

Zoning Board of Appeals

Regular Meeting Minutes

Monday, August 24, 2015
7:00 p.m., City Council Chambers



City of South Haven

1. Call to Order by Lewis at 7:00 p.m.

2. Roll Call

Present: Boyd, Bugge, Miller, Paull, Stegeman, Wheeler, Lewis
Absent: None

3. Approval of Agenda

Motion by Paull, second by Boyd to approve the August 24, 2015 regular meeting agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – July 20, 2015

Motion by Miller, second by Stegeman to approve the July 20, 2015 regular meeting agenda as presented.

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

Phillip Freeman of South Haven, MI is requesting a variance from Zoning Ordinance Section 2406 (Overlay Zone Landscaping) for his property at 807 LaGrange Street. The zoning ordinance requires landscaping on all sides which the applicant states is not possible with the property configuration. The parcel number for the property is 80-53-480-006-00.

Anderson stated that the applicant has talked with her about putting in potted trees or box trees because they could not comply with the overlay zone and have any usable property left. Anderson asked Larry Halberstadt, City Engineer about putting plantings in the Willow

Street parkway and he would allow that on the city right-of-way provided the plantings did not exceed 24 inches in height. Halberstadt also suggested that Anderson speak with Maria Munn at Michigan Department of Transportation (MDOT). When contacted, Munn said if that was something that the applicant was asked to do to get his variance she would work with him to design/plan something along LaGrange Street. Those would be two options for the applicant and the ZBA to consider. Anderson noted there is plenty of landscaping by the existing fence; it seems to be in good repair but needs to be trimmed and the fence painted to improve the appearance.

Paull asked about the specifications of the ordinance referred to and why the overlay zone requirements cannot be met. Anderson noted the overlay zone requires that any street frontage has to have a twenty-five foot (25') green space and this is a corner property, so there are two street frontages. This is also a triangular property and for those reasons the setback would just about take up the entire property. To comply with the requirements, the applicant would have to tear up pavement. Anderson noted that the board could make that a condition if they chose to do so.

Bugge asked about the two foot (2') height restriction on the state road, noting she understands that, but the whole strip along Willow Street is not part of a vision triangle. Bugge asked, "Since the city goes around planting things that are taller than two feet (2') is that something we could require?" Anderson reiterated what the city engineer stipulated and noted she would want the applicant to work with the city engineer to plan that area.

Bugge asked if the board can ask that the "volunteer" plantings along the fence be cleaned up. Bugge pointed out that the property is already paved to the property lines and wanted to know if a future owner/user would come in and tear up all the paving if there could be a caveat that they be required to comply with the overlay zone. Anderson responded that those are things that would take place if someone did a major change of use or redevelopment of the site. No matter who or what business goes in there this property is going to have to have variances. If they were compelled to meet the landscaping requirements there would not be room to park a car. To use this property as is or to completely clear it of paving and buildings would still require variances.

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

All in favor. Motion carried.

Lewis asked if the applicant would like to speak about his plans.

Phil Freeman, 18400 72nd Street, South Haven. Stated that he owns the property and has pictures showing how the property looks today including some of the improvements that were made, with flowers in pots and other flowers along the property.

The pictures were passed among the board members.

Freeman stated that from his perspective, as far as appearance, this property has been that way for he does not know how many years. Freeman has owned it for about three (3) years. The applicant stated that he does not see where, other than the back of the building or along Willow Street, much could be done. Suggested placing some low junipers that would not

grow very high, that would not obstruct the view of people coming down Willow or LaGrange. Freeman stated that his property, with the current landscaping, looks pretty similar to what is in the area and is zoned the same.

Lewis asked what hardships you would encounter if we were to force you to comply with the current zoning. Freeman responded that he does not know what the cost would be. Lewis explained that the board does not care about cost; he is referring to hardships concerning parking or doing business. Freeman responded that if he were to comply with the overlay zoning, he would not have room for parking and would not be able to do business. Freeman added that he is not aware of whether other properties in the area have had to comply with the overlay zone.

Paull explained that the subject property is in the overlay zone we have designed in the interest of an approachable visual entrance to the city, which is why your property is tied up in that. Paull noted that the argument that the property has been that way for years; that does not mean it should or that it is good.

Paull explained to the applicant, "As we deliberate this, keep in mind that you are caught in the transition, and you and the other properties along LaGrange are all part of that transition."

Bugge asked if the pavement is into the right-of-way. Freeman stated that he has no idea whether the paving is into the right-of-way or not and noted, "We measure where the grass goes and it is in the city easement and beyond that is asphalt." Anderson pointed out that the overlay zone picture for the green belt, created by the city mapping system, shows the property line going right along that curb. Lewis commented, "Excellent; that kind of helps us with that." Paull noted he would be concerned with knowing where his property lines are.

