

Zoning Board of Appeals

Regular Meeting Minutes

Monday, October 26, 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, Paull, Stegeman, Wheeler, Lewis
Absent: Miller

3. Approval of Agenda

Motion by Bugge, second by Stegeman to approve the October 26, 2015 regular meeting agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – September 28, 2015

Motion by Stegeman, second by Wheeler to approve the September 28, 2015 regular 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 Hearings

- a) Phillip and Kimberly Roehm of South Haven are requesting the following variances for a new home planned at **77 Northshore Drive #19**: Front setback of 23 feet where 25 feet is required; Side setbacks are 10 feet and 8 feet where 12 feet on both sides is required; Lot coverage is 39.5% where 30% maximum is required. The parcel number for this property is 80-53- 701-011-01.

Anderson explained this is a situation that has been seen in other zones; some small lots in a zone which has larger lots in general. Lewis asked if this lot was in the R1-A zone would it

comply to which Anderson responded, "Yes, totally in compliance with setbacks and just over on lot coverage."

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

All in favor. Motion carried.

Phillip Roehm, 77 Northshore Drive. Stated he and his wife have owned property in South Haven for twenty (20) years and want to build an "aging in place" home with first floor living. Noted this property was purchased from Waters Edge Condo Association. The new address will be 80 Woodman Court #18. Does not feel they are asking for a large amount in the variances. Noted they have been working with Glas Associates out of Kalamazoo. "The variances will allow us to put a home on that we can be proud of and our neighbors will be proud to have around. The setbacks we are asking for will allow us to have plenty of green space around our home."

In response to a query by Bugge, Roehm stated that the home being planned will be a two-story home.

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

All in favor. Motion carried.

Bugge asked about the width of a typical lot in in the R-1A zone. According to Anderson fifty (50) feet x one hundred (100) feet is typical. Anderson noted that the lot at 77 Northshore Drive is twenty (20) foot deeper than a typical R1-A lot. Bugge asked about variances granted for other houses on Northshore. "We made them comply with twenty-five (25) foot setback and the house north also has a deep setback". Stegeman noted that it appears the neighbors are in support based on the letters received.

Motion by Stegeman, second by Boyd to approve the variances requested.

Boyd suggested wording to add to the motion, "to approve the three (3) variances to the code for parcel # 80-53- 701-011-01."

Bugge is concerned with variances to front or rear setbacks because it is a deep lot. "And we required the previous applicant to comply with the twenty-five (25) foot setback as well as their other neighbor having a deep setback."

Lewis reiterated that if it were zoned differently this proposal would be in compliance and the lot is one hundred twenty (120) feet deep as opposed to one hundred (100) feet.

In response to a question regarding why the two extra feet are needed in the front when it seems there is room in the back, Roehm stated that they are asking for two (2) extra feet on the front yard so we can use the space in the garage. "When you come off Northshore Drive and come onto Willow Court, we need turning area to get into the garage, and need the space for our cars and extra storage. There will also be access in the garage for our basement which requires a little extra space in our garage."

Lewis noted that the garage is quite large to which Roehm responded that it is designed for

two cars and storage. We have neighbors in the back and would like to have a back yard for outdoor activities. Roehm pointed out that the neighbor has a deck that extends into the front setback and the proposed garage will not extend beyond the front of the neighbor's deck area.

In response to a question about why the north setback variance was requested, Roehm stated it is so cars can be parked there as opposed to having cars parked off Willow which would be sticking into the street. Lewis noted the board had seen photos of what it looks like to have cars extending over the sidewalk and off the driveway in some previous variance requests.

Bugge said the garage can be compressed two feet or the house can be compressed two feet.

Boyd commented that he sees having a wider entrance to their garage important for traffic safety and maneuvering. "The wider opening makes sense to me." Bugge responded that if the garage were back two feet it would be even wider. Boyd clarified he is talking about the width of the garage opening.

