

CHARTER TOWNSHIP OF NORTHVILLE
Zoning Board of Appeals
September 16, 2020

DATE: September 16, 2020

APPROVED: November 18, 2020

TIME: 7:01 p.m.

PLACE: Meeting held remotely via video/teleconference

Due to the COVID-19 pandemic, pursuant to Executive Orders issued by Governor Whitmer, participation in the Zoning Board of Appeals meeting was held remotely via Zoom webinar video/teleconference. Members of the public body and members of the public participating electronically were considered present at the meeting and could participate as if physically present, as outlined on the Township website and posted per Open Meeting requirements.

CALL TO ORDER: The meeting was called to order by Chair Slatin via video/teleconference at 7:01 p.m.

ROLL CALL:

Present: Brian Doren, Symantha Heath, Eric Lark, Joseph LoPiccolo, Gary Sixt, Paul Slatin, Paul Smith.

Excused: None.

Staff: Jennifer Frey, Township Planner

Township Planner Frey confirmed that all property owners within 300 feet of tonight's petitions had been notified. She noted that the public hearing for the first agenda item was held last month and action tabled until this meeting so those homeowners had not been re-noticed, but the information had been included in all usual communications.

Approval of Minutes:

Zoning Board of Appeals – August 19, 2020

MOTION by LoPiccolo, support by Smith, to approve the minutes from the Zoning Board of Appeals meeting of August 19, 2020.

Roll Call Vote: Ayes: Doren, Heath, Lark, LoPiccolo, Sixt, Slatin, Smith

Nays: None

Motion approved 7-0.

Chair Slatin made standard introductory remarks explaining the role of the ZBA and the formal procedures of the meeting. Chair Slatin noted that four votes would be required to pass any motion. He also noted that all variance requests approved would be valid for one year.

Petitions:

1. PZON20-0012 Kristopher Morris and Lauren Peters, property owners

Location: **15391 Marilyn Ave.**

Request: A variance request to Article 31.5 – Fences in Residential Zoning Districts, to allow an 8' high solid vinyl fence along a portion of the South property line, and a 6' high solid vinyl fence in the rear yard and along a portion of the North property line; where a maximum height of 54" and 50% opacity is permitted.

Kris Morris, property owner, was present on behalf of the petition. They wanted an 8-foot fence for privacy and security for their household and children where their property backed up to a commercial property on the south side. Workers came out frequently to take breaks and smoke. Shipping and receiving trucks came in anywhere between 5 am and 10 pm. The remainder of their fence request was for a 6-foot height.

Member Doren and Township Planner Frey clarified the request. The request was for an 8-foot vinyl fence on the south property line and a 6-foot vinyl fence everywhere else, including a portion on the east side of the yard in order to enclose the yard. The requested fence would not be placed at the rear property line, but well within the rear yard.

Mr. Morris stated that the fence placement in the rear yard was where the heavy forest started.

Mr. Lark asked why they needed to enclose the lot.

Mr. Morris stated that it was a want, but not a need.

Township Planner Frey clarified that the request was for two heights so that the variance was needed on both height and the opacity of the fence, as the petitioner wanted a solid fence. A variance was not needed for the location of the fence.

Mr. Morris stated that the desire for the fence was both for privacy and security. There was an abandoned lot to the north. The rest of the fencing was for continuity.

Member Lark asked about the purpose for the difference in height requests.

Mr. Morris stated that the commercial building to the south was 12 feet tall and that the top of each section had floodlights. The 8-foot fence would limit the floodlights as well as create a barrier to the shipping and receiving trucks.

Responding to a question from Member Smith, Township Planner Frey confirmed that the commercial building would not be allowed to build so close to a residential property with current zoning ordinances. A 50-foot buffer would be required with a wall or berm and plant material. Additionally, the flood lights would be more limited in scope. It was a non-conforming building that had been in place prior to current ordinances. If the owners of the commercial building came in for a change now, they would be asked to make improvements to bring the property more in line with current ordinances.

Member Smith understood the need for the 8-foot fence on the south property line, but was unclear about the need for the 6-foot fence elsewhere. Receiving clarification from Township Planner Frey that the ordinance allowed for a 4.5-foot fence with a 6-inch decorative projection, Member Smith wondered at the need for the extra foot in height.

Mr. Morris stated that he was over 6-feet tall, but this wasn't really a need. However, with the abandoned lot to the north, the commercial property to the south and the apartments to the west past the trees, the height was chosen to give as much privacy as possible for his family.

Member Doren noted that the zoning ordinance would also not allow a solid vinyl fence.

Chair Slatin wondered if there would be a vinyl option with less opacity.

A brief discussion on fence options with height and opacity requirements was held among the Board.

Responding to a question from Member Lark, Mr. Morris explained that the property to the north had a house with a shed and had not been lived in for around six months. Past that, further to the north, there were additional neighbors.

Responding to questions from Members Doren and Lark, Mr. Morris explained the placement of the proposed fence on the south side relative to the existing arborvitaes. The arborvitaes would remain outside the fence. The petitioners had originally hoped that the arborvitaes could be a barrier between the properties, but they were slow growth plants.

Member Doren noted that the property owner purchased the property knowing about the close commercial neighbor. Member Doren was inclined to accept the 8-foot fence on the southern side of the property. However, he had serious problems with the rest of the request.

Member Smith agreed and stated that aside from the 8-foot portion of the request, he would want to see a fence that did not require as much of a variance on height and opacity.

Responding to a question from Mr. Morris, Member Smith stated that he could see approving a solid 8-foot fence for the south side. He felt that the rest of the fence should be compliant in height and opacity, with some other type of matching fence. Perhaps a shadow box fence would work, which would give some privacy. He would like to see a counter proposal for the 6-foot portion of the request.

Chair Slatin also thought that the 8-foot fence was fine. He felt that the rest of the fence should conform to the height ordinance, but was more open to a variance on the opacity because it could be difficult to find a fence that would match the vinyl fence and they were next door to an abandoned home and had woods in the back. He also noted the situation with the nearby non-conforming commercial property and the rural nature of the area.

Member Heath agreed with the 8-foot fence but felt the rest of the fence should be held to the ordinance as there was no compelling need given by the petitioner.

Member Doren noted a previous request where a property owner had to take down a fence. He agreed with the need for the 8-foot portion, but saw no compelling need for the rest of the request. He noted that the adjacent abandoned property would be developed at some point and then that property owner might also want a variance in order to match the fencing.

Responding to questions from Mr. Morris, Township Planner Frey noted that the objective of the ordinance was to not close in a yard with a solid fence or stockade, but to have more openness. Fences could allow for privacy and containment, but not be an enclosed stockade. In this case, there could be a concern that the next person at the adjoining property would want fencing to match and this could cause a ripple effect. In addition, there was a focus on aesthetics.

Chair Slatin recognized that the public hearing on the petition had occurred at the August 19, 2020 Zoning Board of Appeals meeting. He recalled for the Board that there had been one resident from the apartment complex who, when understanding where the fence was being built, had no concerns.

Chair Slatin noted that no additional correspondence had been received regarding the petition.

Mr. Morris brought up a 6-foot tall, opaque wood fence by the apartments and a brief conversation about that fence was held, with Mr. Morris noting that his requested fence would look much nicer than that older fence.

Township Planner Frey said that because it was an older fence, the ordinance may have been different at the time it was built.

Chair Slatin summarized that the Board seemed to be in agreement on the 8-foot portion of the fence and on not allowing the height variance on the rest of the fencing. There seemed to be a mixture of thought on the opacity issue.

A procedural discussion was held on how the Board should proceed with the motion. The Board decided that they would have two motions that separated the petition into its two parts in order to provide the most clarity.

MOTION by Doren, support by Heath, that the Zoning Board of Appeals approve the first portion of Petition PZON20-0012, at 15391 Marilyn Avenue, a variance request to Article 31.5 – Fences in Residential Zoning Districts, to allow an 8' high solid vinyl fence along a portion of the South property line where a maximum height of 54" and 50% opacity is permitted.

Member Doren noted the existence of the commercial property immediately to the south of the petitioner's property and the fact that the commercial property today would be required to provide landscaping and greater distance between a residential property. The house was built and purchased and the petitioner recognized the existence of the commercial property at the time of purchase. However, the motion recognized the need to block off the commercial property from the residential property.

Roll Call Vote: Ayes: Doren, Heath, Lark, LoPiccolo, Sixt, Slatin, Smith
Nays: None

Motion approved 7-0.

MOTION by Doren, support by Lark, that the Zoning Board of Appeals DENY the second portion of Petition PZON20-0012, at 15391 Marilyn Avenue, a variance request to Article 31.5 – Fences in Residential Zoning Districts, to allow a 6' high solid vinyl fence in the rear yard and along a portion of the North property line; where a maximum height of 54" and 50% opacity is permitted.

Member Doren stated that the petitioner had not met the burden in terms of demonstrating the criteria necessary for a variance.

Chair Slatin confirmed that this motion would deny any relief to the fence ordinance on the north, east, and west sides of the property.

Roll Call Vote: Ayes: Doren, Heath, Lark, LoPiccolo, Sixt, Slatin, Smith
Nays: None

Motion to DENY approved 7-0.

Chair Slatin relayed that relief had been granted on the south side of the property, but the rest of the request had been denied.

2. PZON20-0013 Thomas and Jean Booth, property owners

Location: **20204 Rippling Lane**

Request: A variance request to Article 22.5 C Nonconforming Uses, Building and Structures – expansion of nonconforming side yard setback to allow the continuation of the existing of 9.3' setback where 15' is required by the current ordinance.

Tom Booth, property owner, was present on behalf of the petition. Mr. Booth and his wife, Jean, had lived at the property for 34 years and were retired. The house was tri-level with no bedrooms or baths on the main level. They were expecting some issues with stairs due to health concerns. They wanted to add a bedroom and bath to the main level on the east side that would not extend past the existing garage. Their neighbor had no problem with the request. It was not possible to add the rooms on the rear west of the home, which was the split-level side, due to air conditioning, electric meters, 40-foot pine trees, chimney, extensive landscaping, and a koi pond. In addition to those issues, they would also have to cover up windows on that portion of the house.

Member Smith noted that the proposed addition did wrap around the rear of the home.

Mr. Booth stated that they planned to take off part of the deck to make room for the addition. They would add the walk-in closet and bathroom in the narrower area and the bedroom would be in the wider area.

Responding to questions from Members Doren and Smith, Mr. Booth stated that the addition would be within the rear setback as the lot was 200 feet. The setback on the side would be 9.3 feet for the entire addition.

Township Planner Frey said that 9.3-foot setback was original to the property. It was common in that area to have the lesser setback.

Member Lark asked if the proposed addition would remain aligned with the rear of the structures on the street.

Mr. Booth said that most of the lots on that side of the street were around 180 - 200 feet deep, with woods in the back.

Member Lark stated that they would want to maintain some consistency on how far back the buildings were in the lots.

Looking at the arial, Township Planner Frey noted that the proposed addition would extend a little further back than the neighbors, but agreed that they had pretty deep lots.

Member Lark asked if any concerns had been raised by neighbors to the east.

Chair Slatin recognized that the following correspondence had been received regarding the petition:

- Nicole and Steven Fellhauer, 20192 Rippling Lane, were to the east of the petitioner and had no concerns regarding the variance request.

Township Planner Frey recognized the additional pictures the petitioner had provided of the back yard. The Board viewed these pictures. Township Planner Frey noted the improvements on the back of the house on the west which limited the ease of adding to the structure. She also noted the utilities and grade issues with the floor plan of the tri-level.

Member Doren noted that the Board typically dealt with requests for extensions of non-conforming structures. He had no problem with this petition.

Chair Slatin opened the public hearing at 7:54 p.m.

Seeing that no one indicated that they wished to speak about this petition, Chair Slatin closed the public hearing at 7:56 p.m. and brought the matter back to the Board.

MOTION by Smith, support by Heath, that the Zoning Board of Appeals approve Petition PZON20-0013, at 20204 Rippling Lane, a variance request to Article 22.5 C Nonconforming Uses, Building and Structures – expansion of nonconforming side yard

setback to allow the continuation of the existing of 9.3' setback where 15' is required by the current ordinance with the following conditions:

- **All plans and buildings must meet the applicable Michigan Residential Code.**
- **A building permit must be approved prior to the expiration of the variance approval.**

Member Smith noted, as justification, that the request just expanded the existing setback on the home to allow for a portion of the addition to go down the side of the house, and the majority of the addition was in the back of the home.

Roll Call Vote: Ayes: Doren, Heath, Lark, LoPiccolo, Sixt, Slatin, Smith
 Nays: None

Motion approved 7-0.

Other Business

None.

Department Reports

Jennifer Frey, Township Planner

Due to lack of applicants, there would be no October meeting.

Samantha Heath, Board of Trustees

None.

Eric Lark, Planning Commission

Member Lark summarized the Planning Commission meeting of August 25, 2020.

Public Comments and Questions

None

Adjournment:

MOTION by LoPiccolo, support by Smith, to adjourn the September 16, 2020 Zoning Board of Appeals meeting at 8:02 P.M.

Roll Call Vote: Ayes: Doren, Heath, Lark, LoPiccolo, Sixt, Slatin, Smith
 Nays: None

Motion approved 7-0.