

# Zoning Board of Appeals

## Regular Meeting Minutes

Monday, March 28, 2016, 2015  
7:00 p.m., City Council Chambers



City of South Haven

### 1. Call to Order by Lewis

### 2. Roll Call

Present: Scott Boyd, Mary Lynn Bugge, Dave Paull, Tom Stegeman, Mark Wheeler,  
Alternate Member Bob McAlear  
Absent: Dave Miller

### 3. Approval of Agenda

Motion by Bugge, second by McAlear to approve the March 28, 2016 regular meeting agenda as presented.

All in favor. Motion carried.

### 4. Approval of Minutes – January 25, 2016 and February 8, 2016 (Special Meeting)

Motion by Bugge, second by Paull to approve the January 25, 2016 Regular Meeting minutes with the following correction.

- Page 2, sixth paragraph, line 9; after the word forty-four change the word “feet” to “inches.”

All in favor. Motion carried.

Motion by Wheeler second by Stegeman to approve the Feb 8, 2016 Special Meeting minutes as written.

All in favor. Motion carried.

### 5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

None at this time.

### 6. New Business – Public Hearing

**Mike Kane, Quality Construction of South Haven is requesting a variance to construct an eight (8) foot fence in a residential side yard. The maximum height allowed by Zoning Ordinance Section 1724, Fences and Landscaping Structures, is six (6) feet.**

Anderson noted the subject property is located is located at 1000 Monroe Boulevard. The variance is from Section 1724 of the Zoning Ordinance which limits fences in side and rear yards to 6 feet high. A variance of 2 feet to allow a fence 8 feet high is requested to provide privacy from the proposed swimming pool next door.

Lewis stated that during the public hearing we will be talking about the fence only, not the rental ordinance or any other structures on the properties.

Motion by Bugge, second by Paull to open the public hearing.

All in favor. Motion carried.

Mike Kane, Quality Construction, representing the owners, John and Susan Woodhull. Stated he has been asked to construct a fence. "They currently have a 4' fence you can see through. They are concerned with privacy due to construction next door." Stated he has pictures from 3 different points in their yard including the main bathroom and an office area "Mrs. Woodhull spends a ton of time in. Describing a photograph he provided, Kane noted that the bushes are about 6 feet tall and the gentleman in the green hoody is down in a trench where the pool is going to be. The 6' fence would cut off the view of him, but if he were standing on the ground, a 6' fence wouldn't do it".

Kane also brought photos of what he would like to build and noted that the fence itself is six feet high with a 2-foot lattice section above that would take care of the privacy issue.

Lewis asked if the picture was of a 6' or 8' fence to which Kane responded that he does not know. The picture provided is just an example of the style he wants to build to take care of both view reduction from their house. If the fence were to be constructed, the only ones viewing it would be Woodhull's neighbor to the south and their neighbor to the west. Kane stated, "If you were to drive by you wouldn't really see if unless you were to crane your neck." Kane noted that the previously installed four foot high fence would be re-installed up to three feet from the sidewalk.

Wheeler said, "As I hear it, your rationale is partly because their house sits higher, about two feet higher than grade.

Boyd commented, "You said three to four years ago the Woodhull's installed see through fence. Today they have the same view." Kane responded that the shadow box style he is proposing helps alleviate noise and view.

Lewis asked, "Are you are trying to protect the view to the house or from the house?" Kane said the customer told him they wanted to block their view looking down from their house to the proposed pool area.

Bugge asked how this house differs from other houses, which are probably also above grade to which Kane responded, "Maybe the angle of the house and the proximity of the

pool.” Bugge asked, “You said the house is 10 feet from the property line?” Kane responded, “That would be the closest point.” Bugge asked whether the furthest corner from the house to the lot line is 40 feet, the pool house is 12’ wide and 12’ high, then the pool is after that point and she commented, “There is a substantial distance from their house to the pool with the pool house between. It is not unusual to have a pool 30 feet from the house.”

Lewis asked what makes this property so special that is unique to everyone else in the town. Kane said he would leave that up to each individual property owner to propose alterations and what their back yard looked like whether a possible fence would amend what they see as a problem.

McAlear said he got a variance for an eight foot fence; that he had a similar situation to what you are talking about, “My house sat a little higher. I and the neighbor got together and got the variance”.