Freeman asked when the ordinance passed to change the zoning. Bugge stated that according to her notes first reading was October 30th but does not know what year. Anderson stated the year was 2013.

Lewis stated he is not as concerned about the Willow Street frontage as he is the LaGrange Street frontage because the LaGrange frontage is what you see as you come into town.

Paull told the applicant he is concerned with where the right-of-way ends because "Your paving probably extends into city property." Anderson said that is why Maria Munn with Michigan Department of Transportation (MDOT) said she would work with him regarding where, how and what plantings would be acceptable to the Michigan Department of Transportation (MDOT).

Freeman said on LaGrange there are two access curb cuts to go from the parking lot to LaGrange so anything planted in that area would have to be low to not obstruct visibility for people coming down LaGrange.

Bugge clarified that her reason for asking was that other properties have encroached on the right of way and found out to their dismay.

The public hearing was closed by motion.

All in favor. Motion carried.

Lewis said he thinks along LaGrange we ought to be somewhere in between as far as the greenbelt requirement. Paull asked, "Five (5) feet? Eight (8) feet?" Lewis stated he is thinking more like ten (10) feet.

Bugge talked about requiring some tubs of higher plantings, and does not think that putting something in the parkway would work well because they will get walked on in good weather and snowplowed in winter. Lewis said, "If he does planters on the asphalt, " and Boyd interjected, "Then height doesn't matter." Bugge agreed that was what she meant. Lewis said, "Close to the road snowplows have a nasty way of taking those right out," to which Bugge responded, "But we do plant trees along the curb once you are outside of the clear vision area." Anderson noted that some planters could be placed along Willow. Lewis stated that planters could be placed all along the property line to which Bugge agreed.

Lewis likes the idea of not forcing the applicant to tear up the asphalt until it becomes necessary to tear it up for a future change of use. Boyd stated that he likes that idea, calling it a conservative approach, and agreeing, "If the property were redeveloped then we could look at that."

Boyd explained about the horse troughs used as planters at Joe's Bar stating, "We trim them in the fall and they come back in the spring."

Lewis asked if the overlay talks about how many trees are required. Boyd said the requirements of being approved by MDOT and city engineer precludes that discussion. Bugge said there may be an issue with planting in the right-of-way.

Bugge asked, "What were the planters you used?" Boyd responded, "We used horse troughs and put them up on bricks to make them tall enough. We put tall grasses and some plants with colorful leaves. Flowers didn't work so well; the children picked them." Boyd added that this seems like a reasonable plan; it does break up all the asphalt; it increases the property value, "So my fellow members of the board who are better at wording, I'm asking you to step up."

Bugge asked the length of the property along LaGrange. Paull stated that the board cannot be sitting here and designing a landscape plan. Anderson said the length is two hundred twenty-eight feet (228') and the overlay zone does have requirements about how many trees and shrubs are required.

Discussion of the length of horse troughs ensued as well as other type of planters that have been done. Lewis said along Willow and LaGrange having the required plantings in planter boxes or they could stick them in the ground, but the green space does not have to be more than five feet (5').

Bugge read the requirements, "Two (2) shade trees and three (3) ornamental trees for every one hundred feet (100'). That would be ten (10) trees in two hundred feet (200'). Lewis said we do not need to include shade trees. Boyd noted that she is talking about density. Bugge asked if the requirement is five (5) per so many feet, whether a certain number of planters could be required.

Wheeler asked if it would be easier to come up with a number of trees or shrubs and let the city engineer or MDOT help them. Anderson explained that as long as the planters/plantings are not in the public right-of-way those entities will not come into play.

Boyd asked about how many lamp poles and suggested putting one planter for every light pole. Bugge said that is another issue and explained she is just trying to get an idea of how many.

Lewis noted that once you start removing asphalt you could remove most or all.

Freeman stated that in the past, in the parking area, if you put them on the asphalt, whether you put planters or trees, people have hit the posts already and knocked them over to the extent they had to be straightened out and concrete put around them. Other places we were required to put trees close to the street and now they are making us remove them because people could not see when backing out. If you want to do trees, he does not know about the height restriction.

Lewis explained the board is not talking about the right-of-way so the height restriction goes out the window. Boyd said the ones he saw at the Vineyard last night were just huge half barrels, painted and planted with some kind of evergreens.

Bugge noted everything requires maintenance and care over time and asked, "This is a detailing shop so isn't it a low traffic type of business?" Bugge also pointed out that people need to be careful; they are not drinking or anything. She commented, "It is just the nature of the beast; maintenance is just something that has to be done."

Freeman suggests because of the lateness in the year, if we plant flowers now, in a month or so they will be gone. He would like to be able to do flower planting in the spring. We could put the pots there and then put the flowers in during the spring.