Motion by Bugge to amend the motion by removing the front setback variance request on North Shore Drive.

Lewis called for a second.

For lack of support the motion failed.

A roll call vote on the original motion to approve the variances as requested was taken:

Ayes: Paull, Stegeman, Wheeler, Boyd, Lewis

Nays: Bugge

Motion carried.

- b) Richard Braunz, owner of **820 Green Street**, is requesting an east side setback variance of 1.7 feet. The proposed setback will be 10.3 feet where 12 feet is required. The property is currently vacant but the applicant is planning to move a house onto the site. The parcel number for this property is 80-53-470-039-00.

Anderson noted that the applicant will have to split the lot, which is a double lot. The resulting lots would both be conforming lots but the house he is proposing to move onto one of the lots would need a variance of almost two feet (2') on the side. Anderson explained that the city owns the house and planned to demolish it but Braunz wanted to purchase the house and move it. "This has been a long process with many hurdles still ahead."

Paull commented that there were some engineering issues to which Anderson responded that the city engineer has some concerns about power lines and utilities for that lot that will have to be resolved to determine whether or not the move could actually happen.

Lewis suggested making a motion that would apply for only this house being moved across the street. Boyd asked for clarification and Lewis explained, after which Anderson pointed

out that a variance granted stays with the property and this variance, if granted, will stay with the property whether or not the house gets moved. Bugge suggested that a contingency could be added referring to this particular house.

Boyd said when he hears engineer has concerns it makes his ears perk up and he wondered what the city engineers concerns are.

Anderson said the foundation of the house, due to water infiltration, has sustained some water damage; a new foundation has to be put in on the new lot. There are some issues with water and sewer and overhead lines. The person seeking to move the house would have to have a professional moving company do it and have bonding in place. There are a number of things the city engineer would have to have in place before the house is moved. Anderson noted that building permits are not issued until all engineering concerns are eliminated.

Boyd asked whether the house could still be demolished, as was the city's original intent, and Anderson said it could.

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

All in favor. Motion carried.

Richard Braunz, 820 Green Street. Said he saw the newspaper article about the house and asked Laraway (movers) to come look at it. Stated he's been waiting and waiting, in the meantime had the survey done and working on the land split. Stated, "The house is eight feet (8') too wide; four feet (4') on each side, if you can imagine." Braunz has been waiting for the city to respond. In response to questions, Braunz explained that Laraway is going to pick the house up off the old foundation; the house will be moved across the street onto the new lot and set up on "Lincoln Logs" while the foundation is built. Noted he wants to move the house for his son to move into next to him. Braunz lives on half of the double lot in question.

After discussion, it was clarified that the overhang of the eaves is one foot seven inches (1'7") which is the variance Braunz is asking for.

Boyd asked about the costs incurred by the city; "What are the city costs and your costs in moving this home?" Braunz commented on electric utilities costs which are unknown at this time; costs for tree removal. Has to get with the cable company to move a couple of poles for a couple hours. The movers, Laraway, charge twenty thousand (\$20,000) to twenty-five thousand (25,000) and the cost for diggers for the basement about \$6,000.

Bugge said the costs are the applicant's problem and not our concern. Boyd asked if city employees are involved in this to which Braunz responded that the city has to move a pole for him for about five hundred dollars (\$500). Braunz noted he is trying to save a house and is not planning on turning it into a vacation rental yet.

Wheeler asked if the city engineer's concerns are only for the disconnect and reconnect issues to which Anderson responded that the city is also concerned about the water and sewer connection.

Paull asked the condition of the house. Braunz said he believes it is in good condition; noted the house was built around 1965. The only problem Braunz was aware of is the basement, due to water issues. Paull asked if the house was condemned. Anderson said the house itself is in good condition; she has also been inside the house but believes that over time there would be water damage to the basement and structure of the house. Braunz noted the owners lived in it until May 2015. Anderson noted it does not qualify as a dangerous building under the building codes.

Bugge said the other issues would have to be resolved before this could proceed. So the only concern of the zoning board is the minimal variance.

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

All in favor. Motion carried.

Lewis said the only concern he has (moving the house is no problem with a variance for that) is that the variance goes with the property. If the move does not happen, the variance still stands. Bugge said, "If you put a condition on it that would have some weight." Wheeler noted a condition could be challenged to which Bugge responded that anything can be challenged.

Lewis noted that if we grant this variance we want to put conditions on it that will hopefully hold up. Paull said if it could be locked to this particular building, he would feel pretty good about it. He does not want to give a general variance for this that in this neighborhood something similar would not need a variance.

Bugge asked what the address is for the property that the house is located on to which Braunz responded the address where the house is located is 801 Green Street.

Stegeman pointed out that if this variance is granted you want a stipulation to stick to this house on the correct lot number. Bugge noted the lot number may change with the split.

Paull asked if this is a bit premature, to grant a variance to move a house to a non-existent lot. Anderson stated that the city owns the house and lot where the house is currently located. In order for Braunz to apply for a lot split or make any arrangements he has to take ownership of the house. The City Council will go into an agreement with him on selling the house; once that is completed Braunz can start doing what he needs to do.

Paull clarified that Braunz needs to get everything else done and then ask for a variance. Anderson pointed out that if Braunz's request for a variance does not go through the project will proceed no further.

Lewis said he doesn't have a hard time deciding this now.

Motion by Bugge to permit the variance of one and seven-tenths feet (1.7') for placement of the house currently at 801 Green Street on the proposed lot adjacent to 820 Green Street, subject to meeting the City Engineer's criteria. Second by Stegeman.

Boyd asked for clarification of whether that motion is tying the current house at 801 to the vacant lot.

Paull commented that he will vote no since this is asking for a horse and granting a camel.

A roll call vote was taken:

Ayes: Stegeman, Wheeler, Bugge, Lewis

Nays: Paull, Boyd

Motion carried.

- c) Woodhams Ford, **1111 La Grange Street**, is requesting a side yard setback and front and side landscaping variances as part of a large renovation project. The parcel number for this property is 80-53-615-025-00 and 80-53-615-009-00.

Anderson said this is a major renovation the Woodhams have been talking about since before the city developed the overlay zone; without the overlay zone they would have been fine but with the more strict landscaping requirements there they are running into a problem. Corporate requirements are also an issue to deal with. The overlay ordinance requires a twenty-five (25) foot greenbelt in the southern part of the road front (except along the building) and the applicant is showing no greenbelt in the southern part of the road front and in the north section a greenbelt between seventeen (17) and twenty-five (25) feet.

The applicants have made an effort to put as much greenscaping as they could in as many places as they should.

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

All in favor. Motion carried.

Jeffrey Saylor, Vice President, Abonmarche.

Saylor noted he would give an overview and turn it over to Amy Cook, Project Manager for more detail. Saylor stated this project is driven by two constraints, economic and requirements by Ford Corporate. Our client could not afford to tear down the auto parts store on the corner; Abonmarche had to rework that store to make this economically viable. There were hundreds of thousands of dollars involved in a tear down while recycling the auto parts store made the project more viable. "We did remove the western thirty (30) feet of the building so we could get it a reasonable distance from the street. The present showroom will be away from its proximity from the street and the auto store will be thirty (30) feet away from LaGrange, turning the two into one cohesive design." Saylor noted that Ford dictates that the present site layout and design be followed to continue. The present site makes it hard to know where to park, where to enter the building, as a customer. The new design gives some clarity to 'Where do I park?' and 'Where is the front door?' Saylor concluded, "By unifying these two buildings, reducing the proximity of the two buildings to La Grange, creating a driving lane, a walkway to the front entrance and a green buffer, we hope you will agree this will be a real asset to the community."

Amy Cook, Project Manager, Abonmarche Consultants. Stated Abonmarche has been working on this project for quite a while. We are now moving forward with Pioneer as a design-build team. She presented a slide show to help explain the project:

1st slide. Shows what will be removed from the site, which is a sea of asphalt and visually bereft. The plan is to remove pavement to add square feet of greenscape that was not there before and taking more pavement out that will be replaced. The number of curb cuts will be reduced from four (4) entrances and exits to two (2) curb cuts. Abonmarche is presently in the review stage with M-Dot. Also being taken care of is the non-green belt between the property line and street curb which will be improved with greenscaping and an inlet for run off.

2nd slide. Indicates the building improvement, which includes linking the two existing buildings. With a drive-through service lane, the northern building will be service related, helping to orient the customer. Cook noted the designers are bound by Ford requirements to provide this parking, thus we cannot meet the landscape buffer, but are providing it in the northern aspect. In between, small buffers for landscaping have been provided.

Cook pointed out the wide swath at the north, bounded by tall deciduous trees and the north most corner and smaller ornamental deciduous trees close to the Ford sign. Between the property line and street curb are lawn buffer areas. Ornamental trees, shrubs and grasses will be provided on LaGrange and Aylworth facades.

3rd & 4th slides. Show the before and after photos from the same vantage point. Cook noted that the second variance is for the front setback along Aylworth currently which is twenty-five (25) feet and we want to build the sign wall to eleven feet and seven inches (11'7"). This wall does not enclose interior space and is strictly a design wall. Looking to the south this shows the current green buffer to which we will be adding quite a bit and the current sales lot. Then the slide showing the after and a slide (5th slide) showing the curb cuts. M-Dot's suggestion is a right-turn only exit for the curb cut closest to Aylworth.

Boyd talked about the architectural wall and asked what the building setback is. Bugge asked if this cannot be done in another way.

Jeff Saylor said you will see dozens of completed Ford buildings all over Michigan. "This brand wall cannot block the showroom glass, so we can't push that appendage north and block the showroom, the branding wall is a standard Ford Lincoln requirement." Boyd asked why you can't put "Lincoln" where "Woodhams" is. Saylor explained that it is a corporate requirement where the Ford and Lincoln walls are and that this component has been shrunk to the bare minimum.

Bugge said different communities have different standards and Ford does not set the standard for this community. "I have dealt with many corporations professionally and there is a big fudge factor. I don't appreciate that approach."

Saylor won't argue the point but this is the optimal that Ford would like.

Bugge commented on the overhang behind that wall which Saylor said is a sheltered overhang for new delivery. We would be measuring to there. Saylor said the overhang is back about six (6) feet back from the Lincoln wall. Cook noted there are four (4) setbacks along that wall.

Cook noted the building wall complies but not the overhang or the design wall. Bugge asked what the side setback is and how far back the overhang is. Being told the setback is 17' 7" Bugge calculated it to be two (2) feet over what is required.

Bugge asked about the front façade where the Ford sign is, "Is it part of the building?" Saylor said it is twenty-four (24) feet while the Lincoln wall is twenty-two (22) feet. Saylor noted that the high wall of the service building has us stuck with the height for the horizontal lines. From the main power pole that we can't move near the most southern curb cut, the power lines will disappear under the property or buildings.

"The existing free standing sign is staying?" Bugge asked. Anderson said the sign is okay as long as they do not take it down. Saylor indicated a smaller sign is being taken down and will not be coming back.

Lewis asked how wide the drive is along LaGrange which Cook said is twenty-five (25) feet and then asked, "Along the south side?" to which Cook responded that the drive reduces down to fifteen (15) feet, a one lane drive along Aylworth.

Bugge questioned the area being taken up and commented that the right-of-way designation is actually city property. Cook agreed and noted there is currently lawn in that area and Abonmarche are just adding to that so we have a consistent twenty-five (25) feet. Saylor noted the greenspace presently tapers and "we are going to make it twenty-five (25) feet all the way to McDonald's".

Bugge asked about the green space along McDonald's, "Is that in compliance?" to which Anderson responded that is in compliance.

Paull pointed out that one of the purposes for creating the overlay zone was to try to do away with the kind of thing that is happening with this building, a huge wall sign. A big advertising wall, these are the kinds of things we are trying to do away with in this overlay zone. And here is Ford saying "You've got to build this great big sign." "That is not what we are looking for," Paull stated, adding, "You can tell a corporation you can't do that because of the zoning and they will conform to local zoning ordinances. In one respect I appreciate your efforts to make everyone happy. We (the Zoning Board) aren't here to make people happy; we're here to make it pretty."

Bugge asked if it would be possible to put some additional landscaping in the northern area, to which Saylor said, "Woodhams would be willing to add more trees, not big trees, but ornamental trees." Lewis asked whether the landscaping requirements apply along that part of the parcel. Anderson said it does because we have requirements for planting and ornamentals, however they may be bunched together. Bugge agrees with what Paull said and wonders if this goes before the Planning Commission. Anderson responded that it will go to the Planning Commission.

Bugge asked what these cement bump outs are for in front of the building which Amy Cook explained those are display areas for new cars. Discussion ensued regarding the one being done in Holland with one person describing it as dramatic and another as ugly.

Saylor said after being in architecture for thirty (30) years he has learned that it is very subjective: what one thinks is attractive another thinks is ugly and vice versa. Bugge noted that the proposed plan it is a vast improvement over what exists.

Stegeman said he thinks the Woodhams family has been working on this a long time and now the city has changed the rules. Rhetorically, Stegeman asked, "Should they have done it two years ago? Yes. But they didn't. This entrance into the town will be quite a different thing."

John Frego with Pioneer Construction. Stated that his question is if the brand wall that is protruding out would be approved if there were no variances needed. Bugge said the Planning Commission will be looking at the sign. Lewis noted that the variance can be split up; it is not all or nothing. Frego explained the reason that wall and canopy were located there. "That old parts store will be the showroom and the canopy works really well for the new car delivery; it just works very well on the site."

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

All in favor. Motion carried.

Paull commented that he does not know how to modify the request but the massive Lincoln wall bothers him. Lewis repeated that the variance request can be divided up.

Boyd pointed out that it is a wall, not a Lincoln wall. "Let's look at it in our own vein. What I am trying to say is, I see a wall, is fifteen (15) feet enough?" Planning Commission can deal with the sign. Boyd commented that the board is looking for improvement and "I see improvement."

Motion by Wheeler that we approve the variance request for the landscaping as illustrated on the plan provided.

Following several comments about placement of trees, Wheeler noted that we are not here to do exterior design. We have criteria, and their landscape designer can do that. Bugge said she is suggesting that a revised landscaping plan be submitted.

Lewis suggested reducing the front yard setback of the buildings, noting providing greenscape along the building would be a hardship to provide along the west and south sides. To enforce the overlay ordinance according with the existing building would be difficult.

Second by Paull.

A roll call vote was taken on the landscaping variances:

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

Nays: None

Motion carried.

Bugge would like to see the addition of some trees on the north twenty-five (25) foot section, from the building south towards the roadside in compliance with the ordinance to that portion.

Discussion ensued regarding what the Zoning Board of Appeals is actually tasked to do.

Lewis said the board will take up the side yard variance, noting that he has an issue with the southern variance. Paull noted this is not a building serving something; this is a wall, Lewis said part of the setback involves the canopy behind the wall. Boyd asked if that wall could be reduced by six (6) feet reducing the setback from the side yard so it would be reduced to the same dimension as the overhang.

Frego said we could go back to Ford and request it, Maybe we could move the canopy back so it is the only thing encroaching. Boyd said he would like to give them the entire canopy and bring the wall back.

Paull asked for the wording of the side yard setback. Paull asked for the dimension which was reported to be eleven feet nine inches (11'9") based on a twenty-five (25) foot setback. Since it was planned for twenty (20) feet, because Abonmarche thought both road frontages were front yards. Amy said the wall is 11'9" from property line.