Kane said he has emails from neighbors who were supposed to report if they had an aversion to this fence. Anderson noted the Zoning Board has received all emails.

Jim Sheppers, 52 Lake Court. Noted he lives 3 houses north of the Woodhull house. “It’s very important in the city that we’re in that we afford the opportunity to people to do what they need to do to maintain their privacy.”

Steve Runkle, 16 Pine Street. Lives directly west of the Woodhull’s. Thinks the eight foot fence will be perfect. Stated that the other fence was installed two years ago and with the changes going into the neighboring house he is in support of an eight foot fence.

Lewis asked if there were any other comments and called for a motion to close the public hearing.

Motion by Paull, second by Boyd to close the public hearing.

All in favor. Motion carried.

Boyd stated he wants clarity about whether the potential builder, when referring to the wrought iron open fence versus the shadow box closed fence, was referring to the ability to see through rather than close it off, not the height.

McAlear said there is a precedent because he has such a fence and it works well for him and his neighbor. Paull asked why McAlear and his neighbor asked to have it installed. McAlear said his house has a sun room and the neighbor has a hot tub. “The fence solved the privacy issues for us both.”

Lewis stated he has a problem with this and asked, “What is the difference between a yard and a pool in the yard? Children can be out playing and making noise in an open yard.” He stated his concern about setting a bad precedent.

Wheeler stated that he has a definite appreciation for privacy issues. “It’s hard to draw the line when others come in asking for an eight foot fence. Do we really want to get into that? Telling a homeowner they have a minor privacy issue but another homeowner has a larger privacy issue?”

Boyd asked for clarification on the fence requirements, which Anderson explained that in the front yard a 4 foot fence is permitted, while in the side and rear yards a 6 foot fence is permitted by the Zoning Ordinance. Boyd commented, "They just installed the 4' fence 2 years ago."

McAlear noted that having experience, he can state that the only people it affects are the people on both sides of the fence.

Bugge pointed out that there was a letter from the owner on the other side of the proposed fence in opposition. "It's not who is in this house now and who lives in that house now; we aren't looking at the persons, but at the property. The city has chosen to make the standard 6 feet. This doesn't vary from place to place, if the city wanted to establish a higher fence standard they could. This is the standard the city has chosen to do, unless it is something exceptional. This is not an unusual situation; this will be 8 feet tall on both sides. One person may like it but the other has an objection."

Lewis pointed out that the inability to install an 8 foot tall fence does not stop landscaping that is 8' tall. Boyd said, "You can put arbor vitae on one section of the fence." Lewis noted this is true. Boyd noted that Bugge has helped us on other projects by suggesting landscaping.

Paull stated, "I want a dome. Any approval of something like this that you make, in essence it's a precedent. And anytime someone just doesn't like a pool being put in their neighbor's yard it sets a precedent. He added, "when I first read this; the first thing I thought of is a spite fence. It's not 'let's get along and let's learn to get along'. I live in a rental neighborhood and get along with most of my neighbors most of the time. I need to be able to get along and work with my neighbors and an 8 foot fence doesn't encourage that. And if you go through the standards we have established in the ordinance, as a board to determine whether or not a variance is acceptable, there is nothing that fits. It's a bad idea."

Wheeler noted that if the standard is a 6 foot fence then the property needs to be non-standard for us to deviate from the standard 6 foot fence.

Motion by Paull, second by Wheeler to deny the request for an 8 foot fence at 1000 Monroe Boulevard.

A Roll call vote was called.

Ayes: Paull, Wheeler, Boyd, Bugge, Lewis  
Nays: Stegeman, McAlear

Motion carried.

The request was denied.

## 7. Commissioner Comments

Bugge asked if we established a calendar for this year. Anderson answered yes.

Lewis asked for an update on the auto detailing shop landscaping and Anderson said she has sent a letter to the property owner. If not done by end of April we will take the necessary steps to revoke the permit. Lewis stated that is generous and Anderson pointed out that the property owner was required to install annuals, and she is hesitant to require setting out annuals any earlier.

Lewis noted that Woodhams must have found a way to make it work. Anderson said corporate told them to move the wall back.

Bugge stated that she said corporations know there are standards and if you tell them they have to do something, they usually will.

## **8. Adjourn**

Motion by Bugge, second by Boyd to adjourn at 7:30 p.m.

RESPECTFULLY SUBMITTED,

Marsha Ransom  
Recording Secretary