Bugge said it would be nice if something could be there year around. "The object is to landscape parking lots, so if you are coming in the main street you see something nicer than just cars and pavement. An evergreen in a barrel to which you add flowers in the springtime; you are establishing a nice tone for the area. That is the purpose of the ordinance."

Wheeler asked what the magic number is to which Lewis responded that it should match the ordinance. Boyd pointed out that you could group several pots in two (2) groups of three (3) and one (1) of four (4) for a total of ten (10). Lewis said, 'I can't see putting shade trees in pots, but some sort of evergreens for the winter everywhere except in the visual impairment area.'" Bugge noted from driveway edge to driveway edge could go without plantings.

Lewis asked about the fence maintenance. Anderson said the fence and shrubs on this property should be trimmed, painted and maintained. Lewis asked what defines "maintained" to which Anderson responded that the ordinance just says that it should be well maintained.

Anderson added if you make a motion that includes landscaping you should include a date by which things need to be completed.

Lewis stated he would like to see the planters out there right away and the required evergreens put in. As far as any hardwood, to get a full season, Lewis could see that being planted in the spring. Bugge asked, "What about seasonal flowers or grasses?" to which Lewis responded, "That, too."

Motion by Bugge to grant a variance for the landscaping of the property subject to installing five (5) planters for each one hundred feet (100') along Willow and LaGrange Streets which will include annual interest and some type of evergreen to add height to least five feet (5') tall. Should the property be redeveloped or expanded there would need to be application for a different variance. Existing fence and plantings on the property to be painted and repaired as necessary.

Lewis asked about adding exceptional conditions such as: It is a unique lot; a corner lot; complying completely would make it nearly impossible to do business on this lot.

Second by Miller.

Paull stated that he is going say something and asked Mr. Freeman if he has an idea of what the board is looking for. Freeman said he does but wonders about the curb cuts and whether it will impair the visuals of people pulling out. Lewis said, "You don't have to evenly space them; you can space them so you cannot impair the visual."

Bugge asked how many cars at a time are expected. Freeman said, "It used to have thirty (30) cars on it for the used car lot; it couldn't go back to that with these requirements." Anderson noted that not all lots that are listed for a zoning district work for every use. "Not every type of business listed will fit or work on every lot in that district." Anderson agreed the lot would not be able to have thirty (30) cars parked on it again under the overlay zone ordinance.

Lewis said we are getting away from our discussion here and Anderson agreed.

Wheeler said Anderson is making a good point. "Just because a lot is zoned for a certain use does not mean that we have to make it work for that. A detail shop running three (3) cars at a time would work just fine." Lewis said, "A Ford dealership wouldn't work," to which Wheeler responded he would recommend they find somewhere else.

Bugge noted that the planters are movable and can be clustered to accommodate various uses.

Paull said, "It feels to me is that we are trying, as a board, to create a camel without actually seeing it." He feels Mr. Freeman understands what we are looking for; some kind of plantings to meet the ordinance and asked if the applicant can he come back in a month and show the board, "This is what I want to do."

Wheeler said he likes that idea, noting, "I am starting to feel like some kind of an exterior decorator."

Paull said, "I know I'm blind but trying to actually do something while blind is something else." Paull expressed his feeling that Freeman understands what the board is looking for; some plantings, some planters, and so forth.

Lewis asked if that is acceptable to Mr. Freeman to which Freeman said, "Yes, as long as the detail shop can continue to operate during that time." Bugge asked if the shop is already operating and Freeman said that it is. Paull said the problem with the overlay zone is it is going to cause these kinds of problems all along the entrance streets to the city and we need to give people the opportunity to participate."

Motion by Paull to table the discussion until the next regular meeting.

Bugge asked, "What about the motion on the floor?" to which Lewis responded that it can remain on the table and be amended at a later time.

Second by Boyd.

All in favor. Motion carried.

7. ZBA Rules of Procedure, as amended

Anderson said this doesn't require any action; they approved this amendment at the last meeting, adding Section 4.8 requiring that the applicant or his/her representative must be present for the board consider a request or to take action.

Wheeler asked for confirmation that this is just to show us that it's on the books which confirmation was given by Anderson.

Bugge said, "This ordinance we are dealing with on this variance; our book hasn't been updated in a long time." Anderson said the up to date ordinances are available online. Bugge asked if the board members are noticed when it is updated and Anderson said no. Bugge said it would be nice for those who still use books.

Wheeler said it would be really nice that people who are looking for landscaping ordinance variance could come in with some sort of plan. Paull said when someone comes in and wants exemption from a landscaping issue, he would like to see them come in with a plan and say, "I can't comply with the ordinance but I can do this." Bugge noted, "Or, is this sufficient?" Wheeler gave an analogy to illustrate and the board agreed they would like to have something before them along with a variance request.

8. Commissioner Comments

There were none.

9. Adjourn

Motion by Paull, second by Boyd to adjourn at 7:53 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary