

# Zoning Board of Appeals

## Regular Meeting Minutes

Monday, October 31, 2016  
7:00 p.m., Council Chambers



City of South Haven

### 1. Call to Order by Scott Boyd at 7:00 p.m.

### 2. Roll Call

Present: Dennis Lewis, Bob McAlear, Tom Stegeman, Judi Stimson, Steve Runkle, Lisa Bettis-Cooper, Scott Boyd

Absent: Dave Miller, Jodi Carlson

Also present: Kate Hosier, Assistant City Manager; Catherine Mish, City Attorney

### 3. Approval of Agenda

Motion by Lewis, second by Stegeman to approve the October 31, 2016 Regular Meeting Agenda as presented.

All in favor. Motion carried

### 4. Approval of Minutes – July 25, 2016 Regular Meeting Minutes

Motion by Stegeman, second by Stimson to approve the July 25, 2016 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.

### NEW BUSINESS

6. A variance request has been submitted for the property at 346 Park Avenue for relief from zoning ordinance section 1800-1. The variance would allow parking on a driveway which is legally located in the required side setback area. The parcel number for the property is 80-53-833-007-01.

Kate Hosier, Assistant City Manager. Explained that the city is acting as an agent for the property owner. The city approved the building and driveway permits for this property; no garage was proposed but the driveway will accommodate parking and is situated as allowed.

Hosier said a citizen questioned why parking is being allowed on the property, due to a provision in the ordinance which prohibits parking in the side setback. It is permissible to pave up to your lot line; you would drive through to your garage but here there is no garage. The city's past practice has been to allow parking on driveways that are located in the side setback. Hosier added, "All we are here for is a variance for parking."

Lewis asked why a variance and not a special use to which Hosier responded that this is not a use variance but a dimensional variance. Lewis asked clarification that there is no garage. Hosier reiterated that there is no garage.

Lewis asked, "Is there something that says you can't do this?" Hosier responded, "Yes, there is an ordinance that says you can't park in the side setback."

Stimson noted that the city has been doing this for a long time, and granting this variance is just giving the applicant the same right that others have. Hosier said that is correct, adding that in just the small sampling the city did of 196 surrounding properties, it was found that 42 percent have properties with owners parking in the side setback. Hosier stressed that if a larger sampling had been done, she believes it would be found to be even more prevalent. Stimson said of her neighbors on both sides, both of them are.

Hosier said it's the city's position that this is common practice. Lewis said, "You can build your driveway in the side setback, but not park on it."

Discussion ensued regarding the number of parking spaces required by the ordinance and the prevalence of stacked parking on a driveway in the minimum setback.

McAlear asked if there have been neighbor complaints to which Hosier responded that there are concerns and the one who requested this lives within 300 feet.

Stimson said the Planning Commission is looking at amending that section of the ordinance to which Hosier added that this is a widespread thing and the city needs to bring our ordinance into compliance with common practice.

Runkle asked if there is a minimum size or width for a driveway and Hosier responded that the minimum driveway width is nine feet in the ordinance. Runkle pointed out that the electric drop on the driveway side of the house protrudes over the driveway, allowing only eight feet nine inches. Runkle indicated that the porch also protrudes over the driveway. Hosier noted that the driveway is nine feet six inches wide. Runkle stated that he measured it and the driveway is less than nine feet wide. Hosier explained that the city is going by the measurements city staff took of the driveway.

Motion Stimson, second by McAlear to open the public hearing.

All in favor. Carried.

Barb Carlini, 340 Park. Said she lives next door to the property in question. Read an email she sent in and stated she understands that the ordinance is ignored. Proposed that if the city is looking for side drive parking that the variance request be tabled and the city continue working toward an amendment for the zoning ordinance. Asks that the committee to amend the ordinance look at a standard width of eleven feet or greater, making it more reasonable for people to park in the drive and get in and out of the car. Asked why the house at 346 Park was allowed to be built if it doesn't comply with zoning laws. "What happened?" Her point is it would seem if we are urgently looking for a variance right now for a driveway that is less than nine feet and at the point where the junction box comes in it is 8'9". Noted if she had that situation she would have to let the passengers out before she is in the driveway and she might not park in the driveway but on the street.

At this point, after two reminders, Hosier indicated that Carlini's time was up. Carlini asked if she had to stop or could complete her thought. Chair Boyd stated that he would prefer that she stop; everyone gets the same amount of time to address the board.

Boyd explained the procedure for keeping track of the time for speakers during a public hearing.

Pat Gaston, 97 Superior Street. "What a mess we have here. We had a building permit printed for a home that wasn't in compliance with our zoning and now the city is presenting an application for a building permit they granted." Asked how we came to a place where we don't care about zoning, adding that our zoning is a joke. Suggested that when doing the Master Plan make it so you can do whatever you want, wherever you want, however you want, whenever you want.

Chuck Kiplinger, 315 Park. Lives at the end of the block. "I have a question". Boyd explained that the board is not here to answer questions but to listen. Kiplinger stated that then he has a comment. The driveway has already been poured; they are asking for a variance for something they have already done. It was disturbing. "I thought they would at least wait until they got the variance before they poured the driveway."

Hosier explained that the contractor has a valid driveway permit. All we are here for is to determine whether he can park on the driveway.

Stimson asked, "Aren't we talking about whether he can park in the driveway, not the width of the driveway?" Hosier agreed, noting, "It's in the minimum offset. You can pave up to the lot line and the only thing this board is to consider is whether they can park there, in the side setback."

McAlear asked if the reason the city is requesting this variance is to comply with present law, and the future Planning Commission may change that law, but we have to comply with the present ordinance. Hosier said that is correct. McAlear noted that there has been a huge precedent.

Motion by Lewis, second by Runkle to close public hearing.

All in favor. Motion carried.

Lewis said he has no problem with this noting, "We aren't here about the width of the driveway, but whether the applicants can park on it."

Motion by Stimson to motion to approve the variance at 346 Park Avenue for relief from zoning ordinance section 1800-1, as presented, permitting parking on a driveway which is legally located in the required side setback area.

Lewis said he would also add that this is a common practice in the city and this has never been brought up before.

Stegeman asked if there were any extenuating circumstances to which both McAlear and Lewis responded that the precedent is already set.

Boyd made a statement about the number already parking in side setbacks.

Second by Lewis.

A roll call vote was taken:

Ayes: Lewis, McAlear, Stegeman, Stimson, Runkle, Bettis-Cooper, Boyd

Nays: None

Motion carried.

## **7. Board Member Comments**

Lewis said his favorite auto detailer doesn't have the minimum number of pots out there yet. Boyd said this is correct and requested city staff to please check and make sure the landscaping is complied with.

Hosier said it will be done.

## **8. Adjourn**

Motion by Lewis, second by McAlear to adjourn.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom  
Recording Secretary