

CITY OF SYLVAN LAKE
ZONING BOARD OF APPEALS
APRIL 13, 2016

A Meeting of the Zoning Board of Appeals was held on Wednesday, April 13, 2016, opening at 6:30 p.m. at the Sylvan Lake Community Center, 2456 Pontiac Drive, with Chairman Galacz presiding over the Pledge of Allegiance.

Present: Menuck, Harrop, Kirsbaum, Galacz, MacGillis
Absent: None
Also Present: City Manager Martin and Clerk Dryden

APPROVAL OF AGENDA

Moved by MacGillis, seconded Harrop, to approve the Zoning Board of Appeals Agenda for April 13, 2016, as submitted.

Yes: All
No: None

MOTION CARRIED

APPROVAL OF MINUTES

Moved by Harrop, seconded Menuck, to approve the minutes of March 17, 2016, 2390 Pontiac Drive, as submitted.

Yes: All
No: None

MOTION CARRIED

VARIANCE REQUEST

Z-003-16

Property: 2398 Pontiac Dr. Parcel: 13-36-453-006
Petitioner: Jayne & John Powers
Zoning Ordinance Sections: 78-296 Front Yard Setback (Street), 78-1 Definitions
Front Yard Setback (Lake)

In accordance with the provisions of the Zoning Ordinance, a Public Hearing was held by the Zoning Board of Appeals at the request of the petitioners, to grant three variances from the zoning ordinance to allow construction of a new house at 2398 Pontiac Dr.

All property owners within 300 feet of the parcel in question having been duly notified of the hearing and the hearing published as required by PA 110 of 2006; Chairman Galacz opened the hearing. Proof of mailings and required proof of application are in the file.

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Martin stated this property has the same issues with the road right-of-way as 2390 Pontiac Drive, whose variances were approved last month. This property as platted is somewhat shallow at about 108' deep. Most properties are 125' deep or more. It is also triangular in shape with a width of only 28' along the rear property line and about 100' wide at the street. On the original plat and the sidwell books, it shows the ROW in a fairly straight line parallel to the street. However, the platted dimensions show 109' on the left side and 111' deep on the right side. The property as shown by Oakland County measures about 140' deep on each side.

The second major issue with this property is it's shape and location on the canal. The ordinance states that this would be considered a Lake Lot. Being a Lake Lot requires that portion of the lot adjacent to the water be considered the front yard. The street side is also considered a front yard.

The City has hired HRC, our consulting engineers, to survey the properties on Pontiac Drive from Ferndale to the bridge/canal. The odd property line described above, if corrected would eliminate the variance requests for the front yard setback from the street. Leaving only one variance for the front yard setback from the canal.

Martin explained the front yard setback from the street. The 30' front yard setback requirement is very difficult to meet due to depth and shape of the lot. You will notice the applicant is proposing a rear yard setback of 34' 10", almost 5' more than required. That is due to the shape of the lot and the shape and layout of the house following the property line along the canal. If the lot were square, they could straighten out the home and make it fit on the property. However, with the house following the canal property line it cannot be moved back without being closer to one or the other side property lines.

The proposed front yard setback of the new house is in line with the others on Pontiac Drive from Ferndale to the bridge. The proposed location is more than 30' from the presumed front property line.

Next he explained the front yard setback from the canal. There are five things to think about when considering this variance request.

1. The fact that the property is on the canal makes the required setback 30' instead of the normal 5' for a side yard setback.
2. The property line is on a severe angle making it very difficult to make something fit on the property without a side yard setback variance on either side.
3. The measurements that I am using for this variance are to the water's edge, not the platted property line. If the platted property line were used, it would

- be almost 4.75' farther away (lesser variance).
4. Most lake lots have the street on one end of the property and the lake opposite, making the lake side a front yard instead of a rear yard, but not increasing the required setback because both front and rear yard setbacks are 30'. In this instance, what would have been considered a side lot is now considered a front yard because it is on the canal (water). That makes the property very restrictive for building. Much more so than even a typical corner lot.
 5. Lake lots are looked at very carefully to protect the views of adjacent property owners. This is not a typical lake front lot. The location of this house on the property really doesn't affect any neighboring property owners in the area.

The patio is something to discuss. It is an at-grade patio, beside the house. It makes sense that it be placed there and does not affect anybody. Again, if this were a more normal shaped piece of property on a normal interior lot, a patio or deck would be allowed to encroach up to 10' into the required front yard setback.

MacGillis asked Martin to show them where the proposed property will be and asked how far the proposed house would be from it. Martin showed this and stated they would be in compliance of the 30' setback if the property line were changed.

Mike Gordon, Architect for the property owners Jayne and John Powers. He felt Martin did a good job covering all the problems with this lot. He stated the Powers will be pursuing getting the road right-of-way vacated so they can be in compliance. He noted they designed the house to line up with the others houses along Pontiac Drive. He discussed the odd shape of the lot and the property line being the reason for the variances. On the lake side there will be no impact to the quality of life for any neighbor because there are none. There is only the canal.

Chairman Galacz opened the meeting to the public.

Joe Hroba questioned the two front yards. Martin again explained the front yard street and lake. He added it doesn't mean anything other than you can't build an accessory structure in your front yard, which means they can't build on either side; you can't park your boat by the lake because it is considered a front yard. Hroba stated they are taking an unbuildable lot and making it buildable. Jayne Powers stated there is already a house there that isn't in compliance. This will be more in compliance than what is there. Hroba feels a 19' variance is asking a lot.

Menuck stated the 27' follows the canal so that is why they are encroaching along with

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MacGillis asked if they are within the total lot coverage. Martin confirmed they are.

Harrop asked if they are removing the shed that is currently there. Jayne Powers confirmed they are getting rid of it.

MacGillis question if the petitioner doesn't pursue getting the property line changed. Martin stated because this lot has so many issues this is the perfect reason why variances are granted.

Moved by Menuck, seconded by Harrop, to approve the variances requested at 2398 Pontiac Dr, for the 15'2" front yard setback canal side for the house and 27'2" from yard setback canal side for the patio as shown on the site plan submitted to the Board, because the fact that the property is on the canal makes the required setback 30' instead of the normal 5' for a side yard setback; because the property line is on a severe angle, making it very difficult for any home to fit on the property without a side yard setback on either side; because the setback is measured to the water's edge, not the platted property line; because the canal side essentially becomes a second front yard, which would otherwise restrict use of the property; because the variance would not adversely affect adjacent properties because of the location of the home adjacent to the canal as opposed to the lake itself; and because the configuration of the property is not a self-created problem. The variance is granted with the understanding that the platted lot line as shown on the attached site plan indicates a depth of the property of approximately 108.69' on the east side, and that if a different front lot line is established as a result of future action by the City with regard to establishing a different width of the right-of-way of Pontiac Drive, prior to construction of the home, this variance will no longer be applicable. This is based on the plan dated 2/23/2016.

Yes: All
No: None

MOTION CARRIED

Moved by Menuck seconded Kirsbaum, to approve the 19'9" front yard setback variance as shown on the site plan submitted to the Board, because the shallow depth and shape of the property as measured from the platted lot lines in the attached site plan would make it unnecessarily burdensome to fit a house on the property and maintain the rear yard setback; because the variance would not adversely affect adjacent properties, because the home would still be in line with others on Pontiac Drive from Ferndale to the bridge; and because the configuration of the property is not a self-created problem. This variance is granted with the understanding that the platted lot line as shown on the attached site plan indicates a depth of the property of approximately 108.69 feet on the east side, and that if a different front lot line is established as a result of future action by

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the City with regard to establishing a different width of the right-of-way of Pontiac Drive, prior to construction of the home, this variance will no longer be applicable. This is based on the plan dated 2/23/2016.

Yes: All
No: None

MOTION CARRIED

ADJOURNMENT

Moved by Menuck, seconded Kirsbaum, to adjourn the meeting.

Yes: All
No: None

MOTION CARRIED

The meeting adjourned at 6:58 p.m.

Patty Harrop, Secretary

Dennise Dryden, City Clerk