

CITY OF SYLVAN LAKE
ZONING BOARD OF APPEALS
MARCH 17, 2016

A Meeting of the Zoning Board of Appeals was held on Wednesday, March 17, 2016, opening at 6:32 p.m. at the Sylvan Lake Community Center, 2456 Pontiac Drive, with Vice Chairman Menuck presiding over the Pledge of Allegiance.

Present: MacGillis, Menuck, Alternate Kirsbaum, Harrop, Ash
Absent: Galacz
Also Present: City Manager Martin

APPROVAL OF AGENDA

Moved by MacGillis, seconded Harrop, to approve the Zoning Board of Appeals Agenda for March 17, 2016, as submitted.

Yes: All
No: None

MOTION CARRIED

VARIANCE REQUEST

Z-002-16

Property: 2390 Pontiac Dr. Parcel: 13-36-453-016
Petitioner: Marguerite Davidson
Zoning Ordinance Sections: 78-296 Rear Yard Setback, 78-296(j) Lot Coverage and 78-562 Division 2 Off-Street Parking

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 2390 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; Vice Chairman Menuck opened the hearing. Proof of mailings and required proof of application are in the file.

Martin stated the petitioner is requesting three variances be approved to allow the construction a new house. They are asking for total lot coverage. The ordinance states the maximum lot coverage for a lot of this size is 2,800 square feet. The petitioner is proposing to cover 2,938 square feet, requiring a variance of 138 square feet. The second variance is rear yard setback. They are required to have a 35' rear yard setback and proposing a 30' setback, requiring a variance of five feet. The third variance is off-street parking. The ordinance requires two off-street parking spaces located beyond

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the required front yard setback. The required front yard setback is 30' from the front property lot line. Because they only have a one car garage and their property line is very close, they don't have enough room to park a second car without it being in the required front yard setback.

This property as platted is somewhat shallow at about 110' deep. Most properties are 125' deep or more. It is wider than most in the area with a width of 80'.

Martin explained things which make this unique. The platting of this property is not consistent with others in the area. There is a significant area between the platted front property line and the edge of the paved portion of the street (appx.34'). This is much greater than the typical 15' ROW from the edge of the street to a front property line in almost all other areas. This distance is making the petitioner place their house about 20' farther from the street than the neighbor directly to the right. He explained and showed the original plat, the Oakland County aerial photo with different measurements and then they had the property surveyed which showed another setback. Because this platting/survey issue affects all of these properties, it was decided to have one firm survey the entire area and create proper property descriptions based on our best judgement. The City has hired HRC, our consulting engineers, to survey the properties on Pontiac Drive from Ferndale to the bridge/canal. The problem with this is it will take time and the property owners will have to go to court to file the proper paperwork. They are before the zoning board so they don't have to wait 4-5 months to get approval.

Thomas Lyon, Architect for the property owner Midge Davidson. He described the house plan and how hard it was to come up with since the lot is shallow with this huge road right-of-way.

Menuck asked if they would still need the variances if road right-of-way is changed. Martin doesn't believe they could make it fit.

Vice Chairman Menuck opened the meeting to the public.

Jayne Powers lives next door and is in favor of the variances.

Donna Sharp asked where the new property line would be. Martin explained it.

Joe Hroba questioned the drainage in that area, stating it is low. He also commented that it looks like soap or something coming out of the culvert into the water. Lyon stated they did soil borings there. He noted they are not doing a full basement. It is just a crawl space. It is a standard foundation. Martin added there is a culvert there going from Ferndale back to the canal. They can look at the culvert and storm drain to make sure someone doesn't have an illegal hookup.

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Lyon let the board know if they moved the house forward with thinking that they'll get more frontage to work with if the road right-of-way is moved. This would still require a 5' variance for the front yard setback. Menuck stated they would need a 5' variance whether it is front or back. Lyon stated if the board granted it for the front then they correct the property line they would have their 30' front yard setback and be in compliance.

Martin clarified what the architect is proposing with moving it forward. It would put the house more in line with the other homes there, but it would still need three variances no matter what. The only issue with this is the public hearing notice didn't state a front yard setback variance so the board can't act on that tonight. If the petitioner wanted to do that then Martin would recommend they ask that the variances be tabled and bring it back next month.

Menuck asked if they could require them to pay a bond fee to ensure they go to court and legally have the description changed. Martin stated that is a legal question and he is not sure.

Martin clarified the city is offering to vacate that property so that it will be in compliance with our ordinance after that is done. Even if the city decided we don't want to go that route, the reasoning behind it is a really good practical difficulty to base the variances on.

Moved by Ash, seconded by Kirsbaum, to grant the variances requested at 2390 Pontiac Dr, for the 5' rear yard setback variance from the rear lot line as shown on the site plan submitted to the board, because the shallow depth 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 while still meeting the front yard setback as shown on the plan; because the minimal variance would not adversely affect adjacent properties to the rear of the parcel; 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 110 feet (109.10 feet on the west side, 111.5 feet 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.

Also to approve the variance from the required minimum of two off-street parking spaces beyond the required front yard setback, because the shallowness of the parcel would make it difficult to construct a driveway that would accommodate two parking spaces beyond the 30-foot front yard setback; because the variance would not substantially impact the neighboring properties as the additional parking spaces would be

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available in the attached garage; and because the shallowness of the lot is not a self-created problem.

Approve the variance to exceed the lot coverage by 198 square feet, because of the shallowness of the lot, which makes strict compliance with the area requirements unnecessarily burdensome and because the minimal amount by which the proposed home exceeds the square footage limitation would not appear to affect the adjacent properties and would not significantly interfere with the use and enjoyment of those adjacent properties in the light of the minimal deviation.

Yes: All
No: None

MOTION CARRIED

ADJOURNMENT

Moved by Ash, seconded Harrop, to adjourn the meeting.

Yes: All
No: None

MOTION CARRIED

The meeting adjourned at 7:13 p.m.

Patty Harrop, Secretary

Dennise Dryden, City Clerk