Motion by Paull, second by Bugge to deny the side wall setback.

Boyd said reading through the nine criteria he cannot find anything it fails. Paull said it fails the ordinance.

Discussion ensued regarding whether the proposed greenspaces meets the ordinance.

A motion and second were made to deny the side yard variance.

A roll call vote was taken. Lewis clarified that an "aye" vote is to deny.

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

Motion failed.

Motion by Boyd to approve the side yard variance. Second by Stegeman.

A roll call vote was taken.

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

Motion failed.

d) Steve and Virginia Goble of Northville, MI are requesting a rear yard variance to construct a house at **429 Van Buren Street**. The proposed setback is 12.05 feet where 25 feet is required. The parcel number for this property is 80-53-006-015-00.

Anderson stated that this is a really unique situation; this lot has two large easements that run diagonally across the lot, cutting down on the buildable part of this lot. The applicants have designed everything on the property except the second stall of the garage to fit within the building envelope left by the easements; one stall of the garage is over into the setback area. Anderson noted the applicants worked to develop a house that is set up with some weird angles and also noted regarding the proposed driveway, "We don't allow driveways that wide, he will have to reconfigure that and do that before the building permit is issued. The applicant has agreed to this." There is only twenty-four percent (24%) lot coverage mostly because so much of the lot is not usable. The only thing they are asking for is the rearmost garage space, with a setback of 12'8" instead of twenty-five (25) feet is required. The applicants had been working with the city engineer for several months before I was involved; the city engineer does acknowledge they have some issues and what they are proposing is fine with him, and it really is a difficult lot.

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

All in favor. Motion carried.

Virginia and Steve Goble, 355 Orchard Drive, Northville, MI. Virginia Goble: Have been property owners in South Haven for almost ten (10) years; owned the home next to the subject property which they developed. The applicants have been working with Larry Halberstadt since 2012. Halberstadt has written a letter in support. We are trying to build a home relative to homes in the area; this home is identical to the home next door in size. We worked really hard to be able to work within the building envelope and with the road commission to get approval to pour the driveway over the easement. We tried to be compliant and build something reasonable; we are covering a very small portion of the lot and the house is not out of character with other homes in the area.

Lewis expressed that he gives a lot of credit to the applicants for trying to work within the limits of the lot. Anderson added there has always been a lot of interest in this lot but so many people saw the easements and backed away so she has to applaud the Gobles for continuing on.

Steve Goble noted that the house fits really well while Virginia Goble noted that it is unique and added that they have owned that lot and split it and have been paying property taxes on it since 2006.

Wheeler commented that he has gone through all nine (9) criteria and does not see one that would be a problem with #3 (Exceptional Circumstances) fitting the situation well.

Motion by Bugge, second by Wheeler to close the public hearing.

All in favor. Motion carried.

Motion by Boyd, second by Wheeler to approve the rear setback variance to allow 12.08 feet where 25 feet is required.

A roll call vote was taken:

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

Nays: None

Motion carried.

7. Commissioner Comments

Stegeman: At the last meeting Anderson was going to try to find some alternate members. Anderson stated that she thought they had someone but he has changed his mind and asked that if anyone can think of someone who would be willing to help to send them in.

Anderson: No meeting in November. Due to moving the meeting from the fourth to the third week in November to accommodate the holiday, the deadline has already passed. The same thing is true in December. Nothing on the horizon right now.

Bugge: Really has dealt professionally with corporations and franchises; they always have alternatives, if they want to go somewhere or are somewhere they want to stay. They know there are rules.

Boyd said the applicant was forced into buying the property next to him. An example of Corporate bullying of both the city and the applicant. Bugge noted if that wall comes back, the south side has additional space that could be used for landscaping.

8. Adjourn

Motion by Paull, second by Boyd to adjourn at 8:49 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary