I came to the Planning Commission to get that building approved.

McIntyre stated you are okay it is just making a comment.

Mr. Lukas stated that the limitations are supposed to be 90' off the property line because of the height.

Chairman Weipert stated that the applicant's request is for a variance for 90' to the east facing the set-back which faces an R-1 district and our ordinance is a lot more restrictive than a lot of other towns.

Mr. Lukas replied that it brings me back to the last building I put up. I put that 20' off the property line and that was approved through the Planning Commission. This addition I wanted to make it bigger but I wanted more driving room around the back side so I left that 22' off the property line. I was always been told it had to be 20' off the property line.

Chairman Weipert noted that one of the factors the applicant stated was that this building is similar to the other buildings in the district.

Commissioner Morelli stated they are for the same variance. In fact you own that whole property and the one next door.

Mr. Lukas noted that he does not remember this being a variance issue when he built the last building.

Commissioner Morelli questioned did we, as part of the approval for the one on the other side where you have that brick wall between the apartments and your property, was that a condition of that variance, I cannot remember. I don't have a problem with this building but I do have issue with the lack of a screen barrier like there is next door to you. There is the concrete wall behind the first part then there is just a fence. I was asking if that wall was a condition of the variance.

Mr. Lukas stated that wall has been there for 20-25 years. In fact, Leonard LaChance installed that wall and he has been gone a few years.

Commissioner Morelli asked if he would have a problem continuing that wall.

Mr. Lukas offered that he asked Jeff LaChance if he would do it. It is my property but I hired Hornet Concrete to put that wall up and when I wanted to extend it I went to Jeff and asked him since he does poured walls. He has the walls over there. To make it look uniform I want to continue it. He wants to see what he has left because he want to do something on Hornet Concrete's side. I could put up a privacy fence but does it have to be cement?

Commissioner Morelli added that it would be nice if it was the same from the other side (the residential side) that stretch is the only part that is not concrete.

Mr. Lukas added that wall that I put up is when I owned that property. Where the wall ends at the next parcel over, where I want to put the addition on, that was owned by Arrow Edwards Landscaping. When I bought it I maintain all of it now.

Commissioner Morelli noted that for me the condition would be that you complete that wall whether it would be poured concrete or decorative but it would block the view from the residential side to your property. You keep it very clean, you do a beautiful job and you can tell while driving by.

Mr. Lukas noted that he takes a lot of pride in his property.

Commissioner Morelli added now that you want a build an addition closer to that fence line I think that if the wall continued it would finish it off. You would still see the top of the buildings but not the vehicles that may be back there. For me, I would like to see that.

Mr. Lukas stated his other issue is that the residential property behind me is 70'-80' up to the first building that is there. It is all parking lot behind me. The cars and the parking make more noise on that side of the fence than I do. In the summer that back fence is covered up with vegetation. I don't have any problem putting up a wooden privacy fence and would love to do it with cement if I had the money but to do that to the end of the property I am looking at another \$10,000-12,000 and I would not be interested in putting out that much money at this time. In a perfect world I want it to go that way and come up the other side. I do like the privacy aspect of it. The problem with putting it up, now I have the apartment and they throw things over thinking there is a field there. I like to maintain my property.

Commissioner Fogarty noted it is meticulously clean. Cosmetically it does not look appealing because it is on the residential/industrial line. Something should be done there.

Commissioner Mosier agreed something needs to be there.

Commissioner Fogarty stated in the wintertime it would look worse.

Mr. Lukas stated I have no problem putting up a wooden fence.

Commissioner Fogarty questioned when the building was built.

Planner McIntyre noted 1995.

Mr. Lukas added that the gentleman he rents the building out to, the one I want to attach to, he buys, sells and trades cars and is very quiet. All of my tenants are basically quiet.

Chairman Weipert explained we need to know what about the ordinance that makes it a practical difficulty from using your property. We gave you the Planner's comments so this is a record of the applicant's comments. The practical difficulty is based on the reasons the variance is needed due to the unique circumstances or physical conditions of the property such as narrowness, shallowness, shape, water, topography or similar and not due to the applicant's personal or economic difficulty. The planner did note that the condition is not the result of either personal or economic difficulties. The other criteria is that the requested variance is not the result of actions of the property owner. The planner notes due to the existing zoning designation and not the actions of the current or previous property owners. It makes it difficult to use your property. The strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will render conformity with those regulations unnecessarily burdensome. The planner notes a storage building addition cannot be constructed if it meets the required 90' setback from the east property line. Per the ordinance, it makes it difficult to use your property. As a result, the setback regulations are unnecessarily burdensome for the site. The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to the other property owners in the district. The planner states the applicant has not provided information to ascertain if this is the minimum variance necessary, however, the proposed addition has similar materials and architecture with the existing buildings. You told us the Planning Commission approved the previous building 20' from the property line. This would be a similar setback like your other building.

Mr. Lukas replied actually 22'.

Chairman Weipert continued that the requested variance will not cause an adverse impact on surrounding property, property values and you told us that it is residential behind you but it is residential/apartments and their building is 70' back from the property line and facing the parking lot back there. Does anyone have any questions?

Commissioner Dunn voiced that the only concern he has is that it is the back of commercial/residential and our ordinance is written to smooth that out. I remember McCarter Construction was in here couple years ago and I believe he had built a new garage. From a residential perspective I look at subdivisions (I live in Trotter's Pointe at the north end of town) if someone wanted to do something there commercial by residential, I struggle with that flow being maintained. I understand what you are trying to do. The ordinance was written for that very reason.

Mr. Lukas offered that it being not commercial but light industrial, does that make a difference?

Commissioner Morelli noted we have had this before us before behind Wendy's, light industrial/commercial against residential. We had it with Reese Street and that little factory and they did it with berms, planting and block since they had the same height problem. Part of it is that our ordinance is more restrictive than most of the communities that surround us. We usually end up approving them with condition of building that big berm but you don't have that luxury. That is why the wall would block it. You look at the concrete wall behind Hornet and the other property, it is nice and clean until we get to this fence line most of the planting is on the side of the apartments but that is the worse looking stretch of the whole thing. I know it is not the kind of look you would want. The condition I would put on it would be that something is there. I would like to see the brick or poured concrete. A wooden fence looks great when first put up and after a couple of years you would want to replace it. Something to block for view. You keep your property extremely nice but the next owner may not.

Commissioner Dunn questioned if a potential for a non-wooden fence like PVC or vinyl be acceptable.

Mr. Lukas added that preferably that would be his preference to put up I am not a guy who likes to paint or stain so I want something maintenance free. Upright Fence does my work around there and I can have them come out and give me prices and materials they have.

Commissioner Morelli asked about the height of the other walls that are there but if it was the same height and it followed through and you could not see through it I would not be opposed to it.

Chairman Weipert added that he does not have a problem but you may want to consider putting the PVC panels on the apartment side.

Commissioner Morelli noted that on the other wall you have a fence on the apartment side.

Mr. Lukas noted that he has no intention of taking the other fence down because I don't know if that belongs to me or to the apartments.

Commissioner Morelli added that the fence follows down past the wall you already have back there so I am assuming the apartments own the fence.

ZBA CASE 2017:008 –GEORGE LUKAS – 1089 CLIFFVIEW DR, SOUTH LYON, MI

Motion by Fogarty, supported by Dunn

I move we grant the variance in Case 2017:008 sought by George Lukas for 220 N. Mill Street in the light industrial district. The petitioner has established that this causes a practical difficulty relating to the property. The petitioner has established that the property is unique because it is not a result of either personal or economic difficulty. The requested variance is needed due to the existing zoning designation and not the actions of the current or previous property owners. That the setback regulations are unnecessarily burdensome for the site and the rear of the building will take the multiple families and should not create any additional traffic or noise. I would have the condition that a privacy fence be put up on that one section in similar height to the property to the right.

VOTE:

MOTION CARRIED UNANIMOUSLY

Chairman Weipert reminded the applicant to get his building permit.

OLD BUSINESS

None

STAFF REPORTS

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

Planner McIntyre noted that we do not have a meeting in October.

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ZBA 9/21/17 – ADJOURNMENT

Motion by Fogarty, supported by Dunn

Motion to adjourn the meeting at 7:35 pm

VOTE

MOTION CARRIED UNANIMOUSLY

Respectfully Submitted,

Phil Weipert, Chairman

Marianne Jamison, Recording Secretary